

MEMORANDUM

DATE: August 19, 2010

TO: County Development Review Committee

FROM: John M. Salazar, Development Review Team Leader

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

FILE REF.: CDRC CASE # MIS/V10-5260 Kurt Bowker Accessory Structure/Height Variance

ISSUE:

Kurt Bowker, Applicant, requests approval of an After the Fact accessory structure totaling 21,132 square feet to be utilized for personal use on 10.01 acres. This request also includes a variance of Article III, Section 2.3.6b (Height Restrictions for Dwellings and Accessory Structures) of the Land Development Code to allow the accessory structure to exceed 24' in height. The property is located at 74 Martin Lane, within Section 33, Township 10 North, Range 8 East, (Commission District 3).

SUMMARY:

The Applicant requests approval of an After the Fact 21,132 square foot accessory structure which the Applicant claims is for personal use. This request includes a variance of Article III, Section 2.3.6b (Height Restrictions for Dwellings and Accessory Structures) of the Land Development Code to allow the structure to exceed 24'.

On August 29, 2007, a complaint was received by the Land Use Department for a structure being constructed on the property with no permit posted. On August 30, 2007, an inspection was conducted on the property and the Applicant was issued a Notice of Violation (NOV) from Santa Fe County Code Enforcement for unpermitted development. The Applicant failed to respond to the NOV and was then filed into Magistrate Court on September 18, 2007. The Applicant has

completed the court process pending the Applicant complying with County Ordinances and has been ordered by the judge to submit an application for approval for the accessory structure.

The subject property currently has an existing residence (permit #97-744) and barn (permit #96-3268). Both structures were permitted by the previous owner. The property is served by a conventional septic system and well.

The existing structure has been constructed on two properties owned by the Applicant. One property being 10.01-acres and contains the existing residence and a 30.3-acre property which is currently vacant. Staff feels that a lot line adjustment is necessary in order for the structure to be an accessory to the primary residence and comply with Ordinance #1997-4.

VARIANCE:

The Applicant requests a variance of Article III, Section 2.3.6b of the Land Development Code to allow the existing structure to be an average height of 36' feet.

Article III, Section 2.3.6b states: "The height of any dwelling or residential accessory structure shall not exceed 24' feet. The vertical depth of fill materials from a natural grade with or without retaining walls shall be considered as a component of the building or structure. This depth shall be included in the determination of building height. Chimneys may extend 3' beyond the height limitation."

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, approve with conditions or modifications or to table for further analysis of this request.

RECOMMENDATION:

Staff recommends that the request for an **After the Fact** accessory structure be denied until a lot line adjustment or lot consolidation Plat has been reviewed and approved by the Building and Development Services Department or until the Applicant demonstrates that the structure has been constructed entirely on the 10.01 acre tract. Staff also recommends denial of the requested variance to allow the height of the structure to exceed 24' feet. Article III, Section 2.3.6b (Height Restrictions for Dwellings and Accessory Structures) of the Land Development Code states: "The height of any dwelling or residential accessory structure shall not exceed 24' feet" and no justification has been provided so as to allow consideration of a variance.

Attachments:

- Exhibit "A" - Letter of Request
- Exhibit "B" - Vicinity Map
- Exhibit "C" - Site Plan
- Exhibit "D" - Plat of Survey
- Exhibit "E" - Ordinance 1997-4 (Accessory Structures)
- Exhibit "F" - Proposed Building Plans