

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 15-5080

VARIANCE

THOMAS KETCHESON, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on June 9, 2015, on the Application of Thomas Ketcheson (Applicant) for a variance of Santa Fe County Ordinance No. 2007-2 (Village of Agua Fria Zoning District Ordinance), Section 10.6, Density and Dimension Standards, to allow two dwelling units on 2.99 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicants request approval of a variance of the Village of Agua Fria Zoning District Ordinance, Section 10.6, Density and Dimension Standards, to allow two dwelling units on a 2.99 acre lot.
2. The lot was created in 2001, by way of land division and is recognized as a legal lot of record consisting of 2.99 acres. The lot is located in Santa Fe County at 1719 Roys Way,

within Section 31, Township 17 North, Range 9 East (Property), within the Traditional Community of Agua Fria.

3. Thomas Ketcheson, provided a warranty deed as evidence of his ownership of the Property recorded August 4, 2004, with the County Clerk as instrument # 1340446.
4. The Property currently has two dwelling units, as evidenced by photographs of the property entered into the record as Exhibit 8.
5. The Applicant provided receipts for mailing notices before the CDRC and BCC by certified mail March 26, 2015. It appears that all noticing requirements of the code were met. Noticing in the legal section of the Santa Fe New Mexican occurred on March 26, 2015, as evidenced by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. A certification of posting and photographs of the posting were provided by the Applicant.
6. The Village of Agua Fria Zoning District Ordinance, Section 10.6, Density and Dimensional Standards, allows for a minimum lot size of 2.5 acres per dwelling unit. Without community water and sewer. The densities of surrounding properties range from 0.8 acres to 4 acres.
7. Article II, Section 3.1 of the Code states,

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.

Section 3.1 concludes that, “[i]n no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified.”

8. Article II, § 3.2 (Variation or Modification) states, “[i]n no case shall any variation or modification be more than a minimum easing of the requirements.”
9. At the Public Hearing before the BCC on June 9, 2015, staff recommended denial of the requested variance.
10. In the Event the Application was approved, Staff recommended imposition of the following conditions of approval:
 - a. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each home within 90 days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2).
 - b. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property within 90 days of recording the order granting the variance (As per Article II, § 2).
 - c. The placement of additional dwelling units is prohibited on the property (As per Ordinance No. 2007-2 section 10.6).
 - d. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

e. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).

f. These conditions are conditions precedent to the granting of the variance. If the Applicant fails to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

11. At public hearing no one spoke either in support or opposition to the Application.

12. The Applicant stated that compliance with the Code would exact a hardship because when he purchased the property in 2004, it contained both the single family home and guest house. Additionally, Applicant states he purchased the property with the intent to use the guest house occasionally, however, current financial circumstances have led him to continuously rent out the guest house, and otherwise he would not be able to keep up with his mortgage payments resulting in him losing the property.

13. Applicant claims that a variance from the code would not result in conditions injurious to health or safety because it was an existing two dwelling property and would not be changing if the variance were to be granted. Additionally, there are numerous surrounding properties with similar densities.

14. Granting this variance request will not result in conditions injurious to health or safety, it will not nullify the purpose of the Code, and it is a minimal easing of the Code.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of the Village of Agua Fria Zoning District Ordinance, Section 10.6 to

allow two dwelling units on 2.99 acres, located at 1719 Roys Way in Santa Fe County subject to the six conditions listed in paragraph 10 above.

The motion to approve the variance passed by a 5-0 vote, a unanimous decision.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this ___ day of _____, 2015

By: _____
Robert A. Anaya, Chair

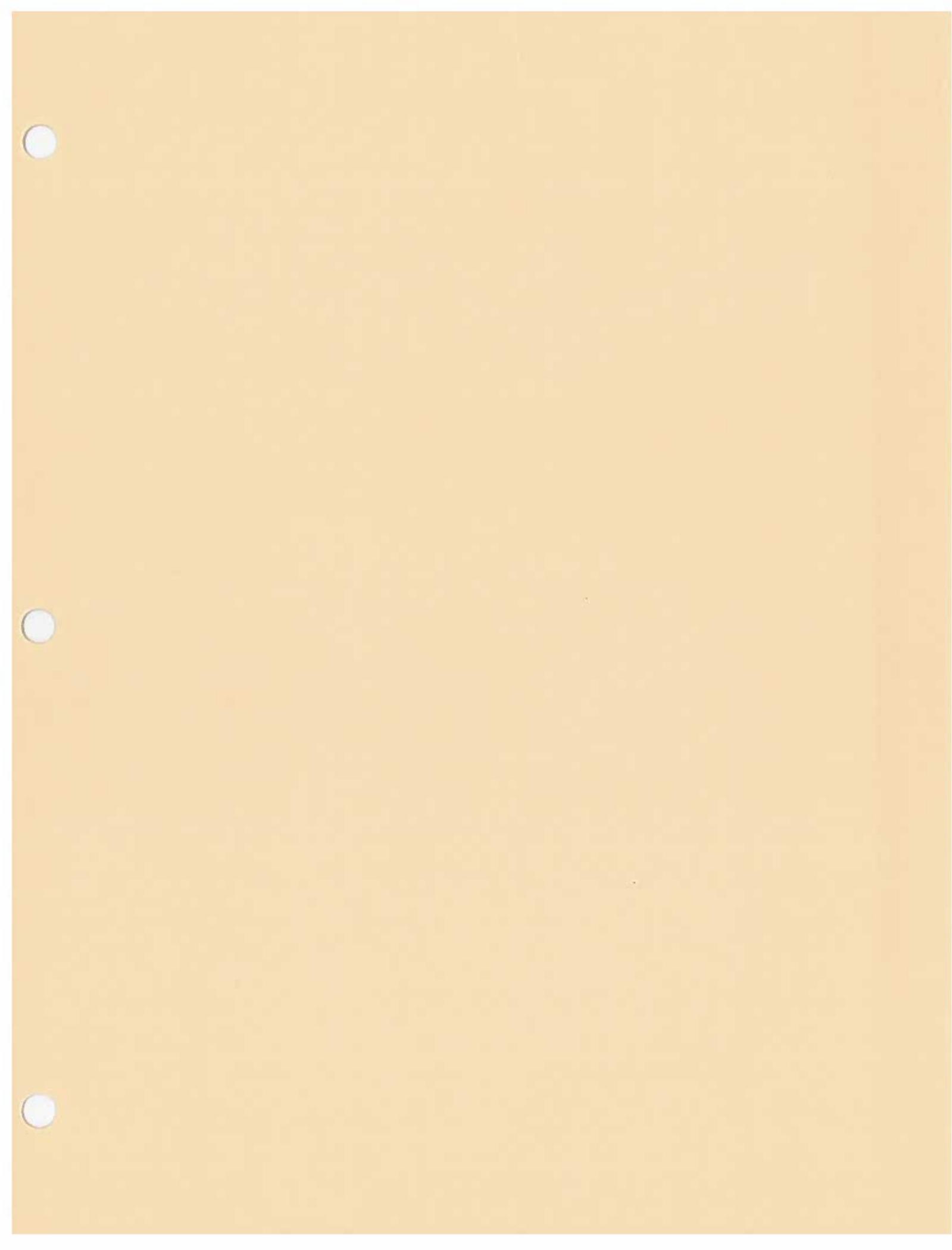
Attest:

Geraldine Salazar, County Clerk

Approved as to form:



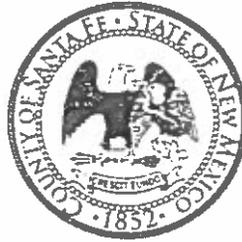
Gregory S. Shaffer, County Attorney



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 15-5070

VARIANCE

JENNIFER FARQUHAR, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on June 9, 2015, on the Application of Jennifer Farquhar (Applicant) for a variance of Article III, Section 10, Lot Size Requirements, of Santa Fe County Ordinance No. 1996-10, Santa Fe County Land Development Code (Code), to allow the division of an 11.34 acre lot into two lots. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval of a variance of Article III, Section 10, Lot Size Requirements, of the Code to allow the division of an 11.34 acre lot into two lots.
2. The subject lot is part of the Vista Piedras Negras Subdivision which was created in 1980, and is recognized as a legal lot of record consisting of 11.34 acres, as evidenced by Plat of Survey for James B. Alley Jr. and Oral and Maxillo Facial Surgeons, P.C. recorded in the

records of the Santa Fe County Clerk at Book 76, Page 11. The lot is located in Santa Fe County at 21 Piedras Negras, within Section 21, Township 16 North, Range 10 East.

3. Jennifer Farquhar, provided a warranty deed Instrument #1603224 dated July 1, 2010, as evidence of her ownership of the Property.
4. The Property currently has a residence (2770 sq. ft.) and an accessory structure (studio/shed) (200sq. ft.), as evidenced by photographs of the property entered into the record as Exhibit 6.
5. The Applicant provided the CDRC and BCC receipts for mailing notices by certified mail on March 20, 2015. It appears that all noticing requirements of the Code were met. Noticing in the legal section of the Santa Fe New Mexican occurred on March 26, 2015, as evidenced by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. The Applicant also provided a certification of posting and photographs of the posting.
6. Article III, Section 10, Lot Size Requirements, establishes that the minimum lot size in the Mountain Hydrologic Zone is 80 acres per dwelling unit. The subject property is in the Mountain Hydrologic Zone. Lot sizes can be reduced to 20 acres per dwelling unit with signed and recorded water restrictions of 0.25 acre feet per year per dwelling unit. The densities of the surrounding properties range from 5 acres to 10 acres.
7. Article II, Section 3.1 of the Code states,

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of

the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.

Section 3.1 concludes that, “[i]n no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified.”

Article II, Section 3.2 states, “[i]n no case shall any variation or modification be more than a minimum easing of the requirements.”

8. At the Public Hearing before the BCC on June 9, 2015, staff recommended denial of the requested variance.
9. In the event the Application was approved, Staff recommended imposition of the following conditions of approval:
 - a. Water use shall be restricted to 0.25 acre-feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office ;
 - b. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval
 - c. Further Division of either tract is prohibited; this shall be noted on the plat;
 - d. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat Review.

10. The Applicant submitted a letter from James B. Alley, Jr. in support of the Application. Two community members, Kate Fitzgibbon and John Andrews, spoke in opposition to the

Application; they were concerned about water availability if another well was installed on the property. The Applicant has not specified whether the property will be split equally. The Applicant states that she and her husband intended to split the property in order to build on the lower portion of the property for their retirement. The Applicant asserts that neighboring properties on Piedras Negras are all between 5-6 acres a piece, making the subject lot the largest in the area. The Applicant claims that the lower half of the property is more accessible than the upper 5 to 6 acres where the existing home is located. The Applicant's existing home has a long driveway and the access from the driveway and carport to the residence requires a walk up stairs or a long walkway with a steep change in elevation. The Applicant further states that since her husband passed away 8 years ago, it has been difficult raising their son as a single mother living on a property where the elevation affects driving to and from their home when there is snow. The Applicant also states that it is difficult to haul firewood and groceries up to the residence. The Applicant claims that she needs to sell the existing residence for both physical and financial reasons.

11. The Applicants asserts that compliance with the Code would exact a hardship because she is financially in need of selling part of the land and cannot continue to pay her mortgage which would result in the loss of the property. Additionally, many surrounding properties have similar densities to her proposed variance. She claims that a variance from the Code would not result in conditions injurious to health or safety because the combined water use allowed for the two lots is less than is currently allowed. Applicant currently has usage of three (3) acre-feet of water. The granting of the variance would result in each lot being restricted to a quarter (0.25) acre-foot of water.

12. Granting this variance request will not result in conditions injurious to health or safe, it will not nullify the purpose of the Code, and it is a minimal easing of the Code.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, Section 10, Lot Size Requirements, of the Code, to allow division of an 11.34 acre lot located at 21 Piedras Negras, Santa Fe County into two lots subject to the conditions set forth in paragraph 9 above.

The motion to approve the variance passed by a 5-0 vote, a unanimous decision.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this ___ day of _____, 2015.

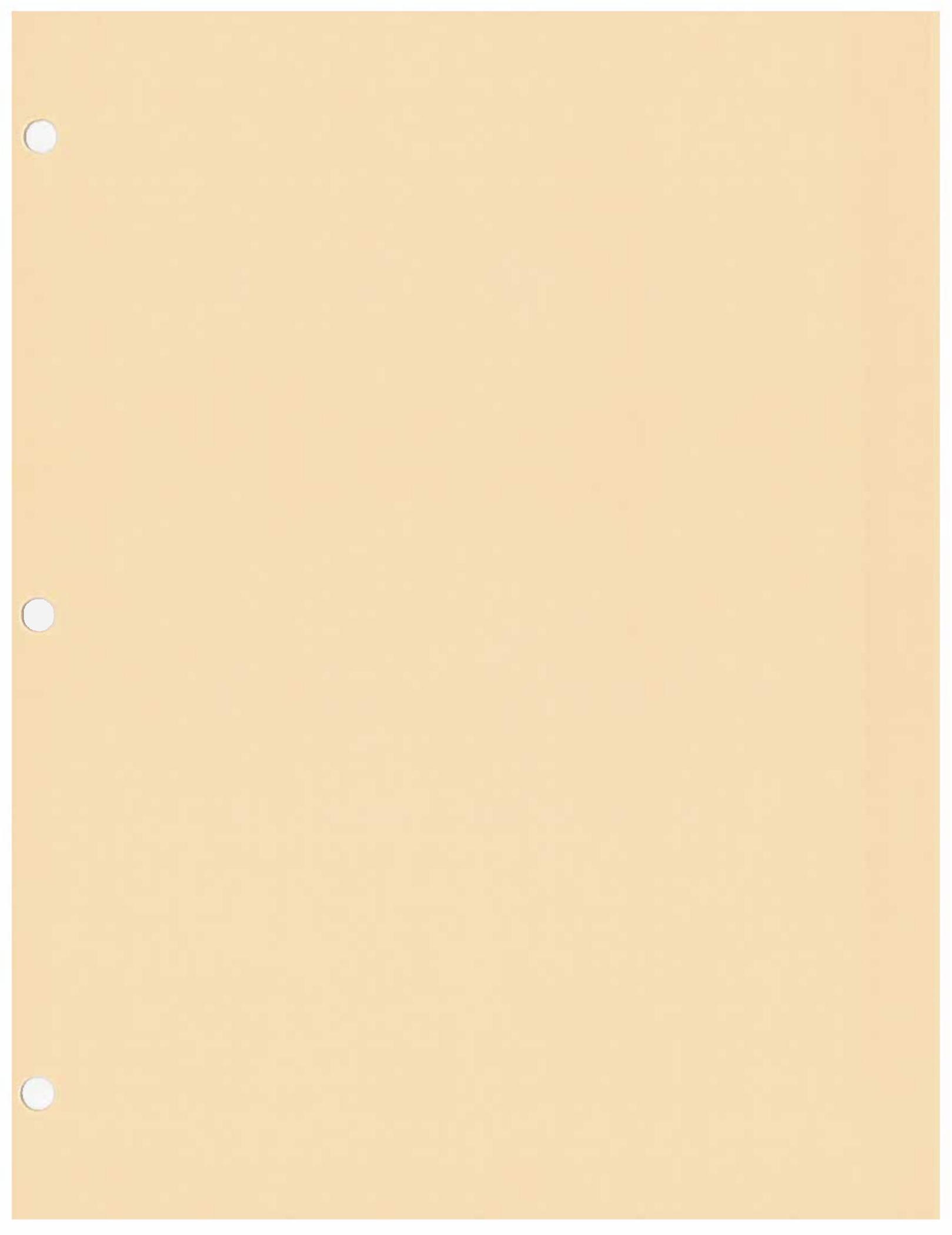
By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:

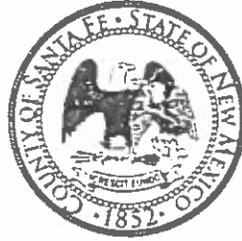

Gregory S. Shaffer, County Attorney



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 15-5031
VARIANCE
JUAN FRANCO, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on June 9, 2015, on the Application of Juan Franco (the Applicant) for a variance of Article III, Section 10, Lot Size Requirements, of Santa Fe County Ordinance No. 1996-10, Santa Fe County Land Development Code (Code) to allow a Land Division of 2.6 acres into two lots, each lot consisting of 1.3 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests approval of a variance of Article III, Section 10, Lot Size Requirements, of the Code to allow a Land Division of 2.6 acres into two equal lots, each consisting of 1.3 acres. The subject property was created in 1977, and is recognized as a legal non-conforming lot of record consisting of 2.6 acres, which is located in Santa Fe County at 88 Taylor Loop off the I-25 East Frontage Rd within Section 5, Township 15 North, Range 8 East. The 2.6 acre parcel is currently vacant.

2. The Applicant acquired the property by Warranty Deed recorded in book 2154, page 561 in the Santa Fe County Clerk's records dated June 20, 2002.
3. The Applicant provided receipts for mailing notices before the CDRC and BCC by certified mail March 23, 2015. It appears that all noticing requirements of the code were met. Noticing in the legal section of the Santa Fe New Mexican occurred on March 26, 2015, as evidenced by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. A certification of posting and photographs of the posting were provided by the Applicant.
4. Article III, § 10, Lot Size Requirements, asserts that the minimum lot size in the Basin Hydrologic Zone is 10 acres per dwelling unit. Lot sizes can be reduced to 2.5 acres per dwelling unit with signed and recorded water restrictions of 0.25 acre feet per year per dwelling unit. Lot size can be further reduced to 1.25 acres via Small Lot Transfer.
5. Article II, Section 3.1 of the Code states:

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.

Section 3.1 concludes that, "[i]n no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified."

6. Article II, Section 3.2 states, “[i]n no case shall any variation or modification be more than a minimum easing of the requirements.”
7. The Applicant purposes to utilize a shared well and conventional septic system.
8. At the Public Hearing before the BCC on June 9, 2015, staff recommended denial of the requested variance.
9. In the event the Application was approved, Staff recommended imposition of the following conditions of approval:
 - a. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2).
 - b. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
 - c. Future division of either tract is prohibited; this shall be noted on the plat (As per Article III, § 10).
 - d. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).
10. At public hearing no one from the community spoke in opposition to the Application. Artemo Franco, spoke in support of the Application asserting that because this is solely for a future family transfer, not to sell the property but pass it down to his children, this Application should be granted. The Applicant states he does not have an extraordinary

hardship because of unusual topography or other non-self-inflicted condition, instead, he asserts that compliance with the Code would exact a hardship to his family because he and his wife are separated and preparing to divorce and they desire the variance so each may have a piece of the land to give to each of their two children. He further states, the variance is needed in order to plan for his children's future to provide his children with an affordable place to live when they reach adulthood. Additionally, Applicant asserts that many of the surrounding properties have similar densities to Applicant's request.

11. The granting of this variance of the Code will not result in conditions injurious to health or safety, will not nullify the purpose of the Code, and is a minimal easing of the Code.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, Section 10 (Lot Size Requirements), of the Code to allow a Land Division of 2.6 acres into two lots, each consisting of 1.3 acres, located at 88 Taylor Loop, off the I-25 East Frontage Road, Santa Fe County subject to the following conditions set forth in paragraph 10 above.

The motion to approve the variance passed by a 3-2 vote, with Commissioners Anaya, Chavez, and Roybal voting in support and Commissioners Holian and Stefanics voting against.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this ___ day of _____, 2015.

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

