

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



Agenda of: August 6, 2008
Item No.: 4.a.
Staff: Thomas A. Lloyd

VARIANCE

FILE NUMBER: V 08-0007

APPLICANT: Arnold Brunetti

AGENT: Frank Ross / Davis Group

REQUEST: A variance request for reduction of the front yard setback from 20 feet to 14 feet to allow an approximately 64 square foot dining room addition to an existing structure which already encroaches into the required setback. The new construction would not expand the non-conformance as the northeast corner of the existing structure is within nine feet of the property line at its closest point.

LOCATION: At the SW corner of Fir Street and Second Avenue, in the Tahoma area, Supervisorial District V (Exhibit A).

APN: 015-264-15

ACREAGE: Approximately 0.14 Acres (6,250 sq. ft.)

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

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

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to CEQA Section 15305(a)

SUMMARY RECOMMENDATION: Conditional Approval

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to allow a reduction in the front yard setback from 20 feet to 14 feet to allow construction of a proposed dining room addition (see Exhibit D).

Site Description: The parcel is located in the Tahoma area, on the southwest corner of Fir Street and Second Avenue, and within the Tahoe Cedars Addition subdivision (Exhibit A). County Assessor’s records show the existing single-family residence as having been constructed in 1948. This parcel, originally developed in the 1920’s, is indicative of the lots in the subdivision. The majority of the lots are 50’ wide, and at the time of construction, the residences were primarily intended for recreational uses as summer homes. As the construction of these homes long predated the current zoning ordinance, many can be found within the prescribed 20 foot minimum front setback. This parcel is a corner lot and, as such, County policy imposes this setback on both road frontages. The parcel is essentially flat and is forested with a number of small as well as mature conifer species including fir, pine, and cedar. Additionally, a merger of the subject 6,250 square foot lot and the 6,250 square foot lot to the immediate south has tentatively been approved by Planning Services (BLA 07-0073). This BLA application is pending final approval by the County Surveyor’s office.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 154*	AP (TRPA Regional Plan)	Developed with single-family dwelling
North	TR1, PAS 154	AP	Developed with single-family dwelling
South	TR1, PAS 154	AP	Undeveloped (tentatively approved merger with subject parcel) Undeveloped
East	TR1, PAS 154	AP	Developed with single-family dwelling
West	TR1, PAS 154	AP	Undeveloped

*Plan Area Statement 154, Tahoma Residential, which is a TRPA residential PAS.

Sensitivity to the Neighborhood: The permitting of this variance and the minor addition to the existing single family home is not anticipated to negatively impact other residential uses in the project area. 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) 154, Tahoma Residential, which is a residential PAS. The proposed addition is an allowed residential structure for this PAS. While TRPA has not yet conducted a Site Assessment to verify existing land coverage or land capability, the proposed addition would comply with the estimated 5,125 square-foot maximum land coverage allowed as a result of the parcel merge. The County's permitting of the addition would create 278 feet of additional coverage; 64 square feet of additional living space and a proposed 214 square foot concrete patio (see Exhibit D). The granting of this variance, therefore, conforms to the Adopted Plan land use designation.

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 site 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. At 6,250 square feet, the subject parcel is substandard. 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 Section 17.22.600 for encroachment into required yards for the addition. Section 17.56.040 identifies a front yard setback of 20 feet in the TR1 Zone District. This front yard setback would be imposed on both the eastern property line, as well as the northern property line as these front Second Avenue and Fir Street, respectively.

The existing residence, along with most of the older homes in the neighborhood and many throughout the Tahoe basin, is non-conforming as it is situated within current required setbacks. Many such homes were intended as summer homes only, and lack many of the amenities required for modern, year-round habitation. Strict application of the provisions of the ordinance would deprive the applicant of reasonable use of the land as the proposed addition to and modernization of the home would be impossible. Furthermore, the addition would not further the non-conformance as the house is not positioned squarely on the lot. The northwest corner, slated for the addition, does not extend as far into the setback as the northeast.

With the exception of the proposed zoning setback violation, the addition would be permitted by right in the TR1 Zone District. Staff finds the proposed variance, as conditioned, is consistent with all applicable provisions of County *Zoning Ordinance Title 17*.

Tahoe Regional Planning Agency (TRPA): This variance application was routed to the TRPA during the initial comment period. While no comments were received from the Agency, future

building permit issuance will be contingent upon compliance with all applicable Tahoe Regional Planning Agency policies, and conditioned accordingly.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to *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.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Find the project Categorical Exempt pursuant to *CEQA Guidelines Section 15305(a)*; and
2. Approve V 08-0007 subject to the conditions in Attachment 1 and based on the findings in Attachment 2.

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.....	TRPA Plan Area Statement Map C-12
Exhibit F.....	Site Photos

ATTACHMENT 1

CONDITIONS OF APPROVAL

**File Number V 08-0007 / Brunetti addition variance
August 6, 2008 Zoning Administrator Hearing**

CONDITIONS OF APPROVAL

Planning Services

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibits A-E dated August 6, 2008, 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 for reduction of the front yard setback from 20 feet to 14 feet to allow an approximately 64 square foot dining room addition to an existing structure which already encroaches into the required setback. The new construction would not expand the non-conformance as the northeast corner of the existing structure is within nine feet of the property line at its closest point.

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. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

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.

3. Any exterior lighting installed as a result of the proposed addition and remodeling 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*.
4. Prior to the issuance of any building permits, the applicant shall provide to El Dorado County Development Services documentation demonstrating compliance with all applicable Tahoe Regional Planning Agency policies.
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. The variance to the setback will be allowed only within the area necessary to construct the project as listed above. All remaining portions of the property setback which are not needed for the proposed project shall remain at the current setback limit.
8. 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 the 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.
9. Prior to building permit issuance, the applicant's representative shall redraw and submit a complete site plan EDOT-TED, showing all standard information in a legible document.

Meeks Bay Fire Protection District

10. Any living quarters within the setback shall be constructed with non-flammable siding or 5/8 inch sheetrock under the exterior siding (similar to a commercial building).

ATTACHMENT 2

FINDINGS

File Number V 08-0007 / Brunetti addition variance August 6, 2008 Zoning Administrator Hearing

1.0 CEQA FINDINGS

1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to *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.*

County Assessor's records show the existing single-family residence as having been constructed in 1948, long before the current owner acquired the property. Further, the 6,250 square foot lot is less than the minimum prescribed by the development standards of the zoning ordinance. As the construction of the home long predated the current zoning ordinance, it was not originally subject to the prescribed 20 foot minimum front setback. This parcel is a corner lot and, as such, County policy imposes this setback on both road frontages.

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.*

The existing residence, along with most of the older homes in the neighborhood and many throughout the Tahoe basin, is non-conforming as it is situated within current required setbacks. Many such homes were intended as summer homes only, and lack many of the amenities required for modern, year-round habitation. Strict application of the provisions of the ordinance would deprive the applicant of reasonable use of the land as the proposed addition to and modernization of the home would be impossible. Furthermore, the addition would not further the non-conformance as the house is not positioned squarely on the lot. The northwest corner, slated for the addition, does not extend as far into the setback as the northeast.

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

This variance request will allow a proposed dining room addition, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Given the relatively small size of the parcel, the position and existing non-conformance of the

existing structure on the lot, the requested variance is the minimum necessary for the reasonable use of the land (see Exhibit D). The new construction would not expand the non-conformance as the northeast corner of the existing structure is within nine feet of the property line at its closest point. The new construction would, at its closest point, be 14 feet from the property line.

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 variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.