



Huerfano County Board of Adjustment
Staff Report – Permit # LU-23-026, Variance Barnett
Meeting Type – Public Hearing

Meeting Date: July 20, 2023

Request Summary

With this Application Matt Barnett (the Applicant) requests the following:

A variance from setbacks described in Section 1.03 of the Land Use Code to construct a shop with a front setback of 25 feet from the south property line and a side setback 2 feet from the east property line. The site is addressed at 17 County Road 592 (Parcel Number 37095). There was a shed covering part of the proposed footprint which had a 2-foot side setback, which has since been removed. The proposed garage would be 32'x40' built to the same 2' side-setback line as the previous and with a 25-foot front setback.

A variance may be requested pursuant to §9.02 of the Land Use Code.

According to §1.16 (8)(02) of the Land Use Code, this lot is conforming. Parcel 37095 was part of the Sulphur Springs Townsite platted in 1906 (See original plat on Map 23, and amended location survey recorded in 2021 in Survey 1105).

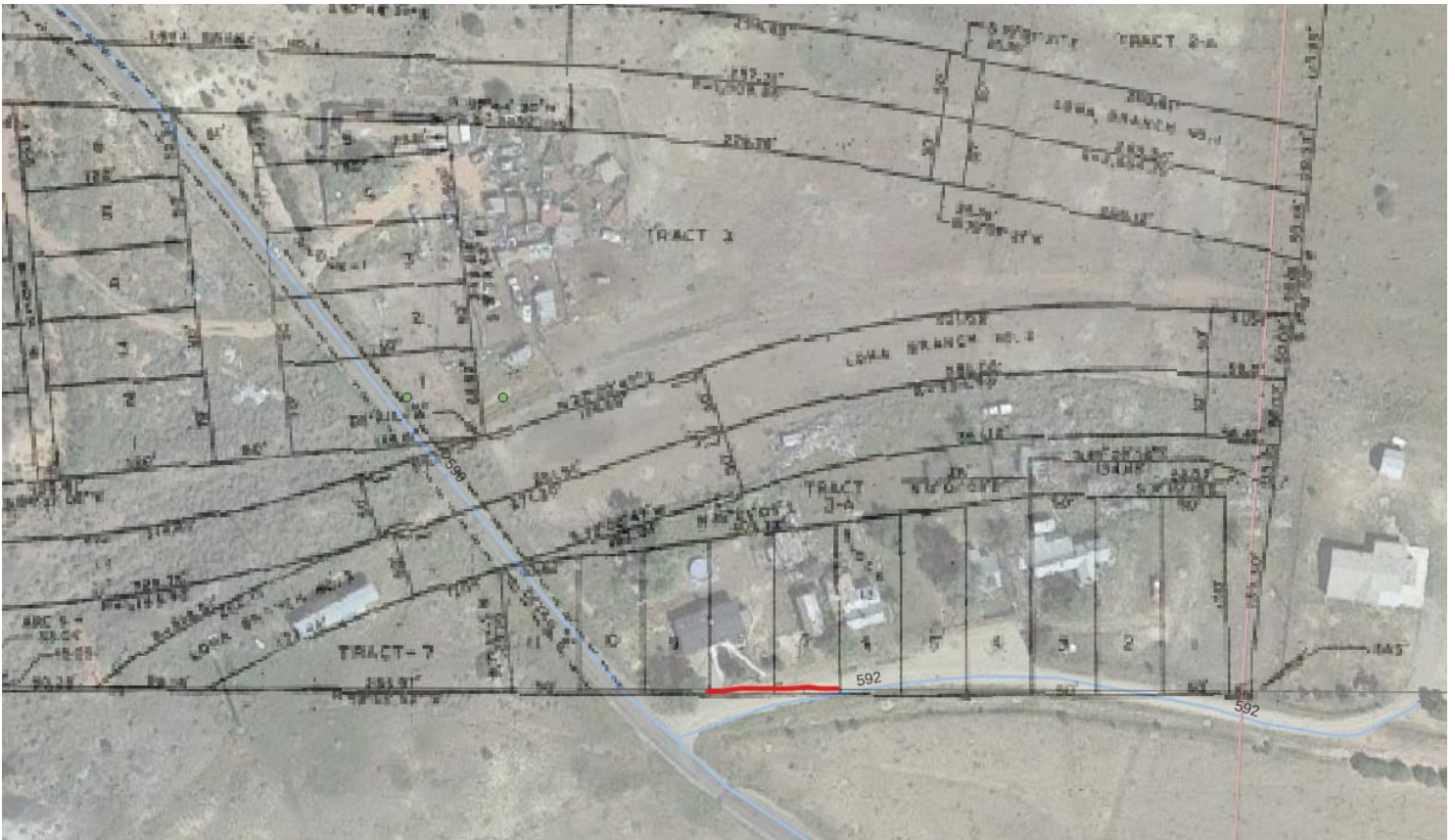
The subject property is zoned Agricultural. Zoning standards for this district are set forth in LUR Section §1.03.

Background

On June 22, 2023, an Application for a Variance, Application Fees of \$75 plus fees associated with noticing of \$33.90, were received by the County.

Site Map/Vicinity Map

Satellite image overlaid with Survey #1105, which is an amended location survey recorded in 2021 amending Map 23 which was the original 1906 plat map of Sulphur Springs Townsite.



Code References

The following Code Sections are applicable to this application and may be referenced by the Huerfano County Board of Adjustment in their evaluation of the request:

§ 1.03.02

Agricultural District

This district is created for the purpose of protecting the productive agricultural lands of Huerfano County and preserving the visual and cultural values, historical and archeological features and critical wildlife habitat associated with the scenic vistas, natural topography and agricultural lifestyles in rural, unincorporated areas of Huerfano County.

Minimum lot area: 35 acres

Front yard setback: 60 feet

Side yard setback: 25 feet

Rear yard setback: 30 feet

§ 1.16 (8) Use of Conforming and Non-Conforming Lots.

01. Lots and parcels of record that were non-conforming prior to the day of adoption of this zoning regulation may be built upon or used provided that: a) the setback, floor area and bulk requirements and other provisions for

the zoning district within which the lot is located are adhered to, b) the lot was not created by private conveyance or in violation of the County subdivision regulations and c) approval in the form of a variance is granted by the Board of Adjustment.

02. Lots and parcels of record that were conforming prior to the day of adoption of this zoning regulation are hereby declared to be conforming and shall henceforth continue to be legal conforming lots and parcels of record.

03. No lot which was conforming in size on the day of adoption of this zoning regulation may be subdivided according to the subdivision procedures contained herein in such a manner that it would become non-conforming nor cause any structure or use to become nonconforming.

§ 9.02.02 Powers and Duties of the Board

The Board of Adjustment shall have the following powers and duties, which shall be exercised in accordance with the laws of the State of Colorado and the provisions of these regulations and in harmony with the public interest and the most appropriate uses of the land:

...

2. To provide applicants with an opportunity to apply for variances from zoning setback requirements and other circumstances for which a variance may be deemed appropriate.

...

4. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of enactment of these regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional physical characteristics or conditions of such piece of property not created by the applicant subsequent to the adoption of these regulations or previously adopted County zoning regulations, the strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, then the Board of Adjustment shall have the authority, upon an appeal relating to said property, to authorize a variance from such strict and literal application so as to relieve such difficulties or hardship. Such relief shall be granted, however, without substantial detriment to the public good and without altering or impairing the intent and purpose of the zoning regulations and other provisions contained within State or County regulations. The Board shall not, however, have the power to grant variances from the uses prohibited or allowed conditionally by special review for the zoning district involved.

Staff Recommendation: Sulphur Springs Townsite was platted in 1906 to serve as a town around a mine, and when the County adopted zoning, this area was zoned Agricultural. Because of the age of plat, these are conforming parcels, but the strict application of setback requirements of the Agricultural Zone would render these parcels unbuildable. Additionally, there is historic precedent on this property as the proposed building overlaps the footprint of a recently demolished building. The Commission should consider the history of this subdivision in the evaluation of this request. While it appears that the proposed project is fully within the applicant’s property, it is possible that fences or perceived property boundaries vary slightly from the original survey; if there is any dispute about property boundaries or if the property is sold, a survey of the property is recommended to avoid any cloud on the title.

Potential Conditions:

Commission Action Options:

1. **Approval** without any special conditions.
2. **Conditional Approval** with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action.
4. **Continuation** until a future date to gather more information or obtain clarification or for any other

relevant cause.

Enclosures

- Application Materials
 1. Land Use Application
 2. Letter of intent
 3. Proof of Ownership
 4. Adjacent property owners