

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



Agenda of: August 20, 2008
Item No.: 4.a.
Staff: Robert Peters

VARIANCE

FILE NUMBER: V08-0001

APPLICANT: Jim and Marjorie Gee

AGENT: Paul A. Douglass, Jr.

REQUEST: A variance to allow a reduction in rear yard setback from 15 feet to six (6) feet to allow a residential addition to an existing single-family residence.

LOCATION: On the west side of Forest View Drive, approximately 0.25 miles west of the intersection with Highview Drive, in the Rubicon Properties Unit No. 2-Section 5 subdivision, in the Rubicon area of the Tahoe Basin, Supervisorial District V (Exhibit A).

APN: 016-481-01 (Exhibit B)

ACREAGE: 0.36 acres (16,030 square feet)

GENERAL PLAN: Adopted Plan, TRPA Regional Plan (Exhibit C and D)

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

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Sections 15301(e) and 15305(a) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is Categorically Exempt pursuant to *CEQA Guidelines Sections 15301(e) and 15305(a)*; and
2. Approve Variance V08-0001 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 rear yard setback from 15 feet to six (6) feet to allow a 455 square-foot residential addition (approximately 22.5 feet by 20 feet, not including proposed stairs). The western half of the expansion and the proposed stair landing would be constructed within the rear setback (see Exhibit F1, F2, and G). The project would include the removal of four large pine trees.

Site Description: The 0.36 acre (16,030 square-foot) subject parcel is located in the Rubicon Properties Unit No. 2-Section 5 subdivision (Exhibit H), on the west side of Forest View Drive approximately 0.25 miles west of the intersection with High View Drive, in the Rubicon plan area (Plan Area Statement 149, see Exhibit D). The site is at an approximate elevation of 6,840 feet above mean sea level. The site slopes downward to the northwest from the front of the parcel at the driveway encroachment toward the rear of the parcel. Existing improvements include a 1,056 square-foot residence, 328 square feet of decks and stairs. Two dirt drives and an existing dirt road exist on site. Access is provided to the site via an existing dirt road which encroaches onto Forest View Drive, and two dirt drives exist on-site. Also, a portion of the Forest Drive 50-foot radius turnaround easement and a 50-foot road easement exist on-site. The turnaround is located on the eastern side of the property, with a portion falling within the 50-foot road easement which bounds the southern property line (See Exhibits F1, F2, and H). Vegetation on the site is dominated by sub-alpine forest.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP (TRPA Regional Plan)/PAS 149*	Developed with single-family residence
North	TR1	AP/PAS 149	Undeveloped residential land
South	TA	AP/PAS 149	Forest Service Lands
East	TR1	AP/PAS 149	Undeveloped residential land
West	TA	AP/PAS 149	Forest Service Lands

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

Discussion: The permitting of the proposed variance to allow reduction of the rear yard setback from 15 feet to six (6) feet is not anticipated to negatively impact other residential uses in the project area. Forest View Drive consists of parcels developed with single-family residences, and undeveloped parcels. The site adjoins two parcels (to the west and south) owned by the United States Department of Agriculture, Forest Service. The applicant has worked with the Forest Service and proposes to re-route the existing dirt drive on the southwestern/western portion of the parcel and install a barrier on the existing dirt road restricting access onto, and resolving concerns about trespass onto Forest Service lands.

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

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) 149, Rubicon, which is primarily residential use (Exhibit D). The applicant proposes to expand an existing residential land use which is allowed within PAS 149, Rubicon. 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* of the *County General Plan* and its associated policies.

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

Tahoe Regional Planning Agency (TRPA): The 0.36 acre (16,030 square-feet) subject parcel has approximately 3,969 square feet of verified land coverage. The land coverage calculations do not include areas within the 6,941 square feet of road and turnaround easements which have been subtracted from the lot area for land coverage purposes. The current verified land coverage includes the entire area where the proposed residential addition is to be located. Therefore, the proposed variance and residential addition will not expand the verified land coverage for the site

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

Zoning: The subject 0.35 acre (16,030 square-feet) parcel 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. With the exception of the proposed zoning setback variance, the residential expansion would be permitted by right in the TR1 Zone District.

The project requests a variance based on the regulations established by *Section 17.22.600* for encroachment into required yards for the garage. *Section 17.56.040* identifies a rear yard setback of 15 feet in the TR1 Zone District.

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 15301(e)* that allows additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less, 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.....	Assessor's Parcel Map
Exhibit C.....	General Plan Land Use Map
Exhibit D.....	Tahoe Regional Planning Agency Plan Area Map
Exhibit E.....	Zoning District Map
Exhibit F1.....	Existing Site Plan
Exhibit F2.....	Proposed Site Plan
Exhibit G.....	Photo of Existing Residence
Exhibit H.....	Rubicon Properties Unit No.2 –Section 5 Map

ATTACHMENT 1

CONDITIONS OF APPROVAL

VARIANCE

**File Number V08-0001/Gee
Zoning Administrator/August 20, 2008**

Planning Services

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibit marked as Exhibit A through H dated August 20, 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 to allow a reduction in rear yard setback from 15 feet to six (6) feet to allow a 455 square-foot residential addition (approximately 22.5 feet by 20 feet, not including proposed stairs) as shown on Exhibit F2.

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.

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. Any exterior lighting installed as a result of the proposed residential expansion 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 issuance of any permits, the applicant shall pay all Development Services fees in full.
5. 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.
6. The variance to the setback will be allowed within the area necessary to construct only the project as listed in the project description. All remaining portions of the property setback which are not needed for the proposed project will remain at the current setback limit

El Dorado County Building Department

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

El Dorado County Department of Transportation (DOT) – Tahoe Engineering Division (TED)

8. Existing dirt driveway and parking area shall be paved with Best Management Practices adhered to.

Meeks Bay Fire Protection District

9. Prior to the certificate of occupancy, the owner(s) shall procure permission from the adjacent property owners(s) to create a defensible space 100 feet out from the edge of the entire structure including tree removal, brush clearing, etc. If the slope is greater than four (4) percent the defensible space shall increased to 300 feet.
10. A five (5) foot, non-combustible moat (i.e. gravel, non-grouted pavers, or pervious concrete) will need to be installed around the entire structure for fire purposes.
11. All other defensible space requirements shall be completed around the balance of the home prior to building permit final. The applicant's representative shall redraw and submit a complete site plan showing all standard information in a legible document with building plan submittal.
12. The addition shall meet the requirements of Chapter 7A of the California Building Code (Wildland Urban Interface Procedures).

USDA Forest Service, Lake Tahoe Basin Management Unit

13. The applicant shall install a barricade at the location where the road crosses the subject property boundary onto National Forest land and re-route access to the rear of the property onto the subject parcel subject to review and approval of the USFS prior to issuance of a building permit.

ATTACHMENT 2

FINDINGS

VARIANCE

**File Number V08-0001/Gee
Zoning Administrator/August 20, 2008**

1.0 CEQA FINDINGS

1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to *Section 15301(e)* that allows additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less, 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 setbacks, existing road easements, slope, and TRPA coverage requirements encumbering approximately 93 percent of the parcel, resulting in an area of approximately 612 square feet of which to expand outside of reference constraints. A 50-foot road easement to Forest Service lands bounds the southern boundary line of the property. The site slopes steeply from the front of the parcel to the rear of the parcel, specifically from the front and southern side setbacks toward the existing structure excluding this area from future expansions. The applicant has submitted a site assessment dated September 13, 2007 which verified total existing coverage on the property of 3,969 square feet. The applicant proposed the residential addition within the verified on-site coverage, on a previously disturbed area on the west side of the existing structure, most of which lies within the 612 square-foot available building area (See Exhibits F1 and F2). The proposed project would not result in an expansion of on-site coverage requirements.

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 applicant is proposing a residential addition consistent with residential structures and uses found in the project vicinity and the immediate neighborhood. The addition is proposed to be located in the least sensitive location on the subject site, within a previously disturbed area, outside of existing slopes, and within the coverage requirement pursuant to the TRPA. If this

variance were not approved, the applicant would be restricted to the existing size of the residence, smaller in size than other residential structures in the project vicinity.

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

This variance request will authorize a residential addition, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Given the fact that there is limited space to relocate the expansion elsewhere on the parcel and meet required front and side-yard setbacks, and the TRPA coverage requirements, the requested variance is the minimum necessary for the reasonable use of the land (see Exhibit E).

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 most affected property owner, the Forest Service, does not object to the proposed variance request. The variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.