

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: September 22, 2011

Item No.: 8

Staff: Tom Purciel

VARIANCE

FILE NUMBER: V11-0001/Burke

APPLICANT: Carolyn Burke

REQUEST: Variance request to reduce the side yard setback from five feet to zero feet for placement of a garage with second-story living space.

LOCATION: On the west side of State Route 89, approximately 100 feet south of the intersection with Wilson Avenue, in the Tahoma area, Supervisorial District 5 (Exhibit A).

APN: 015-420-02 (Exhibit B)

LOT SIZE: 1,620 square feet

GENERAL PLAN: Adopted Plan (AP): Tahoe Regional Planning Agency (TRPA) Regional Plan, Tahoma Plan Area Statement 154, Residential land use classification (Exhibit C).

ZONING: Tahoe Limited Multi-Family Residential (TR2) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Sections 15303(e) and 15305(a) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Sections 15303(e) and 15305(a); and
2. Approve Variance V11-0001 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to reduce the side yard setback from five feet to zero feet for placement of a garage with second-story living space, as required by Section 17.56.120 of the County Zoning Ordinance. An existing parking pad is located at the site of the proposed structure.

Site Description: The 1,620 square-foot subject lot is located in Sonoma Pines Estates on the west side of State Route 89 at an approximate elevation of 6,300 feet above mean sea level. Existing improvements at the subject site include a 504 square foot cabin.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR2, PAS 154*	AP (TRPA Regional Plan)	Existing 500 square foot cabin
North	TR2, PAS 154	AP	Single-family residential
South	TR1, PAS 154	AP	Single-family residential
East	TR1, PAS 154	AP	Single-family residential / State Route 89
West	TR2, PAS 154	AP	Single-family residential

*Plan Area Statement 154, Tahoma Residential, which is primarily residential use.

Background: The applicant previously received a Variance (V08-0012) for a reduction in the required side yard setback from five feet to zero feet for a single story private garage. Variance V11-0001 has been submitted to revise the applicant’s original proposal, adding second-story living space over the proposed garage.

Discussion: The permitting of the proposed variance to allow a zero foot side-yard setback for the proposed garage and second-story living space is not anticipated to negatively impact other residential uses in the project area. The proposed two-story structure would be consistent with other two-story similar sized residences in the vicinity, as shown from site photographs, included as

Exhibit H. Further, the requested variance was reviewed by the Sonoma Pines Homeowner's Association and they had no objections.

Variance Findings: The granting of a variance requires four findings pursuant to Section 17.22.630 of the County Zoning Ordinance. Accordingly, these findings are shown below with a discussion of the issues related to each finding. Appropriate findings for approval are also listed in Attachment 2 of this report.

Required Finding 2.1: There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.

Compliance with a minimum side-yard setback of five feet will preclude the construction of a two car garage on the existing paved parking pad. Although the applicant could construct a single-car garage and meet the required setback, the Zoning Ordinance, TRPA regulations, and HOA CC & R's all require a minimum of two parking spaces per home. Further, the applicant is requesting additional second-story living space due to the unusually small size of the existing residence (approximately 500 square feet). Accordingly, the addition of approximately 400 additional square feet of living space would only expand existing living space to approximately 900 square feet, consistent with the sizes of most neighboring units. In addition, placing the proposed structure on the existing paved parking pad would not result in additional grading and associated environmental impacts that would be required if the structure were to be expanded in order to accommodate two off-street parking spaces that would meet the five-foot side-yard setback.

Required Finding 2.2: The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone.

Covered garages in the Tahoe basin are considered a reasonable use of the property due to the amount of snow fall the area experiences. The location of the proposed garage is the most reasonable and appropriate location. Further, due to the unusually small size of the existing residence (500 square feet), the applicant is requesting an addition of approximately 400 square feet, for a total of approximately 900 square feet of living space. Due to parcel constraints, including the location of the existing unit and close proximity to road and utility easements, a single-story addition would not be possible on the project parcel, and therefore, a second story addition would be required. If this variance is not approved, the applicant will be deprived of the use of a garage and reasonably-sized living space, and, therefore denied reasonable use of the property allowed for other lands in the vicinity and the same zone district. The proposed garage will be utilized to meet the off-street parking requirement pursuant to Section 17.18.060 of the County Zoning Ordinance.

Required Finding 2.3: The variance is the minimum necessary for the reasonable use of the land or building.

This variance request reducing the side yard setback from five feet to zero feet will permit the construction of a two-car garage to address severe weather concerns and meet the parking requirements of the Zoning Ordinance, TRPA regulations, and HOA CC & R's. In addition, the proposed second-story living space will be constructed over the garage footprint, and, therefore, not encroach further into any building setback, nor encroach into any utility easement or road easement.

Required Finding 2.4: The variance is in conformity with the intent of this article and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.

The project was distributed to all applicable responsible agencies and adjacent property owners and no objections were raised. Additionally, the requested variance was reviewed by the Sonoma Pines Homeowner's Association and they had no objections. Further, the applicant's neighbor nearest the proposed garage location reviewed the request and also had no objections. Therefore, the variance, as proposed and conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.

Conclusion: As discussed above, staff finds the variance, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

General Plan: The County General Plan designates the subject parcel as Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 154, Tahoma Residential, which is primarily residential use (Exhibit C). The proposed garage and second story living space are allowed residential uses. The granting of this variance, therefore, conforms to the TRPA Plan Area Statement.

The County General Plan provides broad deference to the TRPA Regional Plan, for the implementation of related General Plan policies and for the review of County discretionary projects. With regard to the Tahoe Basin, the primary goal of the County General Plan is to integrate the County's regulations with those of TRPA, to eliminate inconsistencies with the Regional Plan and to simplify the regulatory environment in the Tahoe Basin, as articulated in *Goal 2.10* of the *County General Plan* and its associated policies.

Tahoe Regional Planning Agency (TRPA): TRPA approval would be required to construct the proposed garage. TRPA has reviewed and approved the reallocation of land coverage for the Sonoma Pines Estates.

Zoning: With the exception of the proposed zoning setback variance, the construction of a garage with second-story living space would be permitted by right in the TR2 Zone District. Section 17.18.060 requires two parking spaces not in tandem for a single family residence. The minimum five-foot side-yard setback would only allow for the construction of a single-car garage. However, the Zoning Ordinance, TRPA regulations, and HOA CC&R's all require a minimum of two parking spaces per home. Further, as the proposed second-story bedroom with full bath would be used as

accessory living space for the primary residence, the proposed two parking spaces would be satisfactory for the proposed structure.

Conclusion: As discussed above, staff finds the variance, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15303(e) that allows accessory (appurtenant) structures including garages, garages, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, Section 15303(a) that allows a single family residence, or a second dwelling in a residential zone, as well as Section 15305(a) that allows minor alterations in land use limitations for a variance. No further environmental analysis is necessary. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map Page
Exhibit C	TRPA Plan Area Statement 154, Tahoma Residential
Exhibit D	Zoning District Map
Exhibit E	Site Plan
Exhibit F	Proposed Building Elevations
Exhibit G	Applicant's Variance Support Information
Exhibit H	Site Photographs

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Variance V11-0001/Burke
Planning Commission/September 22, 2011**

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, the Planning Commission hearing exhibits marked as Exhibits A-G, dated December 1, 2010, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

A Variance to reduce the side-yard setback from five feet to zero feet for the construction of a two-car garage with second-story living space, as shown on the approved site plan (Exhibit E) and building elevations (Exhibit F).

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in *Section 66474.9(b)* of the *California Government Code*.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a variance, which action is brought within the time period provided for in *Section 66499.37* of the *California Government Code*.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

3. Prior to issuance of a building permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.
4. Prior to building permit issuance, an easement shall be recorded over APN 015-420-03 for the purpose of providing maintenance access on the adjoining property for the proposed addition at the subject site. A copy of the recorded easement shall be provided to Planning Services.

Meeks Bay Fire Protection District

5. Any portion of the proposed structure within required building setbacks shall meet the requirements of a 4-hour fire wall to the satisfaction of the District.
6. The new structure shall meet all Chapter 7A requirements.
7. The entire garage shall be clad with 1.25 inches of Type X drywall.
8. Interconnected, hard-wired smoke alarms shall be installed pursuant to current Fire Code.
9. The entire structure shall be fire-sprinklered to the satisfaction of the District.

ATTACHMENT 2

FINDINGS

Variance V11-0001/Burke Planning Commission/September 22, 2011

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15303(e) that allows accessory (appurtenant) structures including garages, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, Section 15303(a) that allows a single family residence or a second dwelling in a residential zone, as well as Section 15305(a) that allows minor alterations in land use limitations for a variance.

2.0 VARIANCE FINDINGS

- 2.1 *There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.*

Due to development constraints caused by adjacent road and utility easements, HOA CC&R's, and TRPA regulations, compliance with a minimum side-yard setback of five feet would preclude the construction of a two-car garage on the existing paved parking pad. Further, adding second-story living space over the proposed garage would only expand total living space to approximately 900 square feet, consistent with the sizes of most neighboring units. Therefore, as the above exceptional or extraordinary circumstances apply to the land, building and use referred to in this application, and the above circumstances have not resulted from any act of the owner or applicant, required Finding 2.1 can be made.

- 2.2 *The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone.*

Due to excessive snowfall in the Tahoe basin, it has been determined that covered garages in the Tahoe basin are a reasonable use of the property. Further, due to the unusually small size of the existing residence, the applicant is requesting an addition of approximately 400 square feet, for a total of approximately 900 square feet of living space, consistent with the floor area of other residential units in the vicinity. Due to parcel constraints, a single-story addition would not be possible on the project parcel, and therefore, a second story addition would be required. Accordingly, for the above reasons, the strict application of the provisions of the ordinance to be varied would deprive the applicant of the reasonable use of

the property allowed for other lands in the vicinity and the same zone district, and therefore, required Finding 2.2 can be made.

2.3 *The variance is the minimum necessary for the reasonable use of the land or building.*

This variance request will permit the construction of a two-car garage to address severe weather concerns and meet the parking requirements of the Zoning Ordinance, TRPA regulations, and HOA CC&R's. In addition, the proposed second-story living space will be constructed over the garage footprint, and, therefore, not encroach further into any building setback, nor encroach into any utility easement or road easement. Therefore, required Finding 2.3 can be made.

2.4 *The variance is in conformity with the intent of this article and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.*

The project was distributed to all applicable responsible agencies and adjacent property owners and no objections were raised. Further, a public records search was completed and it has been determined that the proposed project would not encroach into any utility or road easement. Therefore, the variance, as proposed and conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood. Accordingly, required Finding 2.4 can be made.