

MEMORANDUM

DATE: July 15, 2010

TO: County Development Review Committee

FROM: John M. Salazar, Development Review Team Leader

VIA: Jack Kolkmeyer, Land Use Administrator
Shelley Cobau, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CDRC CASE # V10-5160 Larry Martinez Variance

ISSUE:

Larry Martinez, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a second dwelling unit on 1.25 acres.

The property is located at 20 Camino Vista Grande, within Section 25, Township 16 North, Range 8 East, (Commission District 5).

SUMMARY:

The Applicant requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a second dwelling unit on 1.25 acres (Exhibit "L"). The property is near the intersection of NMSR 14 and Camino Vista Grande, south of Interstate 25 in the existing Valle Lindo Subdivision (Exhibit "B").

The Applicant is requesting the variance in order to move his son and his son's family onto the subject property. The Applicant states that his daughter-in-law suffers from multiple sclerosis and due to her illness the family has become a single income family resulting in the foreclosure of their home and the inability to pay rent on a mobile home space. The Applicant would like to help his son's family out by caring for his three grandchildren and providing a place for them to live (Exhibit "A").

The Applicant currently has one home on the property served by a single shared conventional septic system and a shared well. The Applicant is proposing that the new residence will have its own septic system and will connect to the shared well. The minimum lot size required for a conventional septic system is 0.75 acres for a three bedroom home, the lot size minimum increases with each additional bedroom (Exhibit "F"). The State Environment Department (NMED) has specific regulation regarding maximum design flow based on parcel size; NMED staff has indicated that the maximum number of bedrooms that could be allowed on a 1.75 acre parcel is six. More than six bedrooms might not be permitted by the NMED, and the Applicant is herein advised that an advanced liquid waste treatment system might be required—dependant on the number of bedrooms present. Permitting of the liquid waste disposal system is through the NMED, and must be addressed prior to application for a County Development Permit. Additionally, it is unclear how two residences meet the maximum 0.25 acre foot per year water restriction, which is considered the minimum needed for a family of four unless significant conservation measures are undertaken. Code dictates a minimum separation of 100' between liquid waste and potable water systems.

Article III, Section 10 states the maximum allowable lot size within the Basin Hydrologic Zone is 2.5 acres per dwelling unit with water restrictions. The 1.25 acre lot was created via the small lot family transfer process and is restricted to .25 acre feet (81,457 gallons) of water use per year and water conservation measures (Exhibit "E"). Article II, Section 4.3 allows for a small lot family transfer of half the maximum allowable lot size which does not meet the density requirements of the code (Exhibit "M").

This case came to the attention of County staff when a neighbor complained about junk vehicles, litter and an unpermitted mobile home sitting on the property. Mr. Martinez was cited into Magistrate Court (Exhibit "J") and subsequently submitted for the variance to exceed the density requirements of the code by allowing a second dwelling on the 1.25 acre parcel.

Article II Section 3 (Variances) of the County Code states that "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 condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This section goes on to state, "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified."

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, and approve with conditions or table for further analysis of this request.

RECOMMENDATION:

The medical hardship described by the Applicant is not the type of variance hardship contemplated by the Code. Staff has significant concerns regarding the functionality of the shared well and liquid waste systems, and recommends that the request for a variance be denied; Article III, Section 10 states that the minimum lot size in this area is 2.5 acres per dwelling unit. The lot has already been divided via the small lot family transfer process. Should the CDRC recommend approval of this case to the Board of County Commissioners, staff recommends that the following conditions are included with this action:

1. The Applicant must demonstrate through placement of water conservation features in the homes and a detailed water budget that they can meet the 0.25 acre foot per year water restriction recorded with their small lot family transfer.
2. The recorded plat must be annotated, or a site plan developed in order to show the location of the second dwelling, the number of bedrooms in each unit, and this must be taken to the NMED for an updated liquid waste disposal permit. Adequate separation between systems must be depicted.

ATTACHMENTS:

Exhibit "A" - Letter of Request for Variance
Exhibit "B" - Vicinity Map
Exhibit "C" - Aerial Photo of Property
Exhibit "D" - Plat of Record
Exhibit "E" - Water Restrictions
Exhibit "F" - NMED Regulations
Exhibit "G" - Site Plan
Exhibit "H" - Valle Lindo Subdivision Plat
Exhibit "I" - Photos of Property
Exhibit "J" - Notice of Violations
Exhibit "K" - Letter of Opposition
Exhibit "L" - Article III, Section 10
Exhibit "M" - Article II, Section 4.3
Exhibit "N" - Article II, Section 3