

EL PASO COUNTY

COLORADO

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Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
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TO: El Paso County Board of Adjustment
Jay Carlson, Chair

FROM: Kylie Bagley, Planner II
Carlos Hernandez Martinez, Engineer I
Kevin Mastin, Interim Executive Director

RE: Project File #: BOA-22-005
Project Name: 19725 Draco Drive Dimensional Variance
Parcel No.: 71030-06-002

OWNER:

REPRESENTATIVE:

Briana Dodson 19725 Draco Drive Monument, CO 80132	Briana Dodson 19725 Draco Drive Monument, CO 80132
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Commissioner District: 1

Board of Adjustment Hearing Date:	6/22/2022
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EXECUTIVE SUMMARY

A request by Briana Dodson for approval of a dimensional variance to allow a side setback of 5.5 feet where 25 feet is required for a single-family dwelling. The 5-acre property is zoned RR-5 (Residential Rural) and is located east of the intersection of Draco Drive and Draco Circle and is within Section 3, Township 11 South, Range 67 West of the 6th P.M.

A. REQUEST

A request by Briana Dodson for approval of a dimensional variance to allow a side setback of 5.5 feet where 25 feet is required for a single-family dwelling.

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2021), states the following:

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:

- 1) *The exceptional narrowness, shallowness, or shape of the specific piece of property.*

The subject property does not have exceptional narrowness, shallowness, size, or shape. The lot is 5-acres and conforms to the minimum lot size and minimum lot width requirements of the RR-5 zoning district.

- 2) *The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

The applicants stated in their letter of intent that there are no exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- *The variance provides only reasonably brief, temporary relief; or*

If approved, the variance would provide for permanent relief and would not meet this criterion.

- *The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or*

An alternative plan, standard, or condition was not submitted by the applicants with this application.

- *Some other unique or equitable consideration compels that strict compliance not be required.*

The existing residential structure was built in 1972, when the structure was constructed, the side setback requirement within the A-5 zoning district was 25 feet. According to a site plan provided by the applicant, the existing residential structure is located approximately 5.5 feet from the east property line. The existing structure encroaches 19.5 feet into the required 25-foot side setback. Please review the background section for additional information regarding previous approvals for the subject parcel.

C. BACKGROUND

The 5-acre lot was created on November 23, 1956 as Tract 33 of the Colorado Estates Subdivision No. 1. The property was zoned A-5 (Farming) on January 4, 1955, when zoning was first initiated for this portion of the County (Reception no. 946669). Due to changes in the nomenclature of the Code, the A-5 zoning district has been renamed as the RR-5 (Residential Rural) zoning district.

The existing single-family dwelling was constructed in 1972. The existing residential structure was built in 1972. When the structure was constructed, the side setback requirement within the A-5 zoning district was 25 feet. The home was not constructed in the correct location. According to a site plan provided by the applicant, the existing residential structure is located approximately 5.5 feet from the east property line. The applicant is requesting a reduced side yard setback to legalize the location of the existing single-family dwelling.

D. ALTERNATIVES EXPLORED

There are two alternatives that would not require a dimensional variance request:

1. The applicants could remove the existing single-family dwelling and reconstruct, meeting the current Code.
2. The applicant could work with the adjacent property owner to adjust the lot line to meet the setback requirement.

E. APPLICABLE RESOLUTIONS

Approval: Resolution 3

Disapproval: Resolution 4

F. LOCATION

North:	RR-5 (Residential Rural)	Single-Family Dwelling
South:	RR-5 (Residential Rural)	Single-Family Dwelling
East:	RR-5 (Residential Rural)	Single-Family Dwelling
West:	RR-5 (Residential Rural)	Single-Family Dwelling

G. SERVICE

1. WATER

Water is provided by an existing permitted well located on the property (Permit No. 48953).

2. WASTEWATER

Wastewater is provided by an existing permitted on-site wastewater treatment system (OWTS) (Permit No. ON0002660).

3. EMERGENCY SERVICES

The parcel is located within the Tri-Lakes Monument Fire Protection District. The District was sent a referral and has no outstanding comments

H. ENGINEERING

1. FLOODPLAIN

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0260G, which has an effective date of December 7, 2018, indicates the property is located within Zone X, area outside of the 500-year floodplain.

2. DRAINAGE AND EROSION

This property is located within the Palmer Lake drainage basin (FOMO5400). This is a studied basin with associated drainage basin fees. No platting action is being requested; therefore, no drainage fees are due at this time.

3. TRANSPORTATION

The 2016 El Paso County Major Transportation Corridors Plan Update does not depict roadway improvement projects in the immediate vicinity of the parcel.

The parcel is located on Draco Drive, which is a rural local road currently maintained by the County. No public improvements are required for this application. The parcel has an approved driveway access permit, AP22576, on file with El Paso County.

Variance requests are not subject to the El Paso County Road Impact Fee Program (Resolution 19-471), as amended.

I. RECOMMENDED CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance for the existing single-family dwelling, and that the applicants has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

CONDITIONS

1. The approval applies only to the plans as submitted. Any expansion or additions to the existing single-family dwelling may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.

NOTATION

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.
2. The PCD Director may require a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected to demonstrate compliance with the approval of the administrative relief.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified five adjoining property owners on 4/21/2022 and five adjoining property owners on 6/7/2022, for the Board of Adjustment meeting. Responses will be provided at the hearing.

K. ATTACHMENTS

Letter of Intent
Vicinity Map
Site Plan

Letter of Intent – Dimensional Variance

Property: 19725 Draco Drive

Feel Free to Give Us A Call With Any Questions!

PCD FILE No. BOA-22-005

1. This letter is being sent to you because Briana Dodson is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item number 2. Prior to any public hearing on this proposal a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning and Community Development Department. At that time you will be given the El Paso County contact information, the file number and an opportunity to respond either for, against, or expressing no opinion in writing at the public hearing for this proposal. We are requesting a side setback of 5.5 feet where 25 feet is required per the RR-5 zoning district.

2. For questions specific to this project, please contact:

a. Briana Dodson

b. Phone Number: 303-587-7187 Email: bridodson@yahoo.com

3. Site address, location, property size, and zoning:

a. Site Address: 19725 Draco Drive

b. Location: Monument, CO 80132

c. Property Size: 5 acres

d. Zoning: RR-5

4. Property Tax Schedule Number: 7103006002

5. Zoning: RR-5

6. This house was built in 1972 and the northeast corner of the house does not meet setback requirements from the property adjacent-19675 DRACO DR.

As determined by the planning department:

“The structure on the property in question is an existing residential structure which was built in 1972. According to a site plan provided by the owner, the existing residential structure is located approximately 5.5 feet from the east property line. In 1972, when the structure was constructed,

the side setback requirement within the A-5 zoning district was 25 feet. The structure encroaches 19.5 feet into the required side setback. Because the structure did not meet the setback requirements at the time of construction, it cannot be considered a nonconforming structure. In addition, there are no records of an approved dimensional variance legalizing the setback encroachment.”

The house is currently missing a garage and as much fun as it is to winter without one we would like to add one up towards Draco Drive in front of the house at some point in the future. It would be well within current legal setbacks. In order to do so however the 50 year old house setback issue must be addressed. I am writing to you to notify you that we are planning to go before the Board of Adjustment to apply for a variance for the setback issue with the house itself to be addressed.

7. There are no topographic difficulties of this lot or exceptional narrowness.

8. Hardships:

-Structure in violation of the setback requirement is the primary residence built 50 years ago in 1972.

-Unable to purchase land from the neighbor whose lot the house encroaches upon - 19675 DRACO DR. as their lot is exactly 5 acres so selling us the strip of land to meet the setback requirements would then put their lot below the 5 acre RR-5 zoning requirement and out of compliance.

-There is no way to come into compliance with current setback regulations beyond destroying the primary residence.

9. There is no applicable overlay zoning.

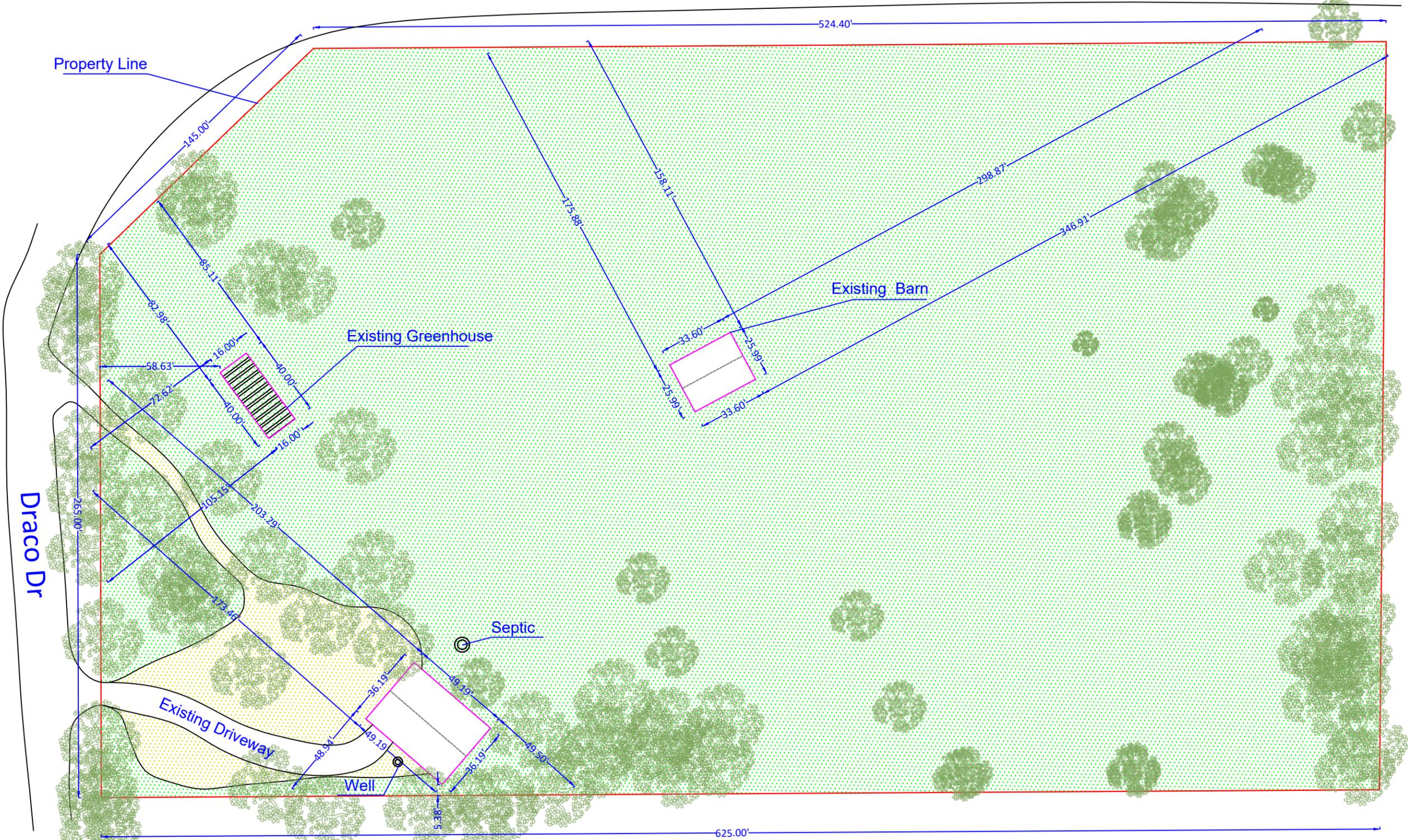
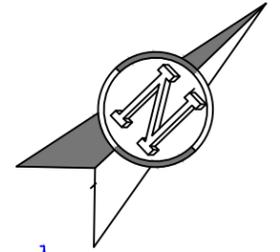
10. Since all future structures for this property would meet setback requirements there would be no impact to the surrounding area beyond the position of the existing primary residence which has stood for 50 years. This proposal is simply to legally validate the location of the home built 50 years ago so future structures may be permitted. The proposed request will not adversely impact existing drainage patterns or adjacent properties.

Owner Name: Briana Dodson
Number: 303-587-7187
Email Address: bridodson@yahoo.com

PCD File: No. BOA-22-005
Property Tax Schedule Number: 7103006002
Legal Description: TRACT 33 COLORADO ESTATES SUB 1

Lot Size: 5 Acres
Lot Area Coverage Calculation: $3293.45/217800= 1.512\%$
Current Zoning: RR-5

Draco Dr



19725 Draco Dr
Monument, CO, 80132
Scale: 1"=50'