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Development Services—Planning Department  
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## MEMORANDUM

TO: Archuleta County Board of Adjustment  
FROM: Pamela Flowers, Development Director  
DATE: September 20, 2022  
RE: Downing Side Setback Variance at 120 Tom's Pl (PLN22-115)

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### EXECUTIVE SUMMARY

Sean Downing has applied for a variance on property he owns at Lot 145 of Aspen Springs Subdivision No. 5 known as 120 Tom's Pl, Pagosa Springs, CO (PLN22-115). The property is zoned Agricultural Estate (AE). The requested variance is to allow construction of a utility building 7.5 feet within the property side setback of twenty-five (25) feet.

### REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* provides for variances from the strict application of the regulations. The Board of Adjustment (the Board of County Commissioners sit as the BOA) may grant relief if the strict application of the Regulations would result in peculiar and exceptional practical difficulties, or exceptional and undue hardship. Variances are, essentially, a grant of authority for a property owner to use property in a manner that deviates from the regulations.

Section 3.1.4.1 of the *Archuleta County Land Use Regulations* ("the Regulations") requires all setbacks to be measured from "property lines, road rights-of-way (ROW) and access easements." The side setback for AE zoning provided in Table 4 of Section 3.1.4 in the Regulations are set at twenty-five (25) feet.

Public notice was published in the *Pagosa Springs Sun* prior to this hearing, posted on the site, and mailed to adjacent property owners. No fiscal impact on the County is anticipated.

### DISCUSSION

The applicant proposes to construct a 12' x 32' utility shed on the subject property. The build site is bordered on the north by the subject's driveway.

It is important to note that the twenty-five (25) foot setback in the AE zoning district was established for parcels of five (5) acres or larger. However, this parcel is only approximately 1.5 acres. Additionally, as the parcel is only approximately 141 feet wide, when you remove fifty (50)

feet from the sides for setbacks, the build envelope is only approximately ninety-one (91) feet wide. When you allow the twelve (12) foot minimum width for the driveway, it is effectively only seventy-nine (79) feet, or sixty-seven (67) in this instance because of the circle drive.



This home and driveway were built long before the Applicant purchased the property, so the limitations caused by the location of the driveway exist through no fault of the owner. Additionally, you can see from the vicinity map of the property that there are already several small utility structures in the area where the new structure is proposed to be placed.

### Variance Review Standards

The Board of Adjustment may grant a variance if all the standards in Section 2.4.3.2(1) of the *Archuleta County Land Use Regulations* are found to exist:

- a. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- b. Circumstances creating the hardship were created through no fault of the appellant.
- c. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- d. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, no change the character of the neighborhood.
- e. The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the *Community Plan*.

## RECOMMENDATION AND FINDINGS

In consideration of the request for a Variance from the front setback, should the Board of Adjustment accept that the Applicant has provided sufficient evidence for relief; staff recommends the Board find that:

- A. The application **meets** the standards for granting a variance in Section 2.4.3.2(1) of the *Archuleta County Land Use Regulations*, and

**That the Board of Adjustment approve the Downing Side Setback Variance as described above, with no conditions;**

And that the Board of Adjustment instruct staff to draft a Resolution stating these Findings for consideration at the earliest public meeting.

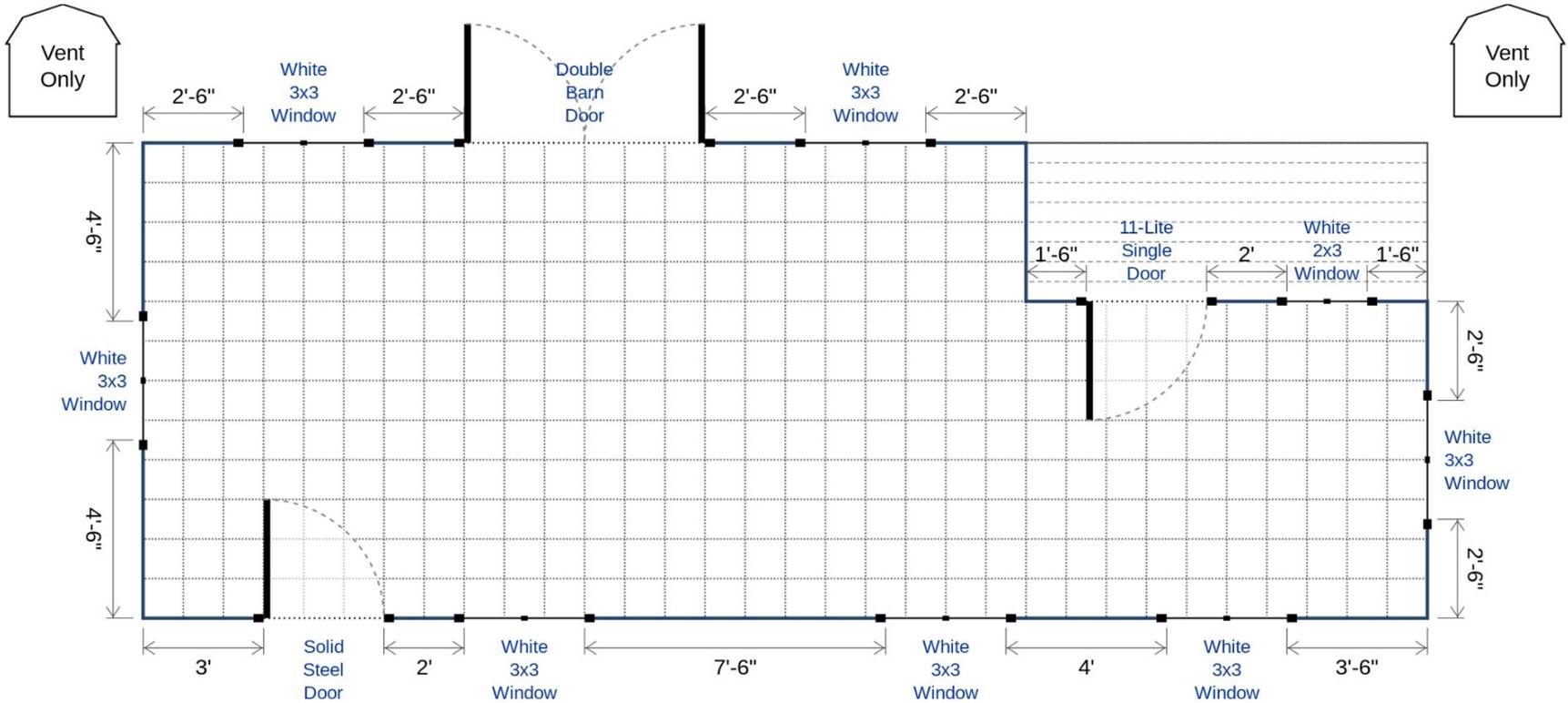
## PROPOSED MOTION

**Motion to APPROVE the Downing Side Setback Variance, as presented, and instruct staff to draft a Resolution stating these findings.**

## ATTACHMENTS

Attachment 1: Building Plans





Barn:

Model: Side Lofted Barn Cabin

Size: 12 x 32

Finishes:

Roof: Metal - Brown

Siding: Paint - Dark Green

Trim: Paint - Brown

Options

Count

White 3x3 Window

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