

EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of Adjustment
Kevin Curry, Chair

FROM: Len Kendall, Planner I
Beck Grimm, EI Engineer I
Craig Dossey, Executive Director

RE: Project File #: BOA-19-003
Project Name: Helton Mini-Storage BOA
Parcel No.: 65034-03-001

OWNER:

10230 Hall Blvd LLC
PO Box 38036
Colorado Springs, CO 80937

REPRESENTATIVE:

Barry Helton
PO Box 38014
Colorado Springs, CO 80937

Commissioner District: 4

Board of Adjustment Hearing Date:

6/12/2019

EXECUTIVE SUMMARY

A request by Barry Helton for approval of two dimensional variances to allow a front-yard setback of 12 feet where 15 feet is required and a rear-yard setback of 7 feet where 15 feet is required in the M (Industrial) zoning district. The parcel was created via plat (MS-17-004) on May 30, 2018, and received site development plan approval for a mini-warehouse land use utilizing shipping containers on November 19, 2018. As part of the site development plan approval, the applicant is required to meet all the development standards within the El Paso County Land Development Code (2019). Based upon a number of neighboring property owner complaints, County staff inspected the site and found that the layout of the shipping containers did not comply with the approved site development plan. An amended site development plan was submitted, but has not yet been approved, depicting the revised configuration of the shipping



containers on the property. The amended site development plan depicts the current location of the shipping containers as encroaching into the front and rear-yard setbacks of the property. In order to legalize the current location of the containers, the applicant is requesting approval by the Board of Adjustment of two dimensional variances, rather than reconfiguring the layout of the site and the non-permanent shipping containers so as to meet the required setbacks.

A. REQUEST

A request by Barry Helton for approval of two dimensional variances to allow a front-yard setback of 12 feet where 15 feet is required and rear-yard setback of 7 feet where 15 feet is required in the M (Industrial) zoning district.

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2019), 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 applicant's letter of intent states that the hardship is based on narrowness of the property.

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

There are no exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of the 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*

This consideration is not applicable since the requested relief would be permanent in nature.

- *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*

The variance request does not include 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.

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

There are no unique or equitable considerations that compels that strict compliance not be required.

C. BACKGROUND

The subject property, known as Lot 1 of the South Academy Business Center Subdivision, was created via plat (MS-17-004) on May 30, 2018. The property was zoned M (Industrial) prior to 1970. The M zoning district allows mini-warehouses as a principal use and requires site development plan approval prior to establishing the use. The applicant submitted and received approval of a site development plan (PPR-18-019) that met all of the applicable standards in the El Paso County Land Development Code (2019). The applicant met with the El Paso County Engineering Inspector Supervisor and received a construction permit to move forward with construction of drainage improvements based upon the approved site development plan. Once the shipping containers had been placed on the site, complaints were received from neighbors regarding the approved mini-warehouse use and regarding the general state of the property during initial construction. During an inspection of the site by County staff, it was identified that the applicant had intentionally placed the shipping containers in a layout that was not consistent with the approved site development plan. The approved site development plan depicted the shipping containers placed end to end and in a location that complied with the required setbacks. Instead, the applicant arbitrarily decided to use a staggered configuration of the shipping containers to allow access to the end of the units, which have been partitioned into an end-accessible storage unit. After extensive communication with the applicant, the applicant decided to request

dimensional variances for front and rear-yard setbacks instead of modifying the layout of the site to comply with the approved site development plan or to seek approval of an amended site development plan that would comply with the required setbacks. The front-yard setback meets the maximum allowance of administrative relief for the shipping containers; however, the rear-yard setback request requires Board of Adjustment approval. The PCD Director has determined that any encroachment into the setbacks will require a public hearing. The Director expressed concerns about the staggered alignment of the storage containers being located in closer proximity to Highway 85/87 than would normally be allowed under the Land Development Code, citing safety concerns associated with the traveling public.

D. ALTERNATIVES EXPLORED

There are two (2) alternative options for the applicant to come into compliance that would not require a dimensional variance request:

1. Move the non-permanent shipping containers to comply with the approved site development plan.
2. Move the non-permanent shipping containers and reconfigure the site layout via an amendment to the site development plan so to comply with all required setbacks.

E. APPLICABLE RESOLUTIONS

Approval: Resolution 1 – Hardship
Disapproval: Resolution 2

F. LOCATION

North: M (Industrial)	Industrial/Vacant
South: M (Industrial)	Vacant/Open Space
East: RS-5000 (Residential Suburban)	Residential
West: A-5 (Agricultural)	US Highway 85 87/Open Space

G. SERVICE

1. WATER

Water service is not provided to the property.

2. WASTEWATER

Wastewater service is not provided to the property.

3. EMERGENCY SERVICES

The parcel is located within the Security Fire Protection District. The District was sent a referral and has not responded to the inquiry.

H. ENGINEERING

1. FLOODPLAIN

The property is located within flood zone X in the FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0744G, which is an area of minimal flood hazard and determined to be outside the 500-year floodplain.

2. DRAINAGE AND EROSION

The property is located within the West Little Johnson drainage basin (FOFO2700), which has drainage fees but no bridge fees. No drainage or bridge fees are assessed with dimensional variance requests. There are no drainage or erosion issues identified with this request.

I. TRANSPORTATION

There are no transportation issues identified with this request.

J. RECOMMENDED CONDITIONS OF APPROVAL

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

Conditions

1. The approval applies only to the plans as submitted. Any expansion or additions to the proposed mini-warehouse may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
2. Approval of an amended site development plan by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required.

K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified six (6) adjoining property owners on May 21, 2019, for the Board of Adjustment meeting. Responses received will be provided at the hearing.

L. ATTACHMENTS

Letter of Intent
Vicinity Map
Site Plan

El Paso County Parcel Information

File Name: BOA-19-003

Zone Map No. --

PARCEL	NAME
6503403001	10230 HALL BLVD LLC

Date: MAY 20, 2019

ADDRESS	CITY	STATE	ZIP	ZIPLUS
PO BOX 38036	COLORADO SPRINGS	CO	80937	8036



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W Garden of the Gods Rd
 Colorado Springs, CO 80907
 (719) 520-6600



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**Letter of Intent
Board of Adjustment
Request for a Setback Variance**

May 2019

Project: South Academy Business Center

Owner: 10230 Hall Boulevard, LLC
PO Box 38014
Colorado Springs, CO 80937

Applicant/Consultant: Barry Helton
PO Box 38014
Colorado Springs, CO 80937
719-338-3813

ADP Civil
3520 Austin Bluffs Pkwy, Suite 102
Colorado Springs, CO 80918
719-266-5212

Site Location: The 7.6 acre site is located southeast of the intersection formed by the South Academy Boulevard Ramps to Highway 85/87.

Applications/Project Description: There is one application covered by this Letter of Intent. The Type D Application is a request for a setback variance. This is one lot on 7.6 acres. Access to the site is from Highway 85/87. CDOT issued an access permit for the property.

The site is currently zoned M, an industrial commercial zone. The use is permitted by right in this zone; therefore no zone change is required or requested. Topographically, the site is relatively flat, and drains from the north to the south.

The property located west of this parcel is zoned A-5 and is owned and used by CSU as a part of their water system. The land to the north is Zoned M and is vacant. The land immediately to the east is a BN&SF RR right-of-way approximately 100 feet in width. The railroad tracks are elevated above the subject site by approximately 5 feet. To the east of the BN&SF right-of-way is land owned by the Security Water District. Beyond these owners are single family residences. A sliver of land that forms the south boundary of this site is owned by the railroad and is vacant.

Buffering/Screening: This Property does not abut any residentially zoned or used property, therefore no screening or buffering is required. The elevation of the track bed forms a practical berm between the proposed use and the residential use to the east. The majority of residential parcels located east of the railroad property and east of the Security Water District property have either a fence along their west property lines, or have an accessory structure in the back yard. These features form a buffer to existing and proposed land uses to the west.

Justification: The property has a very narrow and long shape. There have been several attempts to develop this property over the past 35 years, and each has failed due to the narrow design of the parcel. This application is asking permission for Load and Lock Storage II to be granted a variance for a setback adjustment. We feel the changes are needed to make the property a viable location, and most of all, accommodate water flow to insure water quality. We are asking for your help in acquiring a setback of 12' from the property line on the southern half of the west side of the property next to the 85-87 Highway. We are also asking for a setback of seven feet on the east side of the property next to the railroad right of way. Both the east and west side call for a 15' setback. The northern half of the west side of the property will meet the minimum 15' setback. The north and south half are an approximation.

The setback on the east is instrumental in maintaining an unobstructed flow for all water runoff. The engineered design allows any and all water from the property, the adjacent highway, and the railroad property to the east, to gather in the designed ditch and have 100% of the water flow south into the engineered detention pond located on the south end of the property. This will guarantee water quality for the entire property. The partial setback of 12' on the southern part of the west side will be much more attractive cosmetically, and will allow for more landscape square footage than would have been achieved with the containers situated end to end. They will be in a staggered formation with the closest end at 12' and the opposite end will be 20' from the property line. This will significantly increase the square footage of the landscape area from north to south. This will also allow for the proper 24' width driving lanes be maintained within the property bounds. The increase in landscaping square footage will allow for more natural growth of the grass and will enhance the excess trees we have planted along the highway.

The detention pond and the existing unobstructed ditch that extends from north to south, completely capture and maintain water quality for the entire property.

Conformance with El Paso County Policy Plan: The following policies in the El Paso County Policy Plan support these applications:

- **Policy 6.1.1** Allow for a balance of mutually supporting interdependent land uses, including employment, housing and services in the more urban and urbanizing areas of the County.
- **Policy 6.1.3** Encourage new development which is contiguous with previously developed areas in terms of factors such as density, land use and access.
- **Policy 6.1.6** Direct development toward areas where necessary urban-level supporting facilities and services are available or will be available concurrently.

- **Policy 6.1.7** Encourage infill development which compliments existing uses, is consistent with Small Area and other adopted plans.
- **Goal 6.3** Continue to support existing and carefully planned future urban density development in the unincorporated County, provided the requisite level of urban services is available or will available in a timely fashion.

Districts Serving the Property

- Colorado Springs Utilities (Gas and Electric)
- Security Fire Protection

Wildlife Impact: None

Natural Features: There are no significant natural features on this site. Site vegetation consists of native grasses.

Maintenance Statement: There will not be an owners association for this property. The property owner will provide maintenance for his ownership.

