

EL PASO



COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

BOARD OF ADJUSTMENT

MEETING RESULTS (UNOFFICIAL RESULTS)

(Audio and audio/video copies of the meeting are available at the Office of the Clerk/Recorder)

Board of Adjustment (BOA) Meeting
Wednesday, January 9, 2019 -- 9:00 a.m.
El Paso County Planning and Community Development
2880 International Circle
Colorado Springs, Colorado 80910

BOA MEMBERS PRESENT AND VOTING: KEVIN CURRY, JAY CARLSON, JERRY HANNIGAN, CHAD THURBER, JILLIAN FREELAND

BOA MEMBERS PRESENT AND NOT VOTING: KEITH WOOD

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, LEN KENDALL, BECK GRIMM, AND EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS ATTENDING:

BOA MEMBERS ABSENT: LORELLE DAVIES

1. Pledge of Allegiance

2. Sunshine Law

BOA ACTION: Mr. Carlson read the motion into the record; **Mr. Thurber** seconded the motion. The motion passed unanimously. (5-0)

3. Report Items

- a. The Planning Commission approved the County Water Master Plan last month, and the County Master Plan will be revised over the next 2-3 years.
- b. The next hearing will be on February 13, 2019.

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Mr. Hannigan – Are the Water Master Plans available? **Mr. Gebhart** – The final copy has not been certified by the Planning Commission, but they will be available online or by purchase soon for hard copies.

Mr. Hannigan – Will the same process occur for the County Master Plan that happened for the Water Master Plan? **Mr. Gebhart** – It will be similar as far as establishing groups and committees that represent the stakeholders throughout the County.

4. Adoption of Minutes of Regular Meeting held September 12, 2018

BOA ACTION: Mr. Thurber moved/ Mr. Hannigan seconded to approve the minutes with one minor revision. With the change to **Mr. Gebhart's** title, the minutes were approved unanimously (4-0).

5. BOA-18-008

KENDALL

DIMENSIONAL VARIANCE 13980 BLACK FOREST ROAD

A request by Goebel Construction, Inc., for approval of a dimensional variance to allow for a lot area in the creation of two (2) 2.5 acre lots in the RR-5 (Residential Rural) zoning district where five (5) acres are required. The five (5) acre parcel is located at the northwest corner of the Black Forest Road and Jicarilla Drive intersection. (Parcel No. 52060-01-008)

It is recommended that this item be continued to the February 13, 2019 hearing.

BOA ACTION: THURBER MOVED/HANNIGAN SECONDED TO CONTINUE DATE CERTAIN TO THE FEBRUARY 13, 2019. MOTION PASSED UNANIMOUSLY (5-0).

6. BOA-18-009

KENDALL

DIMENSIONAL VARIANCE 121 S. MARLAND ROAD

A request by Robert B. Condie and Kari Lee Hebble, for approval of a dimensional variance to allow a lot area of 3.37 acres in the split zoned A-5 (Agricultural) and RS-20,000 (Residential Suburban) zoning districts where five (5) acres is required. The 3.37 acre parcel is located approximately one-third (1/3) of a mile east of the intersection of Cheyenne Mountain Zoo Road and Marland Road. (Parcel No. 75013-00-009)

Mr. Emmons went over the review approval criteria for a dimensional variance for the Board of Adjustment members.

Mr. Kendall gave his presentation and answered questions from the Board.
Mr. Larry Gilland gave his presentation on behalf of the owners.

Mr. Carlson – What is your ultimate goal? **Mr. Gilland** – The owners' intention was to remodel the home and add an addition to the home. We found that it had two zones that are both permitted for single-family residences. We continued with no opposition and submitted the plans to the City and then referred to County when we were stopped. We were approved to proceed with construction, but then it was denied at the Planning Commission because one parcel is less than 5 acre requirement. The two zones are what held up the process. We have no intention of subdividing the parcels further.

Mr. Carlson – If we approve today, does that satisfy the adjacent owners' concerns? **Mr. Gilland** – Yes, it does.

SPEAKING IN FAVOR: None

SPEAKING IN OPPOSITION: None

DISCUSSION:

Mr. Hannigan – I have a number of concerns. I don't think this is the proper solution. I understand the neighbors are concerned about an RS-20000. This is about a 1 ½ acre parcel and a 2 ½ acre parcel, not a 3.7 acre parcel. It should have been rezoned to RR-2.5 or a PUD since the property is an enclave. I don't know that we are solving any problems if we approve this. PUD zoning would outline specifically what is allowed.

Mr. Curry – Can you discuss why there wasn't discussion about rezoning to PUD as one of the options? **Mr. Dossey** -- Using a PUD in this instance is not the intent of what a PUD is defined as. A PUD is designed to provide a tradeoff between development and amenities like open space and parks. It would be a misuse of that zoning when there is no greater plan of development. In this particular situation, and you look at the history of the area, the majority of this area was developed at a scale of RS-20000. The other properties in this area are very similar. Just because something is zoned one way does not mean it can be subdivided the same way. Requiring them to meet a standard that no one else in that area meets, would be inconsistent. It holds them to a much higher standard. This puts the burden on this property only. There are no central services in this area except those through the City of Colorado Springs. As an alternative, we suggested to them to do a dimensional variance which allows their process to continue. I'm sympathetic to their situation. The County created the section line zoning.

Mr. Hannigan – I appreciate your comments. I am also sympathetic to the property owners. They inherited the problem. This is just not the right solution in my opinion.

Mr. Curry – It's not really a 3.7 acre in a 5 acre zoned district, it's a 1 and 2 acre property, our motion is to allow the 3.7 where 5 acres is allowed. Does our motion need to change to reflect the 2 separate parcels or the total combined?

Mr. Dossey – It is conforming per the RS-20000 on the northern portion; it's not conforming on the southern half. I would recommend your motion include the property in its entirety.

Mr. Emmons – What is before you is an issue that relates to the entire 3.7 acre parcel. There are two parcels that make up this legal description; however, those parcels are not aligned with the zoning line. The request is for relief of the entire parcel. Because it is conforming with RS-20000, the relief needs to be granted to the entire parcel which is restricted to the more restrictive zone of RR-5. In 1957 the parcels were created by deed, and there is a deed restriction in that it restricts the property to a single-family residence and garage or outbuilding. It shall not be subdivided or partitioned. That doesn't mean that can't go back and undo the restriction. Based on that deed, the development on the property is restricted. The other challenge is that if you deny this request and they go back to the BOCC for a rezone, it will be difficult for them to get to a zone that is compatible to the surrounding area. There are some RS-20000 parcels in the area, but in actuality those properties are greater than 20,000 ft. If you convert this RS-20000, then it's not compatible with the acreages there. If you rezone to A-5, then you have to go a distance to find other A-5 properties. Then you're left with RR-2.5 and you can't get to a compatibility there either with no other RR-2.5 properties in the area. What was presented seems like the best solution.

Mr. Carlson – It would be nice to solve all the future issues, but we need to allow the owners to proceed, and I believe this is the best way to achieve that.

Mr. Curry – I did see this item on the Planning Commission, and a concern was that the RS-20000 was an inappropriate zone. For me personally, as imperfect as it is, I think it's the best one we have. I will be voting in favor.

BOA ACTION: CARLSON MOVED/THURBER SECONDED TO APPROVE ITEM NO. 6, BOA-18-009, BASED ON USING STANDARD RESOLUTION NO. 3, WITH ONE (1) CONDITION AND ONE (1) NOTATION. MOTION PASSED (4-1). MR. HANNIGAN WAS THE NAY VOTE.

Adjourn

The minutes were approved as presented at the February 13, 2019 hearing.