



## BOARD OF ADJUSTMENT AGENDA

July 20, 2023 at 1:30 PM

Commissioners Meeting Room - 401 Main Street, Suite 309, Walsenburg, CO 81089

Office: 719-738-3000 ex 200 | Fax: 719-738-3996

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### Join via Zoom:

<https://us02web.zoom.us/j/83429735658?pwd=S2ZlSENWk0ZHR3Y0RkxBOEp3c2xGdz09>

**Meeting ID:** 834-2973-5658 | **Passcode:** 915234

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. READING OF MINUTES
4. ACTION ITEMS
  - a. 23-026 Variance - Barnett
5. DISCUSSIONS
6. ADJOURNMENT

**Huerfano County Land Use Department**  
401 Main Street, Suite 304  
Walsenburg, Colorado 81089  
719-738-1220, Ext. 103



Item 4a.

## 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

Huerfano County Land Use Department  
401 Main Street, Suite 340, Attn: Land Use  
Walsenburg, Colorado 81089  
719-738-1220 ext. 103



### GENERAL LAND USE APPLICATION

Application File No.: 23-026  
Date Received: 6/25/23  
Received by: Sky Tallman  
Fees due: \$108.90 Date Paid \_\_\_\_\_

**1. ACTION(S) REQUESTED:**

- Conditional Use Permit
  - Conditional Use Permit / Marijuana
  - Conditional Use Permit/ Oil, Gas or Uranium Exploration and/or Development
  - Rezoning
  - Variance
  - Subdivision Exemption
  - Plat Amendment
  - Lot Consolidation
  - Plat Correction
  - Right-of-Way or Easement Vacation
  - Other Actions (specify): \_\_\_\_\_
- Sign Permit
  - Temporary Use Permit
  - H.B. 1041 Text Amendment
  - H.B. 1041 Development Permit
  - H.B. 1041 Flood Plain Exemption
- PUD and Subdivisions:**
- Sketch Plan
  - Preliminary Plan
  - Final Plat / Subdivision Improvement Agreement
  - Appeal of Denied Application

**2. APPLICANT AND OWNER INFORMATION:**

Applicant Name: George Barnett  
Applicant's Mailing Address: 17 CR 592 Walsenburg CO 81089  
Applicant's Telephone: 719-680-3416 Email: barnettpump service@gmail.com  
Name of Land Owner: George and Frances Barnett  
Land Owner's Mailing Address: \_\_\_\_\_  
Land Owner's Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**3. PERMIT DETAILS:**

Detailed project description/Scope of Work: 32x40 metal building with concrete floor

Parcel Area: \_\_\_\_\_ Acres; Zoning District(s): \_\_\_\_\_  
Parcel/Schedule Number(s): \_\_\_\_\_  
Parcel Address (optional): \_\_\_\_\_  
Current/Proposed Land use (see §1.05 of the Land Use Code): \_\_\_\_\_

### GENERAL LAND USE APPLICATION

If project is in an HOA, HOA name: N/A

If a Variance Request, please state the reason for the Variance(s): Setbacks are predated and need to be adjusted

Is all or a portion of the subject land located in a 100-year flood plain area (see FEMA floodplain map), or are there areas with slopes in excess of twenty percent (20%)?  YES  NO  NOT SURE

If YES, describe existing conditions: \_\_\_\_\_

Value of proposed project: \_\_\_\_\_

Will the proposed project require any State or Federal permits?  YES  NO

If YES, please list all permits or approvals required: \_\_\_\_\_

Additional pertinent information: \_\_\_\_\_

If a H.B. 1041 permit is required, for what matters of local concern and state interest? \_\_\_\_\_

#### 4. CERTIFICATION BY THE APPLICANT:

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all conditional use permits are non-transferrable, unless specifically approved by the Huerfano County Board of County Commissioners. The Board of County Commissioners may impose permit transfer fees as it deems appropriate. All documents submitted may be subject to internet publishing.

Signature of Applicant: George M Barnett Date: 6-25-23

Printed name: George M Barnett

#### 5. ACTION (by the authorized permitting authority):

- Final Approval
- Conditional Approval
- Denial

Name \_\_\_\_\_ Signature \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

Comments \_\_\_\_\_

ACCOUNT FILE MAINTENANCE

Account 35255 Flag R LEGAL DESCRIPTION Acres  
Name SHROUT, RODELL & GINGER SEC 6-28-66 ALL THAT PT OF  
Address 1 PO BOX 915 NE4NE4 & S2NE4 IN SULPHUR  
Address 2 LA VETA SPRINGS T.S. & OTHER  
Address 3 CERTAIN TRACTS  
Address 4 1 & 4 SULPHUR SPRINGS  
State/Zip CO 81055 0000 6.48AC

Item 4a.

Property THIS ACCOUNT HAS COMMENTS

Map Num 28-5159-061-00-031  
Prev Name1 WEBER, SHERRI & RAYLENE FADELY  
Prev Name2 PFAFFENHAUSER, RAYMOND

VALUES-ASSD TAXABLE EXEMPT  
LAND 35

Use 4147 City 00000 Subdv 0580  
Anlys 000 Tax/Dst 1S0 Zone 00  
Exempt Late Filing Advrt Y Bnkrpt N TOTALS 35  
ACRES: Master Legal Value Ignore PP \$ 14508 Exemption N  
00000001175 000 1175 NOV # NOD #

CHANGES

Parcel On 02/07/2022 By COHUMELI CMD1-Value Change CMD2-Legal Change  
Name On 10/12/2021 By COHUPTON CMD3-Both Changes CMD4-Sales Change  
Values On 09/08/2021 By COHUMELI CMD11-HOMESTEAD CMD12-ID# CHANGE  
Legal On 02/07/2022 By COHUMELI CMD22-Abort Entry HELP-More Details

John Hanna 8073 Carmel Cir Foley Ala. 36535

Richard Hanna 200 Bridge St San Gabriel CA 91775



Hi All,

This letter is to inform the committee of my intent. My wife and myself own property in Sulfur Springs Block 13 lots 7-11, which is now called Toltec. In 2021 we started our own business and we are looking to add a shop for obvious reasons. Storage, mechanic work out of the cold/heat. We had a building that was falling down and quite frankly an eye sore. We removed the building and we are now looking to rebuild which brings us to the request of the variance.

Our parcels of land have setbacks that were in place when the railroad was booming and surely had some precedence then. However, now they do not serve the same purpose. The rebuild we are planning would be in the same location as the removed building, as far as the setbacks were. It would be slightly wider and slightly longer, but would not impede on the neighbor's property more than the original building did. We are requesting a 25ft setback from the south line and a 2ft setback from the east line, which is the same place as the original building.

We thank you all for your time and consideration of this matter. Our hope is to continue to grow and support the community that my wife's family has been a part of since the 1800s and our children have grown in and will continue to grow in.

Sincerely,

## The George and Frances Barnett

This Deed, Made this 13 day of June in the Year of our Lord

Two thousand and 23 between Frances Jeppsen Barnett AKA Frances Barnett George M. Barnett AKA George Barnett

Of the County of Huerfano and State of Colorado, of the first part,

whose street address is , City or Town of

and Frances Barnett George M. Barnett \*(in Joint Tenancy)

whose street address is 17 City rd 592, City or Town of Wadsworth and State of Colorado, of the second part, of the County of Huerfano

Witnesseth, That the said party of the first part, for and in consideration of the sum of DOLLARS

paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first party has in and to the following described parcel of land and improvements and appurtenances there- to in the County of HUERFANO and the state of COLORADO , To-wit:

Lots 7,8,9, 10, 11 Blk 13 Sulphur Springs ADD

430314 Page 1 of 1 Erica Vigil, Clerk & Recorder Huerfano County, CO 06-13-2023 02:34 PM Recording Fee \$13.00

\*\*\*\* in JOINT TENANCY

In Witness Whereof, The said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of

Signatures of Frances Barnett and George M. Barnett with (SEAL) markers.

STATE OF COLORADO, COUNTY OF HUERFANO

The foregoing instrument was acknowledged

before me this 13 day of June , 20 23

by Frances Barnett & George Barnett

Witness my hand and official seal.

My commission expires

January 23, 2027

Signature of Notary Public

DEBORAH BERNAL NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20084018683 MY COMMISSION EXPIRES JANUARY 23, 2027