

VA-04-007

562.17

**VARIANCE OF USE TO CONTINUE A SECOND DWELLING
IN THE A-1 (AGRICULTURAL) ZONE DISTRICT
ELIZABETH BELVEAL**

A request by Kenneth and Elizabeth Belveal for a Variance of Use to continue having a second dwelling in the A -1 (Agricultural - 5 acre) District. The legal description is TR 5, Fountain Farms Sub 1. The 5.37-acre parcel is located at 11825 Jordan Road, east of Old Pueblo Road. The site is in the Proposed Fountain Valley Planning Area. Assessor's Tax Schedule number 56170-02-005.

PREPARED BY

Thomas Cook
7/14/04

APPLICABLE RESOLUTIONS:

Approval Page 19
Disapproval Page 20

PLANNING DIVISION RECOMMENDATION: Should the applicant demonstrate to the satisfaction of the Planning Commission that peculiar and exceptional practical difficulties or undue hardship exist, the following conditions and notations are suggested:

CONDITIONS:

1. The Variance of Use shall expire in ten (10) years following the date of approval by the Board of County Commissioners.
2. Variance of Use approval is granted to only for the 1,344 square foot mobile home per the enclosed site plan.
3. The second dwelling shall only be occupied by a member of the immediate family.
4. The second residence shall not be rented or leased.
5. There shall be only one (1) vehicular access to the subject property.

NOTATIONS:

1. No subsequent enlargement, expansion, or modification of the use shall be allowed unless the proposal is reevaluated and goes through the public hearing process in accordance with the requirements of the El Paso County Land Development Code.
2. If the Variance of Use is abandoned or discontinued for one (1) year or longer, or not implemented within one (1) year, the Variance of Use shall be deemed abandoned and of no further force and effect.
3. Variance of Use requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission actions shall be deemed withdrawn and shall have to be resubmitted in their entirety.
4. The Board of County Commissioners may consider revocation and/or suspension if Zoning Regulations and/or Variance of Use conditions/standards are being violated, preceded by notice and public hearing.
5. The Planning Division shall have the right to enter the site, without notice, to inspect the facility for compliance with the terms and conditions of this Variance of Use.

PUBLIC NOTICE: The Planning Division posted this property on May 28, 2004, and again on July 2, 2004.

PUBLIC NOTIFICATION: The Planning Division notified adjoining property owners of applicant's intent on May 28, 2004, and again on July 1, 2004. A summary of their responses will be given at the meeting

ADJOINING LAND USE AND ZONING:

North	Developed Single-Family Residence	A-1 (Agricultural) District
South	Developed Single-Family Residence	A-1 (Agricultural) District
East	Developed Single-Family Residence	A-1 (Agricultural) District
West	Developed Single-Family Residence	A-1 (Agricultural) District

HISTORY: The project site is located on a 5.37-acre tract. The single family home was built in 1980 and the existing 1,344 SF mobile home (the second dwelling) was approved for a Variance of Use by the Board of County Commissioners on November 2, 1987 and again on April 22, 1993 and September 10, 1998. Both previous Variances were approved for five (5) years for a second dwelling.

AGENCY COMMENTS:

EL PASO COUNTY DEPARTMENT OF TRANSPORTATION

The DOT has no objections in regard to the above referenced submittal. There is also no objection to a renewal of 10-years for the variance. No new access allowed with this application.

COLORADO SPRINGS UTILITIES, DEVELOPMENT SERVICES COMMENTS:

ELECTRIC AND GAS COMMENTS

INFORMATION ITEMS:

Colorado Springs Utilities (Utilities) approves this request on the basis that there will be no adverse affects to any utilities or utility easements, and that unless otherwise granted, any proposed electric (or gas) service connection to the Utilities' distribution system shall be tied to the electric energy supply and transmission, substation, and distribution facilities (or gas distribution facilities) available at the time of the proposed construction; and further provided that:

- 1) All electric or gas utility construction shall conform to the Utilities' Electric and/or Gas Line Extension and Service Standards;
- 2) Any proposed structures:
 - a. shall not be located over or within 3 feet of any underground utility service facilities and shall not violate any provision of the National Electric Safety Code (NESC) or any applicable Natural Gas Codes or Policies of the Utilities;
 - b. shall not be located under any overhead utility facilities and shall not violate clearances specified by the NESC; and
 - c. shall not encroach upon any utility easement.

- 3) Any existing or proposed landscaping must not be located directly over or within 3 feet of any existing utility facilities, and must not impair access or the ability to install, maintain, repair, replace, or inspect such facilities. Landscaping shall be designed to provide the required access clearances for utility facilities, to allow continuous access for utility equipment and to minimize conflicts with utility facilities.
- 4) All applicable easements or utility rights-of-way for the existing and/or proposed facilities have been granted.
- 5) If it is necessary to relocate or alter any Utilities gas or electric facilities, then the relocation or alteration of these facilities shall be at the Applicant's expense, and if required, Applicant shall grant an easement for such facilities.

Note - for more information on these comments or other information on Colorado Springs Utilities, please contact the following representatives:

Gas and Electric – Bill Davis 719-668-8254
Water and Wastewater – Susan Funchion 719-668-8033

Becky Cash
Colorado Springs Utilities
Development Services
Administrative Technician
668-8264

REGIONAL BUILDING DEPARTMENT – ENUMERATIONS

This second dwelling requires a separate address. I realize that it has been there for several years now, but Regional Building was not aware of that fact. If there were an emergency, time would be crucial for emergency providers, and there might be confusion with two residences with the same address.

The owner can contact me regarding the address assignment. There is also a \$25.00 fee for address assignment.

Karen Rostvold
Enumerator
327-2908

The following additional agencies were notified for their review and comments and did not respond:

- El Paso County Department of Health and Environment
- El Paso County Conservation Service
- Fountain School District # 8
- Hanover Fire Protection District
- Southeastern Colorado Water Conservancy

SECTION 35.9

STANDARDS GOVERNING THE APPROVAL OR DISAPPROVAL OF A PETITION FOR A VARIANCE OF USE

The Planning Commission may recommend approval or disapproval of a petition for a use variance to the Board of County Commissioners. The Board of County Commissioners may either approve or disapprove a petition for a variance of use. As a minimum, all actions shall be based upon standards set forth in the Code. The power of the Board of County Commissioners to vary the provisions of these zoning regulations is permissive, not mandatory, and shall not be exercised in such a way as to frustrate the scheme or intent of the Zoning Regulations. The power to grant variances shall be exercised sparingly and in exceptional situations where the strict application of any of the provisions of these Zoning Regulation would result in peculiar and exceptional practical difficulties or undue hardship upon either the owner or the contract purchaser of the property.

PLANNING DIVISION COMMENTS:

- 1) The Land Development Code does not permit two dwelling units in the A-1 (Agricultural) District. The applicant has requested a Variance of Use and must demonstrate:
 - a) peculiar and exceptional practical difficulties
 - or
 - b) undue hardship upon either the owner or the contract purchaser of the property.
- 2) The applicants are citing as their hardship the fact that they need to continue taking care of Kenneth's mother and it would be an extreme hardship to all of them if this were denied.
- 3) The applicant has been granted three previous Variances (VA-87-014, VA-93-001, and VA-98-012). There have been no complaints, violations, or problems.

- 4) The applicants are requesting a ten (10) year extension. Staff does not object to this time period on the basis that circumstances surrounding the site are not likely to change. However, it is noted that a total of 25 years is a long period for a justification for a family member to reside on a property due to continuing ill health. The applicants should address this issue as part of their justification.

ENCLOSURES

Vicinity Map
Letter of Intent
Site Map

El Paso County Parcel Information

Parcel Number: 5617002005

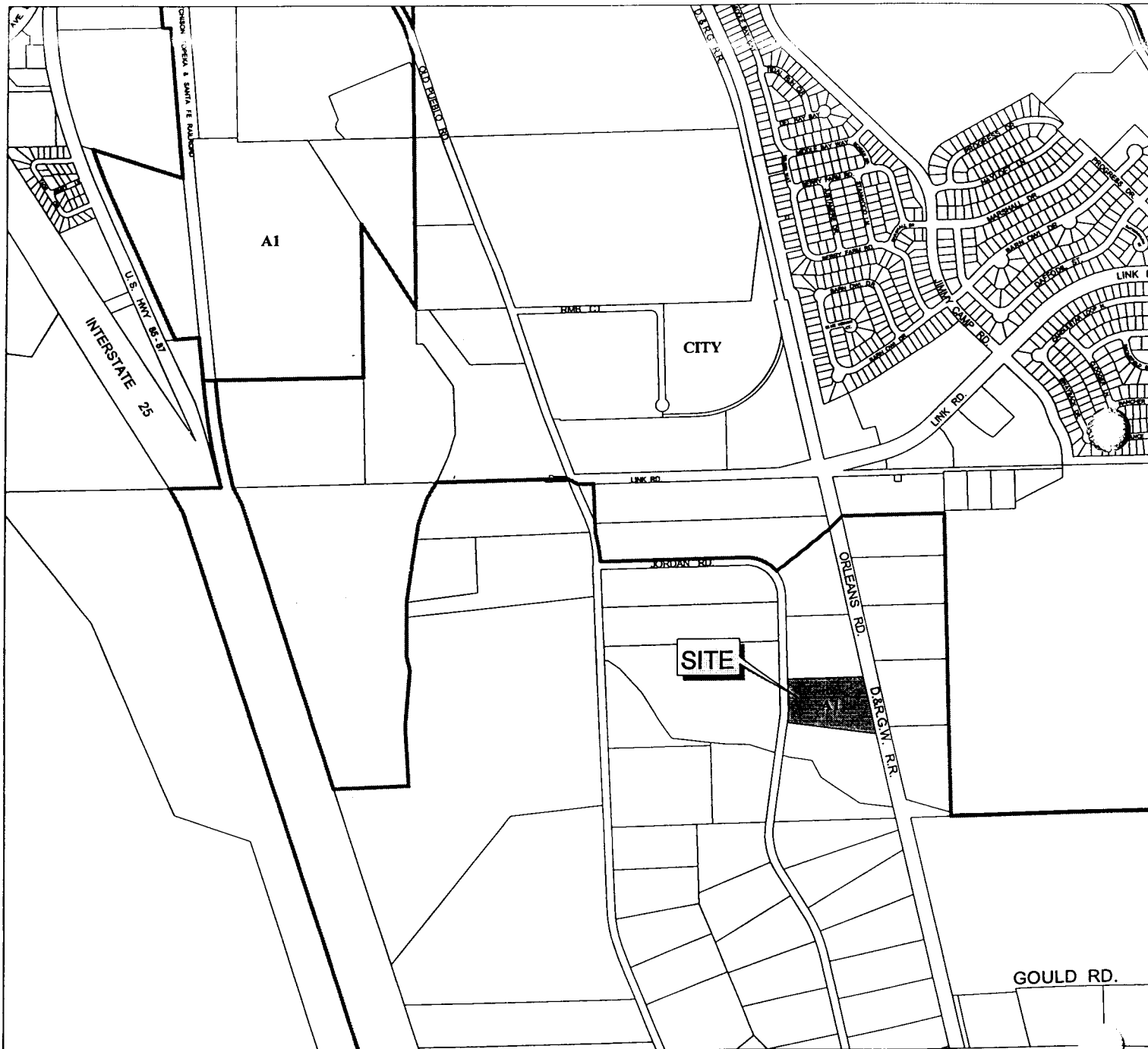
Parcel Address: 11825 JORDAN RD

Parcel Owner: BELVEAL KENNETH L & ELIZABETH K

File Name: PRE-03-314

Zone Map No.: 562.17

Owner Mailing Address: 11825 JORDAN RD, FOUNTAIN, CO 80817



Please report any discrepancies to:
El Paso County GIS/Mapping
325 S. Cascade
Colorado Springs, CO 80903
(719)520-6523

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October 28, 2003

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LETTER OF INTENT

KENNETH L. AND ELIZABETH K. BELVEAL
11825 JORDAN ROAD
FOUNTAIN, CO. 80817

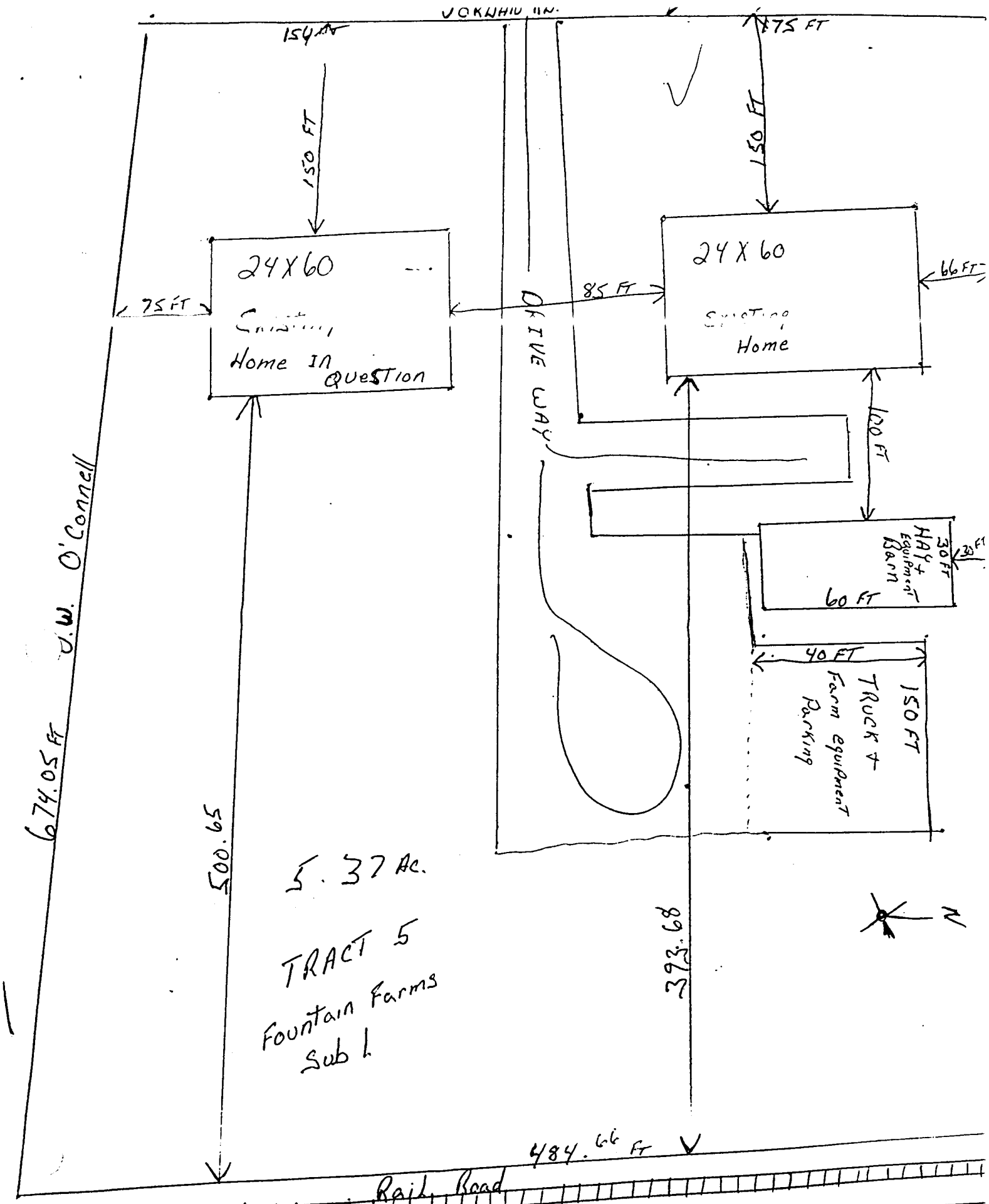
WE KENNETH AND ELIZABETH PURCHASED THE PROPERTY AT 11825 JORDAN ROAD WITH THE NEED AND INTENTIONS OF KENNETHS MOTHER, ANNA BELVEAL LIVING IN THE SECOND DWELLING FOR THE REMAINDER OF HER LIFE. WE ARE THEREFORE REQUESTING AN EXTENSION OF VARIANCE ON THIS SECOND DWELLING.

ANNA IS IN HER EIGHTIES AND WITH FAILING HEALTH, WE FEEL HER RESIDING IN THE SECOND DWELLING IS IDEAL FOR US TO CHECK ON HER AND BE CLOSE TO HELP HER WHEN NEEDED. THIS LIVING ARRANGEMENT WILL MAKE IT POSSIBLE FOR ANNA TO BE IN HER OWN HOME FOR AS LONG AS HER HEALTH WILL ALLOW. HOPEFULLY GIVING THE REMAINDER OF HER YEARS A QUALITY LIFE FOR HER WHICH SHE GREATLY DESERVES.

WE ARE ALSO REQUESTING THAT THE VARIANCE BE INCREASED TO 10 YEARS.

THIS REQUEST FOR AN EXTENSION IS LATE BECAUSE WE DID NOT RECEIVE OUR PAPERS AND HAD SOME MEETINGS CANCELED. LASTLY OUR MEMORIES HAVE HAD A PART IN BEING LATE .

SINCERELY,
KENNETH AND ELIZABETH BELVEAL



U.W. O'Connell

5.37 Ac.
TRACT 5
Fountain Farms
Sub 1

Rail Road

ORLEANS RD.
OPEN LAND

-98-

A. SEVERSON