

Agenda of: May 17, 2006
Item No.: 6.a
Staff: Michael C. Baron

STAFF REPORT - VARIANCE

FILE NUMBER: V06-0002

APPLICANT: Neil J. Saccoman

REQUEST: Variance to allow a reduction in the front yard setback from twenty-feet (20'), as required by the Tahoe One-family Residential (TR1) Zone District, to eighteen-feet (18').

LOCATION: On the north side of Ojibwa Street 1.1 miles north of the intersection with Pioneer Trail and U.S. Highway 50 in the Meyers area. (Exhibit A)

APN: 034-692-17

ACREAGE: 7,200 square feet

GENERAL PLAN Adopted Plan (AP) (Exhibit B)

ZONING: Tahoe One Family Residential (TR1) Zone District (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15305 of the CEQA Guidelines

SUMMARY RECOMMENDATION: Conditional Approval

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to reduce the required twenty-foot (20') front yard setback, as required by TR1 Zoning, to eighteen feet (18') from the edge of the road easement, parallel to the southern property line of Assessor's Parcel Number 034-692-17 adjacent to Ojibwa Street, in order to allow the development of a 400 square-foot garage on the subject parcel.

Site Description: The subject parcel has an area of approximately 7,200 square feet. The parcel lies at an elevation of approximately 6,400 feet above mean sea level and is relatively flat with a slope of less than 10 percent. Existing improvements on the parcel include a 1,024 square-foot residence, 282 square-foot driveway and parking area. Access is provided to the subject parcel from Ojibwa Street.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP	Single Family Residence
North	TR1	AP	Vacant Residential Land
South	TR1	AP	Single Family Residence
East	TR1	AP	Vacant Residential Land
West	TR1	AP	Vacant Residential Land

Discussion: Under the 2004 Adopted General Plan, all parcels within the Tahoe Basin have a land use designation of AP (Adopted Plan) since they are within the Tahoe Regional Plan.

2004 Adopted General Plan: *The 2004 General Plan* identifies the project site as having an Adopted Plan (AP) land use designation within the Tahoe Regional Plan. As such, all projects within the Tahoe Basin must be consistent with the Regional Plan, which includes TRPA’s (Tahoe Regional Planning Agency) Code of Ordinances, Plan Area Statements, and other TRPA regulations, as well as the County’s General Plan and County Code. The following 2004 Adopted General Plan policy applies to this project:

Policy 2.10.1.1: “ The County shall apply the standards of the Regional Plan for the Tahoe Basin and the Code of Ordinances and other land use regulations adopted by the Tahoe Regional Planning Agency in acting on applications for proposed land uses in the Tahoe Basin.”

Discussion: As discussed above, the granting of the requested front yard setback variance to allow the construction of the garage on an existing driveway and avoid the need for coverage expansion is consistent with the Tahoe Regional Plan and 2004 Adopted El Dorado County General Plan.

Tahoe Area Plan Statement: The subject parcel is located within the TRPA Plan Area Statement intended for residential uses maintaining the existing character of the neighborhood. Single-family dwellings, public services, recreation, and resource management are allowed pursuant to the general list of permissible uses defined within the Plan Area Statement. *Pursuant to Chapter 21, Density*, the maximum density within the above referenced Plan Area is one single-family dwelling unit per parcel. As proposed and conditioned, the requested variance is consistent with the policies of the TRPA Plan Area Statement.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, conforms to the 2004 Adopted General Plan, and the Tahoe Regional Plan (1984, as amended).

Zoning: The subject site is zoned Tahoe One-Family Residential District (TR1) which permits a minimum parcel size of seven thousand square feet. Therefore, the existing 7,200 square-foot parcel conforms to existing zoning. All development on a parcel within the TR1 Zone District is subject to the development criteria listed under Section 17.56.040 of the County Code. Section 17.56.040 (D) establishes the following minimum yard setbacks:

Front = 20 feet
Sides = 5 feet
Rear = 15 feet

ANALYSIS

Required Finding No. 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.

Discussion: Due to the size of the lot and location of the existing house with attached carport, the proposed garage is in the most reasonable location for a garage. The 7,200 square-foot subject site has a TRPA land capability of class five with an allowable coverage amount of twenty-five percent or 1,800 square-feet. A site assessment conducted by a licensed architect indicates that permit records were found for 1,788 square-feet of coverage. Therefore, the parcel has an allowable banked coverage twelve square-feet (12') and no excess coverage issues would result from any act of the owner or applicant. Denial of this variance request will hinder the applicant's ability to use banked coverage to build the garage.

Required Finding No. 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.

Discussion: There are several homes and garages within the community that encroach into the front setback. It can be found that the strict application of the setback provisions would deprive the applicant reasonable use of the property, because variations to the front yard setback requirements have been allowed by the granting of front yard setback variances for other properties in the same zone. Although strict application of County Code may deem that a garage is an accessory structure and not a necessary use, Planning Services has historically granted variances for such structures within the South Lake Tahoe area because of weather conditions and the necessity for indoor vehicle storage.

The applicant has proposed to develop a 400 square-foot garage on Assessor's Parcel Number 034-692-17. The project already has an attached carport to the house where the garage is proposed. Furthermore, there are other single-family residences within the project vicinity that feature garages. The development of a garage on the project parcel is a reasonable and permissible use of land by right. Therefore, strict application of the setbacks pursuant to *Section 17.56.040 (D) of County Code* would deprive the applicant of reasonable use of the land allowed for other land in the vicinity and the same Zone District. Staff finds that a rational argument can be made in support of Finding No. 2.

Required Finding No. 3: The variance is the minimum necessary for the reasonable use of the land or building.

Discussion: Under County Code, the subject site must have a twenty-foot (20') minimum front yard setback from Ojibwa Street. A fifteen-foot (15') rear yard setback and five-foot side yard setbacks are also required from the respective property lines. Because the subject parcel is relatively flat, it does not qualify for administrative setback relief under *Sections 17.14.020 or 17.14.030 of County Code*. The variance request is necessary to facilitate compliance with TRPA tree and coverage regulations. Staff considered alternative designs to allow the construction of the proposed garage with a twenty-foot (20') front yard setback by shortening the length of the garage, but found this alternative to be infeasible because of structural engineering constraints. Staff found the proposed 400 square-foot garage to be modest in size in relation to existing structures within the project vicinity.

As discussed in Finding No. 2, the proposed 400 square-foot garage may be considered a reasonable use of the land as an accessory use because the Planning Department has historically granted variances for such uses within the South Lake Tahoe Basin because of weather conditions. For this reason, space for indoor vehicle storage is considered a necessity rather than a simple convenience. Compliance with County Code and TRPA regulations would effectively eliminate all feasible design alternatives for the construction of a garage at the subject site and deprive the applicant of the proposed garage. Finding No. 3 can be made for the requested variance.

Required Finding No. 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.

Discussion: The intent of the 20-foot front yard setback for the TR1 Zone District required under *Section 17.56.040(D)* is to provide a buffer for residential structures from roadways, such as Ojibwa Street, and their related impacts such as noise and snow removal. The setbacks also provide for neighborhood design consistency and appearance. Variances for garages within required setbacks have been granted in the past within the South Lake Tahoe area because of weather conditions and the need for indoor vehicle storage and access. Staff conducted a site visit on 04/21/06 and observed several existing garages located within the minimum setbacks in the immediate project vicinity.

Based on this information, staff concludes that Finding No. 4 can be made for a reduction of the front yard 20-foot setback as required by TR1 zoning parallel to Ojibwa Street to eighteen feet. As requested, the variance is in conformity with the intent of this article and is not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The variance will not compromise the purpose and intent of the applicable Ordinances.

Agency and Public Comments:

El Dorado County Department of Transportation

Discussion: The Department of Transportation provided Conditions of Approval for the project.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of *CEQA pursuant to Section 15305* of the CEQA Guidelines stating that “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density”. Pursuant to Resolution Number 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Find the project (V 06-0002) is exempt from CEQA pursuant to *Section 15305(a)* of the CEQA Guidelines; and
2. Approve variance (V 06-0002) to allow a reduction of the front twenty-foot (20’) setback required by TR1 zoning to eighteen-feet (18’) as the required findings can be made as noted in Attachment 2 based on the analysis in the staff report, and conditions itemized in Attachment 1.

SUPPORT INFORMATION

Attachments to Staff Report:

Exhibit A.....	Vicinity Map
Exhibit B.....	2004 Adopted General Plan Land Use Map
Exhibit C.....	Zoning Map
Exhibit D.....	Site Plan
Exhibit E.....	Assessor’s Page
Exhibit F.....	Applicant’s Variance Support Information
Supplemental Pictures	

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER V06-0002

CONDITIONS

Planning Services

1. The minimum front yard setback shall not be less than eighteen feet (18') from the property line as shown on Exhibit D.
2. All development on the parcel shall be subject to issuance of a building permit from the El Dorado County Building Department.
3. All development on the parcel shall be subject to compliance with all applicable Tahoe Regional Planning Agency policies.

Department of Transportation

4. The variance to the setback will be allowed within the area necessary to construct the garage only. All remaining portions of the property setback which are not needed for the proposed garage improvements will remain at the current setback locations.
5. The applicant shall execute a Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the setback variance.

ATTACHMENT 2
FINDINGS FOR APPROVAL

FILE NUMBER V06-0002

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

FINDINGS FOR APPROVAL

1.0 CEQA Finding

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 of the CEQA Guidelines stating that “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density”. Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

2.0 Administrative Findings

Variance (V 05-0005) will allow a TR1 twenty-foot (20’) front setback to be reduced to an eighteen-foot (18’) front setback for the construction of a 400 square- foot garage.

2.1 Granting of a variance is found to comply with the requirements of County Code Section 17.22.630, granting the proposed variance would not be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood.

Variance (V 05-0005) is in conformity with the intent of this article and is not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The variance will not compromise the purpose and intent of the applicable Ordinances.

2.2 The proposed variance request is consistent with the policies in the El Dorado County 2004 General Plan, adopted July 19, 2004.

The proposed variance request, as determined by staff, is compliant with County regulations, addressing aesthetics, environmental issues and health and safety concerns, as required by the 2004 General Plan.