



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

**FROM: Len Kendall, Project Manager/Planner I
Craig Dossey, Executive Director**

**RE: BOA-18-005: 16650 Mesquite BOA
Assessor's Schedule No: 41240-03-003**

OWNER: Rusty Anchor Properties, LLC Pamela S. Everett P.O. BOX 142 Wittmann, AZ 85361	REPRESENTATIVE: Jim Everett PO BOX 142 Wittmann, AZ 85361
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Commissioner District: 2

Board of Adjustment Hearing Date:	9/12/2018
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EXECUTIVE SUMMARY

A request by Rusty Anchor Properties, LLC Pamela S Everett for approval of a dimensional variance to allow a 17-foot rear-yard setback where 25-feet is required. The El Paso County Planning and Community Development Department approved a site plan for a single-family residence on November 29, 1994, with a 100-foot rear yard setback depicted. The residential structure was built 17 feet from the rear yard property line. The 17-foot rear yard setback does not meet the requirements for administrative relief as the minimum setback for administrative relief is 20 feet.

A. REQUEST

A request by Rusty Anchor Properties, LLC Pamela S Everett for approval of a dimensional variance to allow a 17-foot rear-yard setback where 25-feet is required.



B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2018), 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.”*

Legal use of the property is not severely restricted due to any exceptional narrowness, shallowness, or shape of the property.

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

Legal use of the property is not severely restricted due to any exceptional topographic conditions or other extraordinary or exceptional situation or conditions.

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”*

Approval of the variance would provide permanent relief.

- *“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”*

There are no anticipated impacts that would require an alternate plan, standard, or condition.

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

Approval of the request may be based on the criteria of unique or equitable consideration.

C. BACKGROUND

The subject parcel was created as part of the Reata Filing No. 1 subdivision on August 1, 1974. A site plan for a single family residential house was submitted and approved in 1994 showing the house meeting the required 25-foot setbacks. The house was sited with a 100-foot rear yard setback, but was built 17 feet from the rear property line. Improvements on the property include the single-family residence, a detached garage, and an agricultural building (AG1725). The parcel is sloped and the building area is limited due to slopes of greater than 30degrees, as well as the presence of a pond on the eastern portion of the parcel.

D. ALTERNATIVES EXPLORED

Three alternatives have been explored concerning the application for a dimensional variance on the subject property, they are as follows:

1. Demolish approximately 8-feet of the structure so the residence meets the 25-foot rear yard setback.
2. Move the structure approximately 8-feet so the residence meets the 25-foot rear yard setback.
3. Move or demolish the structure an additional 3 feet away from the rear-yard property line and apply for and receive approval of an administrative relief application to allow for a rear yard setback of 20 feet where 25 feet is required.

E. 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 condition and notation of approval:

CONDITION

1. The approval only applies to the plans as submitted. Any expansion or addition to the proposed residence 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.

F. APPLICABLE RESOLUTIONS

Approval: Resolution 3 – Unique and Equitable Circumstances
Disapproval: Resolution 4

G. LOCATION

North: RR-5 (Residential Rural)	Single family residential
South: RR-5 (Residential Rural)	Single family residential
East: RR-5 (Residential Rural)	Vacant/Single family residential
West: RR-5 (Residential Rural)	Vacant/Single family residential

H. SERVICE

1. WATER/WASTEWATER

Water supply is provided via a private groundwater well.

2. WASTEWATER

Wastewater service is provided via an onsite wastewater treatment system (OWTS) for a residence of up to a maximum of four (4) bedrooms.

3. EMERGENCY SERVICES

Peyton Fire Protection District provides emergency services to this property.

I. ENGINEERING

1. FLOODPLAIN

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0350 shows the property lies within the zone X area which is determined to be outside the 500-year floodplain.

2. DRAINAGE AND EROSION

The property is located within the Upper Bracket Creek (CHBR0600) drainage basin, which is an unstudied basin and has no drainage or bridge fee. No drainage or bridge fees are required for a dimensional variance request. There are no drainage or erosion issues identified with this request. No public drainage improvements will be required.

3. TRANSPORTATION

The property is accessed via Mesquite Road. A traffic study was not required due to the fact that the dimensional variance is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without approval of the dimensional variance. No public roadway improvements will be required.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified six (6) adjoining property owners on August 22, 2018, for the Board of Adjustment hearing. All responses received will be provided at the hearing.

K. ATTACHMENTS

Vicinity Map

Letter of Intent

Site Plan

Health Department Septic Permit

Approved Residential Site Plan

El Paso County Parcel Information

File Name: BOA-18-005

PARCEL	NAME
4124003003	RUSTY ANCHOR PROPERTIES CO LLA

Zone Map No.: --

ADDRESS	CITY	STATE
PO BOX 142	SUN CITY	AZ

ZIP	ZIPLUS
85351	

Date: August 16, 2018



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



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Letter of Intent

Variance allowing setback of less than 25 feet

July 12, 2018

Owner/Applicant

Rusty Anchor Properties, Co. LLC

P.O. Box 142

Wittmann, Az 85361

Site Information:

Location, 16650 Mesquite Rd. Peyton Co. 80831

Legal Description: Lot324 Reata Fil NO 1

Schedule No: 4124003003

Request and Justification:

We request that the home/house located at 16650 Mesquite Rd. Peyton Co. 80831 be allowed to remain in its current location with a setback of 17 feet where a 25 foot setback is required in a zone of RR-5.

1, The home was built and placed 24 years ago. The home's location should be granted "acquired rights" since it is not being increased in size and will continue to be used as a "Single Family Dwelling", no change from its original use.

2, Over the years the home has become rooted in the land. No one has cause to now oppose its location. Moving the house would cause great damage to the terrain and cost thousands of dollars but, benefit no one.

3, We have no aggrieved neighbor who is crowded by a smaller setback.

4, Preserving the homes location is not just a desire, moving it would cause extreme hardship and cost.

A, The cost would be prohibitive. We would have to remove trees, re-route the driveway, excavated a new site, do soil testing, get an engineering company to do the design and pull permits. A company with the proper equipment to move the house would have to be located and the closet one that would consider the job is in Grand Junction. We would have to source and then hire professional to remove all existing electric(much of it brand new), plumbing, septic and water lines. A new well location and pumps to service new location of home. Then our above ground wire would need to be changed and extended to fill the needs of a new location for the home. Then of course, the trenches for all the underground utilities would have to be re-dug and the "licensed professionals" would have to come back and re-install all that had been removed. I can't even begin to calculate the cost for that.

We believe that it is in the best interest of the BOA and our application that the setback variance be approved administratively.

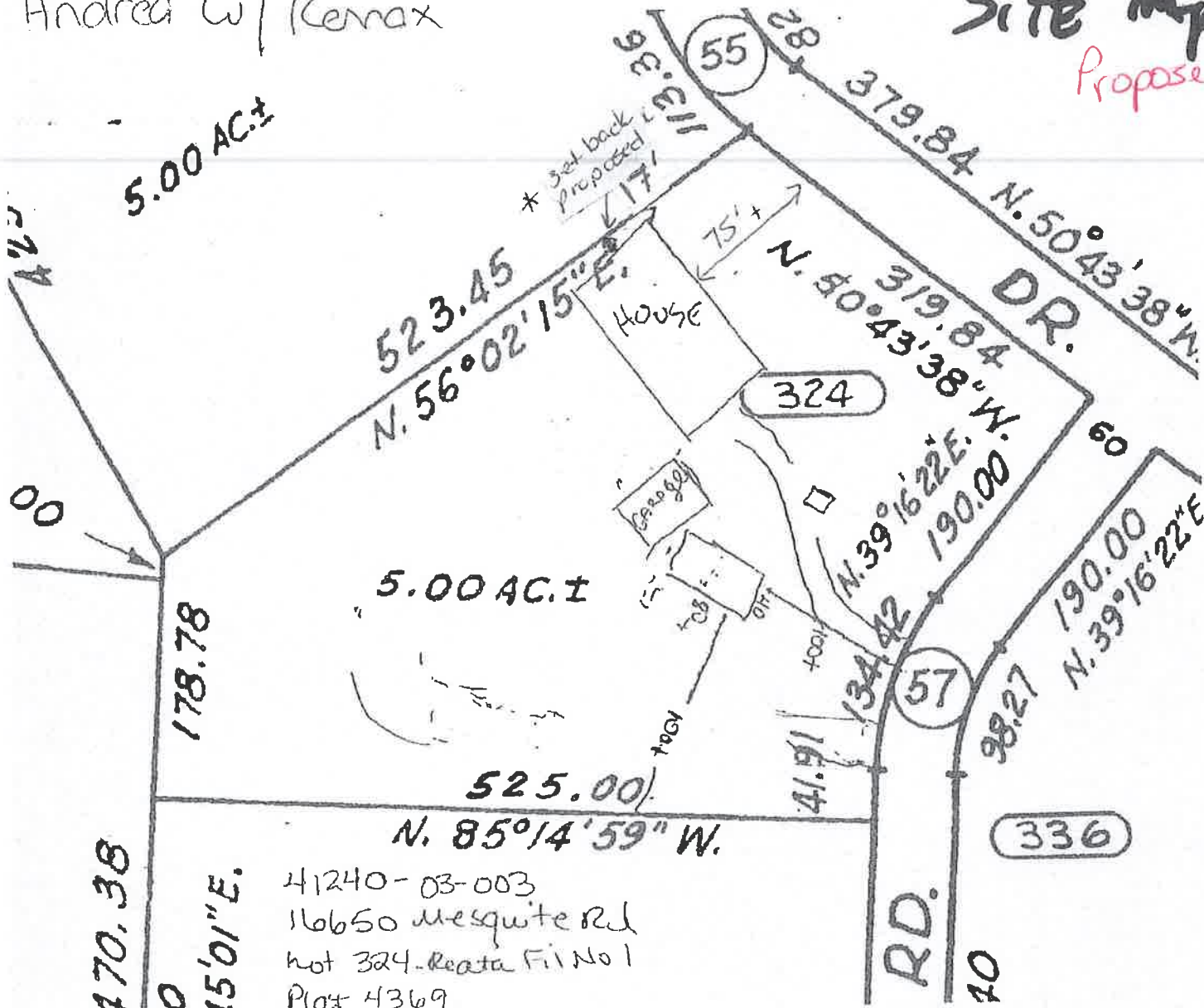
A, The current location could be considered "grandfathered" in. Denying those acquired rights will damage the land, create enormous cost and not benefit the community.

B, There is no harm to any adjacent property owner.

C, The homes location has already been approved multiple times by multiple agencies thru additional pulled permits over the years. Perhaps the question would be, why wasn't this setback issue addressed when those other permits were pulled and finals were issued?

Andrea w/ Remax

SITE MAP
Proposed



41240-03-003
 116650 Mesquite Rd
 Lot 324-Reata Fil No 1
 Plat 4369
 RR-5
 AG1725

APPROVED **DENIED**
 BY MUR DATE 6/13/17
 FOR 3200 sq Bldg
 NOTES Subject to inspection
for AG Use

EL PASO COUNTY
 PLANNING AND COMMUNITY DEVELOPMENT

Planning and Community Development approval is contingent upon compliance with all applicable notes on the recorded plat.

Driveway access permit must be granted by the Planning and Community Development Engineering Division prior to the establishment of any driveway onto a County Road.

Reversion of blockage of any drainageway is not permitted without the approval of the Planning and Community Development Engineering Division.

Any approval given by El Paso County does not obviate the need to comply with applicable Federal, State or Local laws and/or regulations.

BESQCP Not Required
 by M on 6/12/17

AG 17-25

APPROVED: YES NO ENVIRONMENTALIST Nedlowski, J

Address 19245 Person Drive See Note Below Owner Curtis Mitchell

Legal Description Lot 324, Filing No. 1, Reata Subdivision
 Residence , # of bedrooms 4; Commercial ; System Installer Redway

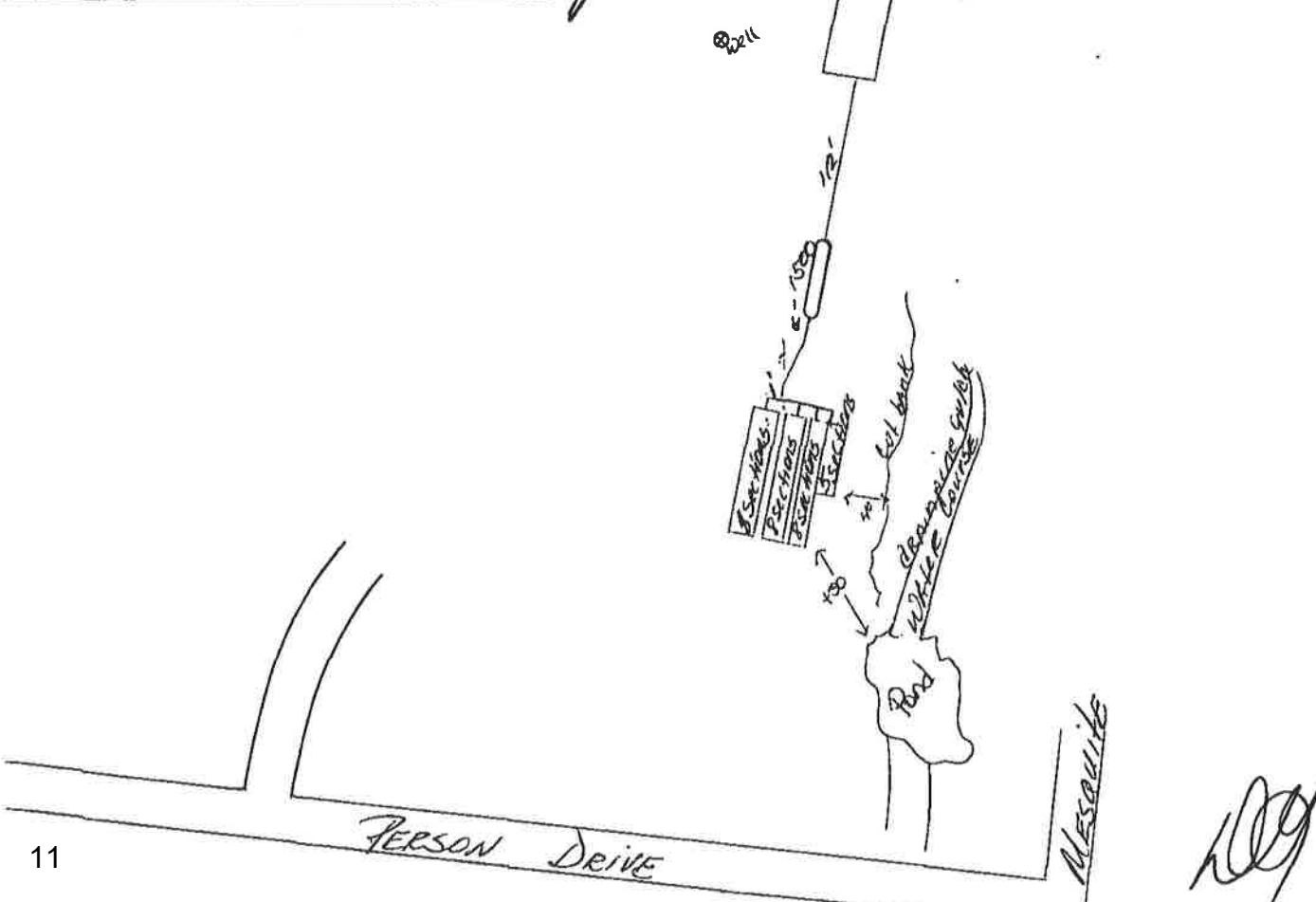
SEPTIC TANK:
 Commercial ; Noncommercial L , W , WD
 Construction Material Plastic No. 1000, capacity 1500 gallons.

DISPOSAL FIELD:
 Rock Systems:
 Trench: depth , width , total length , sq. feet
 Bed: depth , length , width , sq. feet
 Rock type , depth , under PVC , over PVC
 Seepage Pits: # of pits , total # of rings , working depth(s)
 size of pit(s) L X W , lining material , total sq. feet

Rockless Systems:
 Chamber: Type Interlocks, number of chambers 29, bed , trench
 sq. ft./section 1042/sq, reduction allowed 40%, sq. ft. required 844/sq
 total sq. ft. installed 870/sq, depth of installation 0-30 inches

Engineer Design Y or N, Designing Engineer ,
 Approval letter provided? Y or N
 Well 50 feet from tank or N 100 feet from leach field or N
 Well installed at time of septic system inspection or N Public Water
 *Approval will be revoked if in the future the well is found to be within 50 feet of the septic tank and/or 100 feet of the disposal field.

NOTES: Address was found to be 16650 Mesquite Rd.
8/23/12 Mike McCarthy



Acres 5 EL PASO COUNTY • DEPARTMENT OF HEALTH AND ENVIRONMENT
301 South Union Blvd. • Colorado Springs, Colorado • 578-3125

Water Supply well Permit 8673
Receipt No. 5924

PERMIT
TO CONSTRUCT, ALTER, REPAIR OR MODIFY ANY INDIVIDUAL SEWAGE DISPOSAL SYSTEM

Issued to CURTIS MITCHELL Date 11-22-94
Address of Property 17245 PERSON DRIVE, LOT 324, FILLING #1, REATA SUBD. Phone 636-5681

(Permit valid at this address only)

Sewage-Disposal System work to be performed by RON GEARY G-WEST LLC 39 Phone 528-6639
This Permit is issued in accordance with 25-10-106 Colorado Revised Statutes 1973, as amended. PERMIT EXPIRES upon completion-
installation of sewage-disposal system or at the end of twelve (12) months from date of issue- whichever occurs first-(unless work is in progress).
This permit is revokable if all stated requirements are not met.

- THIS PERMIT DOES NOT DENOTE APPROVAL OF ZONING AND ACREAGE REQUIREMENTS -

\$150.00
PERMIT FEE (NOT REFUNDABLE)

11-22-95
DATE OF EXPIRATION

NOTE: LEAVE ENTIRE SEWAGE-DISPOSAL SYSTEM UNCOVERED FOR FINAL INSPECTION. 48 HOUR ADVANCE NOTICE REQUIRED.	
SEPTIC TANK:	BED SYSTEM:
total square feet <u>1500</u>	total square feet _____
ft. of trench _____	ft. of trench _____
inches wide _____	inches wide _____
gallons _____	rings or _____ diam.x _____ w/d _____

John R. ...
DIRECTOR, DEPARTMENT OF HEALTH AND ENVIRONMENT
ENVIRONMENTALIST

NOTES: SYSTEM TO BE INSTALLED PER REGULATIONS. MUST MEET ALL DISTANCE REQUIREMENTS TO POND/WATER COURSE, i.e., A MINIMUM OF 50 FEET.

The Health Office shall assume no responsibility in case of failure or inadequacy of a sewage-disposal system, beyond consulting in good faith with the property owner or representative. Free access to the property shall be authorized at reasonable time for the purpose of making such inspections as are necessary to determine compliance with requirements of this law.

EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT
301 South Union Boulevard
Colorado Springs, CO 80910-3123

APPLICATION FOR A PERMIT TO CONSTRUCT, REMODEL, OR INSTALL
A SEWAGE DISPOSAL SYSTEM

Name of Owner Curtis Mitchell Daytime Phone 636-5681 ^{Work}
Address of Property 17245 Person Drive Date 11-14-94
Legal Description of Property Lot 324, Filing #1 Reata Subdivision
Tax Schedule Number 41240-03-003 Septic Contractor/Phone Ron Gary
Gar-Wat / 528-6639
Type of House Construction Modular Source of Water Well
Size of Lot 5 acres Basement (Y or N) Percolation Test Attached (Y or N)
MAXIMUM POTENTIAL NUMBER OF BEDROOMS 4

I have supplied a plot plan as described on the back of this form. I acknowledge the completeness of the application is conditional upon such further mandatory & additional tests & reports as may be required by the Department to be made & furnished by the applicant for purposes of evaluating the application, & issuance of the permit is subject to such terms & conditions as deemed necessary to ensure compliance with rules & regulations adopted pursuant to C.R.S. 1973, 10-25-101 et. seq. I hereby certify all statements made, information and reports submitted by me are or will be represented to be true & correct to the best of my knowledge & belief, & are designed to be relied on by the El Paso County Department of Health in evaluating the same for purposes of issuing the permit applied for herein. I further understand any falsification or misrepresentation may result in the denial of the application or revocation of any permit granted based upon said application & in legal action for perjury as provided by law.

OWNER'S SIGNATURE Curtis Mitchell

DEPARTMENT OF HEALTH USE ONLY

Absorption Area 844 sq Tank Capacity 1500 gal Date/Site Inspection 11/15/94
Remarks: System to be installed per regulations, and must
meet all distance requirements to pond/water
course. ie. A minimum of 50 feet.

Application is (approved () denied
Environmentalist Mydlowski, J Date 11-15-94

Permit # 8673 Receipt # 5924 Date to Planning Dept 11-15-94
attached (R)

PROPERTY AND PERC HOLES MUST BE CLEARLY MARKED/POSTED

The following information must be on your plot plan.
Please check () the items that apply.

- () Property Lines
- () Property Dimensions
- () Proposed Septic System Site
- () Well(s)
- () Adjacent Well(s)
- () Building(s)
- () Proposed Building(s)
- () Water Line
- () Cistern
- () Subsoil Drain(s)

Are any of these within 100 feet of your proposed septic system (including adjoining property)? Also draw on the plot plan.

Spring(s) _____
Lake(s) _____
Pond(s) _____
Stream(s) _____
Dry Gulch(s) _____
Natural Drainage Course(s) _____

HIGHWAY 24 EAST TO BRADSHAW, BRADSHAW NORTH TO
Give complete directions to the property from a main highway.

PERSON DR., PERSON DR. WEST TO PROPERTY.

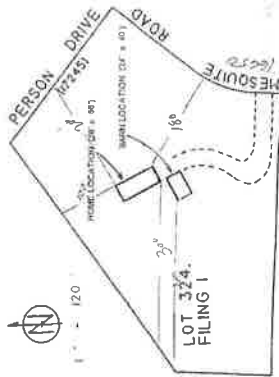
Property is located on the S.W. Corner of
Person & Mesquite approximately 1/2 Mile west
of Bradshaw,

Lot 324, Filing #1,
 1745 Person Drive,
 El Paso County, Colorado

A review is contingent upon completion
 of applicable notes on the
 drawing.

Division of Planning
 El Paso County Dept. of Public Works

APPROVED
 EL PASO COUNTY, COLORADO
 1/11/2010



T&M 41240-03-001
 S A C R.R.3

18283

Place concrete in forms clean and braced properly. Reinforcing steel shall be in position and tied at intersections. Securely fasten and support the steel to prevent displacement before or during placing of concrete. Overlap steel at least 12" for splices. Steel should be free of loose rust, dirt, oil or anything else that affects the concrete bond. Steel must be kept three inches from earth surfaces and two inches from other exposed surfaces.

For full work, put in control joints at about 10 feet each way. Forms should be removed with care so as to not damage the concrete and in a manner to insure complete safety of the structure.

Leave shoring in place until the concrete member will safely support its own weight plus any live loading that may be placed upon it. Patch any void areas which may expose steel or trap water. The patch should be made of the same material and proportions as used for the concrete except the coarse aggregate shall be omitted.



PHIL WEINERT ENTERPRISES
 1550 Colorado Blvd., Suite 100
 Colorado Springs, CO 80904-1809
 Phone (719) 488-2478

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