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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT CRAIG DOSSEY, EXECUTIVE DIRECTOR

- TO: El Paso County Board of Adjustment Kevin Curry, Chair
- FROM: John Green, Planner II Jack Patton, Engineer I Craig Dossey, Executive Director
- RE: Project File #: BOA-20-004 Project Name: Karls Addition Parcel No.: 62290-07-023

# OWNER:REPRESENTATIVE:John KarlsN/A1630 Delta RoadN/AColorado Springs, CO80920

### **Commissioner District: 1**

Board of Adjustment Hearing Date:

2/10/2021

### **EXECUTIVE SUMMARY**

- 1. Reduce the minimum width at the front setback line to 100 feet where the required minimum lot width at the front setback line is 200 feet in the RR-2.5 (Rural Residential) zoning district; and
- **2.** Allow a side yard setback of 6 feet where 15 feet is required for an attached garage addition within the RR-2.5 (Rural Residential) zoning district.

The 3.11-acre property is located one-quarter of a mile southeast of the Old Ranch Road and Voyager Parkway intersection on the north side of Delta Road. The property is not included within a small area plan.

2880 INTERNATIONAL CIRCLE, SUITE 110 PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127 FAX: (719) 520-6695

### **B. REQUEST**

A request by Johnny Karls for approval of a dimensional variance to:

- 1. Reduce the minimum width at the front setback line to 100 feet where the required minimum lot width at the front setback line is 200 feet in the RR-2.5 (Rural Residential) zoning district; and
- 2. Allow a side yard setback of 6 feet where 15 feet is required for an attached garage addition within the RR-2.5 (Rural Residential) zoning district.

# C. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the <u>Land Development</u> <u>Code</u> (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 subject property is a pie shaped flag lot. The existing single-family dwelling is placed within the required 200-foot lot width requirement at the front setback but is considered legal nonconforming (please see Background Section below). While the lot is large enough to accommodate a structure built at the required front yard setback line, the resulting driveway length from Delta Road to the front of the proposed structure would be approximately 215 feet in length due to the unusual shape of the lot. Additionally, approximately .37 percent of the parcel is constrained by the floodplain and substantially limits the buildable area of the northern portion of the property. Specifically, the only buildable area of the lot that could accommodate the required setbacks and remain out of the floodplain would be a 28,000 square-foot portion in the far northeastern corner of the lot, which currently contains an accessory agricultural structure. There is not an unconstrained vacant portion of the property to place the requested addition while meeting the setback requirements.

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

The existing single-family dwelling was built in 1969 in its current location. At no point in the past were front yard setback reductions approved to accommodate the reduced lot width line present on the parcel. The dwelling was constructed on level ground approximately 125 feet from the edge of Delta Road towards the south end of the parcel. Immediately north of the existing dwelling, excessive slope begins, limiting the potential for any additions to occur on the northern side of the home. The property drops from the northern edge of the dwelling down to a floodplain on the northern edge of the property.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the <u>Code</u> 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 be for a permanent structure 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

The proposed addition along the main level of the single-family dwelling provides a lower visual impact than an expanding the number of stories of the structure to accommodate the addition. Due to the location of structure near the front of the lot, the proposed single-level addition will mitigate some of the visual impact of the proposed addition.

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

The applicant has indicated that both he and his wife are elderly and no longer wish to navigate stairs to access the second level of their home. The proposed additions to the dwelling will create a single level of access for the bedroom, bathroom, and garage for the home, negating the need to access other levels of the dwelling as part of the primary living space in the home.

### D. BACKGROUND

The subject parcel was zoned RR-2 (Rural Residential) on January 3rd, 1955, at the time of the initial implementation of zoning for this portion of El Paso County. Due to nomenclature changes, the R-2 zoning district is now known as the RR-2.5 (Rural Residential) zoning district. The metes and bounds property was legally created on February 10, 1969, by deed and is approximately 3.11 acres in size, exceeding the minimum acreage requirement for the RR-2.5 zoning district.

The existing single-family dwelling was built in 1969 and is nonconforming with respect to the location of the dwelling compared to minimum lot width at the front setback line. On June 13<sup>th</sup>, 2001, the El Paso County Board of Adjustment approved a Dimensional Variance (PCD File No.# BOA-01-026) to reduce the required side yard setback from 15 feet to 6 feet for a proposed deck expansion on the eastern side of the existing structure. However, the addition associated with the approved dimensional variance was never built, voiding the previous approval due to a condition of approval stating that the initiation of construction must begin within one year.

The applicant is now requesting to allow for a reduced side yard setback for a proposed addition onto the existing single-family dwelling. Additionally, the applicant is requesting to reduce the front setback for the existing structure and a proposed addition to the point at which the property is 100 feet wide for a flag lot in the RR 2.5 District where a minimum 200-foot lot width is required. The proposed expansion of the structure requires Board of Adjustment action, both to legalize the existing dwelling and to allow the proposed expansion of the structure at the reduced lot width setback line.

# E. ALTERNATIVES EXPLORED

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

- 1. Do not construct any addition and remodel the interior to allow for single-level living.
- 2. Receive approval of a special use to allow for the construction of a detached accessory living quarters for permanent occupancy to allow for a secondary home on the property for which the owners can reside and age in place while family resides in the principal structure to assist in caring for them.

# F. APPLICABLE RESOLUTIONS

Approval: Resolution 4 Disapproval: Resolution 3

### G. LOCATION

North: RR-2.5 (Residential Rural) South: RR-2.5 (Residential Rural) East: RR-2.5 (Residential Rural) West: RR-2.5 (Residential Rural) Single-Family Dwelling Single-Family Dwelling Single-Family Dwelling Single-Family Dwelling

# H. SERVICE

### 1. WATER

Water is provided by an existing on-site well.

### 2. WASTEWATER

Wastewater is provided by an existing on-site wastewater treatment system.

# 3. EMERGENCY SERVICES

The parcel is located within the Donald Westcott Fire Protection District. The District was sent a referral and has no outstanding comments

# I. ENGINEERING

# 1. FLOODPLAIN

FEMA Flood Insurance Rate Map Panel No. 08041C0506G (dated December 7, 2018) shows a portion of the property as within the Zone AE area which is within the 100-year floodplain. The existing house and proposed addition are not located within the floodplain.

# 2. DRAINAGE AND EROSION

This property is located within the Kettle Creek Drainage Basin (FOMO3000). 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 property is accessed from Delta Road. A Traffic Impact Study is not required pursuant to the criteria established in the <u>Engineer Criteria Manual</u> Section B.1.2.D identifying that a traffic impact study is not required.

### 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 and notation of approval:

### CONDITIONS

- The approval applies only to the plans as submitted. Any expansion or additions to the proposed request to allow a lot width at the front yard setback line of 100 feet where a minimum of 200 feet of lot width is required and to allow a 6-foot side yard setback for a garage addition onto the existing dwelling where 15 feet is required may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
- Approval of a site plan by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department are required prior to construction of the proposed additions to the home.

### NOTATIONS

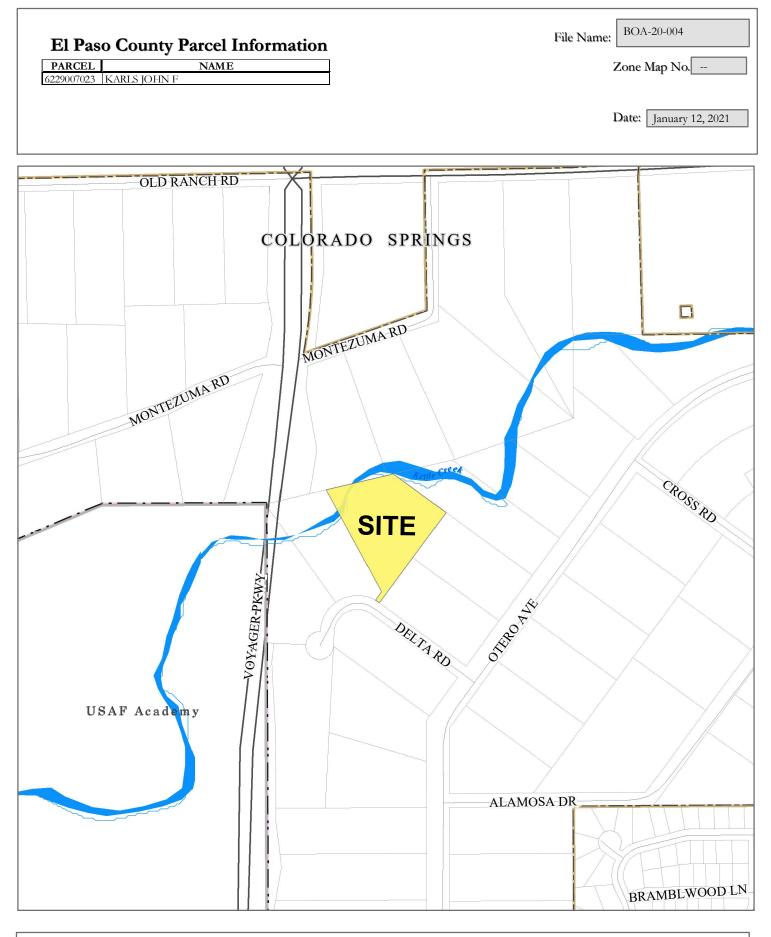
- Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.
- 2. The PCD Director may require a survey, certified by a registered surveyor, 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.

### K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven adjoining property owners on January 13<sup>th</sup>, 2021, for the Board of Adjustment meeting. Responses will be provided at the hearing.

### L. ATTACHMENTS

Vicinity Map Letter of Intent Site Plan



Please report any parcel discrepancies to: El Paso County Assessor 1675 W. Garden of the Gods Rd. Colorado Springs, CO 80907 **7** (719) 520-6600



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# Letter of Intent

Adjusted 12/29/20 Jfk

Johnny and Kathleen Karls 1630 Delta Rd. Colorado Springs, CO. 80920

### Site Location:

**Owners:** 

> Legal Description: THAT PART OF LOT U BLK B SPRING CREST FIL 2 AS FOLS, BEG AT A PT ON N LN OF SD LOT WHICH IS 296.66 FT WLY FROM NE COR THEREOF, TH ANG L 105<37'40" SELY 509.44 FT, ANG R 64<36'50" SWLY 45.00 FT TO NLY R/W LN OF DELTA RD, SELY ALG SD NLY LN 20.0 FT TO SE COR OF SD LOT, NELY ALG SELY LN OF LOT 486.0 FT TO MOST ELY COR OF LOT, NWLY ALG NELY LN OF LOT 285.52 FT TO NE COR OF LOT, TH SWLY ALG NLY LN OF LOT 296.66 FT TO POB

> Commonly known as 1630 Delta Rd., Colorado. Springs, CO 80920

**Request:** In summary, we would like our primary living space and garage on one level. Therefore, we are requesting the following. First, please consider x2 dimensional variance requests:

- 1) <u>A lot width reduction.</u> We are requesting the property width requirement be reduced to 100' in order to make (grandfather) the existing 51-year-old house compliant with the (currently 200' wide) property requirement.
- <u>A side setback variance on the east side of the house.</u> We would like to add additional living space that would encroach 9' into the 15' side setback on the east side. The 6' utility and drainage easements shall not be encroached upon.

Secondly, we would like to build a main level garage within the required setback on the southwest side. This would *not* be a variance request once the existing house is grandfathered.

### Code 2a. Grant for Variance of Specific Development Standards

### Peculiar and exceptional practical difficulties:

The entire house is currently in violation of the street-to-house setback code which states that the house cannot be built on a property until the property is 200' wide. We believe, when the house was built 51 years ago, this property and the property to the northwest were one property. So, first of all, this "violation" needs to be cleared/resolved.

### Exceptional and undue hardship:

- Age- we are both well into our 50s and intend to live here till we die. The stairs and distance to the existing (downstairs basement) garage, family room, guest room, and laundry room are proving to be more and more problematic. We would like to move all of our living space to one level so we can remain in this house. We love the neighborhood, the property, the area, and even the house; thus, we want to make it practical to live in.
- We both have bad knees, so stairs are becoming increasingly difficult. Johnny has had 3 knee surgeries to date and has been recently diagnosed with cancer. Two level living is a permanent and worsening condition for both owners.

### **Topography:**

Though the property is relatively large, we have very little buildable/livable flat space due to the immediate slope behind the house. Behind the house, drop off begins at about 20' and drops about 60' This (proposed) front and side of our house is the *only possible relatively flat space* to build.

### Some other unique or equitable justifications that compels strict compliance not to be required:

- Regarding easement on the east side (where we are seeking a variance), there is a distance of 100+ yards between our house and the next house; thus, plenty of utility accessibility space if ever needed. On the southwest side, we plan to maintain the required 15' easement.
- A very similar proposal was made by the previous owners 20 years ago and El Paso Community Development Department *approved* it. The owners decided to move instead of build. We have all the same immediate neighbors.
- The only utility provider using that easement space for the past 51 years, since the house was built, is telephone, and even that will not be affected.

### Anticipated Schedule: We would like to build asap.

Proposed Use: Garage, laundry room, family room, (all currently downstairs basement) and master bedroom.

### Traffic and drainage:

The proposed development (Karls Addition) land disturbance is less than one acre and will not adversely affect adjacent or downstream drainage flow and will not increase traffic to the property. Furthermore, the 6' utility and drainage easements shall not be encroached upon.

