

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: November 21, 2007
Item No.: 6.b.
Staff: Aaron Mount

VARIANCE

FILE NUMBER: V07-0005

APPLICANT: David Ciapponi

AGENT: Ogilvy Consulting

REQUEST: A variance request to allow a reduction in front yard setback from 20 feet to 2 feet for construction of a 576 square foot two car garage with a 360 square foot lower level guest room.

LOCATION: On the east side of Meeks Bay Avenue, approximately 0.25 miles south of the intersection with State Route 89, in the Meeks Bay area, Supervisorial District V (Exhibit A).

APN: 016-081-40

ACREAGE: Approximately 7,864 square feet

GENERAL PLAN: Adopted Plan, TRPA Regional Plan (Exhibit B)

ZONING: One-family Residential (TR1) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant Sections 15303(e) and 15305(a) to CEQA

RECOMMENDATION

Staff recommends the Zoning Administrator 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 V 07-0005 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to allow a reduction in the front yard setback from 20 feet to 2 feet to allow construction of a proposed garage with a lower level guest room (see Exhibit D). The subject parcel currently does not have any off-street parking. The proposed structure will be between 10.5 to 12 feet from the edge of pavement of Meeks Bay Avenue.

Site Description: The parcel is located in the Meeks Bay area near the intersection of Meeks Bay Avenue and State Route 89, within the Meeks Bay Vista Subdivision with an average elevation of 6200 feet above mean sea level. The site has an average slope of 37 percent and is directly adjacent to Lake Tahoe. Existing improvements include a 201 square foot residence, 510 square feet of decks and wood stairs, 637 square feet of dirt and wood paths, a 22 square foot stone patio, a 25 square foot shed that crosses property lines, and a wood boat ramp and floating dock. The Numerous large boulders can be found throughout the property. Vegetation is dominated by sub-alpine forest.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 149*	AP (TRPA Regional Plan)	Developed with single-family dwelling
North	TR1, PAS 149	AP	Developed with single-family dwelling
South	TR1, PAS 149	AP	Developed with single-family dwelling
East	TR1, PAS 149	AP	Lake Tahoe
West	TR1, PAS 149	AP	State Highway 89

*Plan Area Statement 149, Rubicon, which is entirely residential use.

Discussion: The permitting of the proposed garage within the front yard setback is not anticipated to negatively impact other residential uses in the project area. Meeks Bay Avenue is densely developed. Most of the properties along Meeks Bay Avenue have an enclosed garage structure. Additionally, few of the garages appear to be outside the required setback area. This can be attributed to the aforementioned steep downslope between the edge of the roadway cut

and the front property line, which is consistent along the street. Parcels that do not currently have a garage, including the subject parcel, are forced to park on the street causing a potential public safety issue related to emergency access. Comments were received from the Department of Transportation, Meeks Bay Fire Protection District, and the El Dorado County Building Department, and have been incorporated into the Conditions of Approval (see Attachment 1).

Variance Findings: The granting of a variance requires four findings pursuant to *Section 17.24.040* of the *County Code*. These findings for approval and their respective discussions are listed in Attachment 2 of this report.

General Plan: The General Plan designates the subject site as an Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 149, Rubicon, which is solely residential use. The proposed garage and guest room is an allowed residential structure for this PAS. The granting of this variance, therefore, conforms to the Adopted Plan land use designation.

Per General Plan **Policy 7.1.2.1**, development or disturbance shall be prohibited on slopes exceeding 30 percent unless necessary for access. However, the *Interim Interpretive Guidelines for Policy 7.1.2.1*, adopted by the Planning Commission on June 22, 2006 states that the guidelines for slopes of 30 percent or greater do not apply to projects located within the Lake Tahoe Basin. Such projects are subject to the policies and regulations of the Tahoe Regional Planning Agency.

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 and its associated policies.

Conclusion: As discussed above, staff finds that the project, as proposed and conditioned, conforms to the General Plan and TRPA Regional Plan.

Zoning: The subject 7,864 square feet lot is zoned One-family Residential (TR1) District, which permits a minimum parcel size of 7,000 square feet when the lot is served with public water supply and sewage system. The parcel is served by a public water and sewage system by the Tahoe City Public Utility District.

The project requests a variance based on the regulations established by the Zoning Ordinance Sections 17.22.600 for encroachment into required yards for the garage. *Section 17.56.040* identifies a front yard setback of 20 feet in the TR1 Zone District.

With the exception of the proposed zoning setback variance, a garage would be permitted by right in the TR1 Zone District. Section 17.18.060 requires two parking spaces not in tandem for a single family residence. At this time the subject parcel does not contain the required two

spaces, however the proposed garage will provide them. Staff finds the proposed variance, as conditioned, is consistent with all applicable provisions of County *Zoning Ordinance Title 17*.

Tahoe Regional Planning Agency (TRPA): The subject parcel has an approximately 37 percent slope, only 1,352 square feet of verified land coverage and is located entirely within a Class 1 Land Capability District. As a result, this parcel does not have coverage available, nor can additional coverage be transferred in to provide for the construction of a garage that adheres to the setback requirements of the TR1 Zone District. Additionally, the maximum 1,800 square feet of allowable land coverage provided in TRPA Code Section 20.3.B(1) that would normally be applicable to a parcel of this size, is not permissible in this case due to this parcel's low land capability. The parcel does qualify for a transfer of up to 400 square feet of land coverage under public health and safety provisions in order to provide for two on-site parking spaces per TRPA code section 20.4.A.(3). In conclusion, the transfer of 400 square feet and an additional 234 square feet of offsite coverage will allow the construction of the proposed garage with living space.

Additional Issues: An existing 25 square foot shed straddles the common property boundary with lot 44 (APN 016-081-41). Section 17.22.120.3 requires violations of the Zoning Ordinance to be resolved prior to approval of the permit, or in the case of this variance prior to issuance of a building permit. A requirement has been added to relocate the structure to meet the TR1 setbacks.

ENVIRONMENTAL REVIEW

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, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as *Section 15305(a)* that allows minor alterations in land use limitations for a variance. The project proposes development in the least sensitive parts of the property and impacts to the environment will not occur with the approval of a variance. No further environmental analysis is necessary. Pursuant to Resolution No. 240-93, 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.....	Vicinity Map
Exhibit B.....	General Plan Land Use Map
Exhibit C.....	Zoning Map
Exhibit D.....	Variance Site Plan
Exhibit E.....	Elevations and floor plan

ATTACHMENT 1

CONDITIONS OF APPROVAL

**File Number V07-0005
November 21, 2007 Zoning Administrator Hearing**

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibits D and E dated November 21, 2007, 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 request to reduce the front yard setback from 20 feet to 2 feet to allow construction of a garage with living space. The proposed structure will include: a 576 square foot garage and 360 square feet of living space below the garage as shown on Exhibits D and E.

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*.

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

2. The existing shed straddling the common property boundary with lot 44 (APN 016-081-41) shall be relocated entirely within lot 43 (APN 016-081-40) and shall meet the required setback prior to issuance of the building permit.
3. Any exterior lighting installed as a result of the proposed garage with living space shall be shielded to prevent light and glare from leaving the property and must conform to the provisions of *Section 17.14.170 for Outdoor Lighting*.
5. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.

El Dorado County Building Department

6. The applicant shall apply for a building permit for the proposed construction project. All necessary permits shall be issued prior to construction.

El Dorado County Department of Transportation

7. Prior to building permit issuance, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback variance. The form of said document shall be reviewed and approved by County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe office.

Meeks Bay Fire Protection District

11. The entire garage/living unit shall be built similar to a commercial structure (1 hour fire rating).
12. The owners shall work with the neighbors to the south (lot 42) to relocate their propane tank so it is:
 - a) Ten feet from any structure
 - b) Not in the direct slide path of snow sliding off the proposed garage roof, nor any other roof (District Ordinance requires tanks to be located on the gabled end of the buildings)

ATTACHMENT 2

FINDINGS

File Number V07-0005/Ciapponi Garage Variance November 21, 2007 Zoning Administrator Hearing

1.0 CEQA FINDINGS

1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to *Section 15303(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, 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.*

The subject site is constrained by slope, TRPA coverage requirements, and the lack of off-street parking. The property has an average slope of 37 percent. This property is constrained with regards to residential development by the limited land coverage allowed for the parcel through TRPA regulations. Positioning the structure elsewhere on the property would result in additional land coverage (via the longer necessary driveway), which is prohibited. If the proposed addition were built within the setback, the slope of the property would require a driveway connection with a downslope grade much steeper than the 10 percent allowed by the County's Design and Improvement Standards Manual. Given the land coverage limitations discussed above, staff finds that Finding 2.1 can reasonably 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.*

If this variance were not approved, the applicant would be deprived the use of a garage, and arguably the reasonable use of the property allowed by other landowners in the vicinity and the same Zone District. The project parcel currently does not have any off-street parking which is required by Section 17.18.060 of the Zoning Ordinance.

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

This variance request will authorize a proposed garage, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Given the parcels steep slope and TRPA coverage requirements the requested variance is the minimum necessary for the reasonable use of the land (see Exhibit D). The project parcel currently does not have any off-street parking which is required by Section 17.18.060 of the Zoning Ordinance.

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 no comments were received to prevent approval of the variance. The availability of off street parking provided by the proposed garage will increase emergency access by removing vehicles currently parked on the street. The variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.