

**EL DORADO COUNTY PLANNING AND BUILDING
DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of:	September 19, 2018
Item No.:	4.a.
Staff:	Melanie Shasha

VARIANCE

FILE NUMBER: V18-0001/Micelli

APPLICANT: Peter Micelli/Gary Furomoto

REQUEST: A Variance request to allow a reduction in the front yard setback from 20 feet to 14.5 feet to allow for the development of two one-car attached garages.

LOCATION: East side of Lake Side Drive, approximately 500 feet north of the intersection with Rubicon Drive, in the Rubicon area, Supervisorial District 5. (Exhibit A)

APN: 016-211-11 (Exhibit B)

ACREAGE: 15,038 square feet (Exhibit F)

GENERAL PLAN: Area Plan (AP) / Tahoe Regional Plan Area Statement Rubicon Residential (Exhibit D)

ZONING: Single-unit Residential (R1) (Exhibit E)

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

RECOMMENDATION: Staff recommends that the Zoning Administrator take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15305(a); and
2. Approve Variance V18-0001 based on the Findings, and subject to the Conditions of Approval as presented.

STAFF ANALYSIS

Project Description: The applicant is requesting a Variance to reduce the front yard setback from 20 feet to 14.5 feet to allow for the development of two one-car attached garages. The garages are proposed to be developed on either side of the existing Single Family Dwelling and conform to the side yard setbacks.

Site Description: The property is located within the Lake Tahoe Basin, on Lakeside Drive within the Rubicon Residential TRPA Plan Area Statement. There is an existing single-family residence on the property with associated landscape features. A mixture of native and non-native vegetation exists on the site. The entire parcel slopes downward from west to the east. The proposed location for the two one-car garages currently contains paved parking areas, retaining walls, and native vegetation.

Discussion: The proposed two one-car garages will be located at the southwest side of the property with two proposed driveways of asphalt concrete paving extending approximately 14.5 and 16.1 feet from edge of pavement on Lakeside Drive. The site was originally developed in 1977 with only a parking pad for onsite parking. The current requirement for onsite parking for residential units is two parking spots per unit (130.35.030.1). The Rubicon Properties subdivision is developed with single-family residences and accessory structures. The proposed architectural design of the two one-car garage structures, the exterior materials and finishes, articulated roof line, and other architectural details are to match the existing single family home. The proposed garages will be complementary to the visual character of the property.

The permitting of the proposed variance to allow a reduced front yard setback of 14.5 feet is not anticipated to negatively impact other uses in the project area. The Transportation Division reviewed the project and does not have concerns with the variance.

Tahoe Regional Planning Agency (TRPA): TRPA approval would be required to construct the two proposed attached garages.

Tahoe City Public Utility (TCPUD): TCPUD provides wastewater collection services to the project area and owns a public sewer line and utility easement crossing the project area. The developer shall contact TCPUD to apply for applicable permits and to review any utility work to be performed. A TCPUD Easement Encroachment Agreement may be required dependent on the location of the project's structure relative to TCPUD utility facilities.

Zoning: The subject parcel is zoned Single-unit Residential (R1), which allows single-family detached dwellings, and accessory uses and structures. With the exception of the proposed setback variance, the construction of the two attached garage structures would be permitted by right in the R1 zone district.

Variance Findings: The granting of a Variance requires four findings pursuant to Section 130.52.070 of the County Code. These findings for approval and their respective discussions are provided following this report.

ENVIRONMENTAL REVIEW

This project is Categorical Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations through a variance. The two one-car attached garages are proposed to be constructed in the least sensitive areas of the property and impacts to the environment are not anticipated to occur with the approval of 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. The filing of the Notice of Exemption is optional; however, not filing the Notice extends the statute of limitations for legal challenges to the project from 35 days to 180 days.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....Location Map

Exhibit B.....Assessor's Parcel Map

Exhibit C.....Subdivision Map A-052C

Exhibit D.....General Plan Land Use Map

Exhibit E.....Zoning Map

Exhibit F.....Site Plan

FINDINGS

V18-0001/Micelli Zoning Administrator/September 19, 2018

1.0 CEQA FINDINGS

- 1.1 The modification of the structural setback is found to be Categorical Exempt from CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations through a Variance. There is no reasonable possibility that the location of the detached garage within the front yard setback will have a significant effect on the environment due to unusual circumstances.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department, Planning Services, at 2850 Fairlane Court, Placerville, CA.

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 position of the existing home on the property limits possible locations of any accessory structure requiring road access within the front yard setback. If the garages were to be developed at the standard 20 foot setback, the existing house would have to be demolished and rebuilt. This would move development closer to Lake Tahoe and require significantly increased excavation and environmental impacts. Staff has determined that the variance is the minimum necessary for the reasonable use of the land as there are no other suitable locations on the subject parcel that would allow for an attached garage to be developed consistent with the TRPA land coverage requirements. Other areas such as the southwesterly portion of the property on the other side of Lakeside Drive would not be possible due to the front yard and edge of roadway setbacks. Due to significant constraints on the property as it relates to sediment disturbance and existing development, it can be found that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in this application, and that these circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 2.1 can be made.

- 2.2 **The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other property in the vicinity and the same zone (California Government Code Section 65906).**

It has been determined that garages in the Lake Tahoe Basin constitute a reasonable use due to the excessive amount of annual snowfall the area experiences. Additionally, other properties within the development and with the same zoning designation have been approved for reduced front yard setbacks to develop attached garages. By requiring the applicant to locate a garage in accordance with the building setbacks of the Single-unit Residential Zone District, the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone, and therefore, Finding 2.2 can be made.

2.3 **The variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).**

The area directly within the front yard setback would allow for the development of the attached garages with minimal fill into the existing slope and reducing the amount of new grading by re-developing the current paved parking thereby reducing sediment disturbance and its potential runoff within the Tahoe Basin. Additionally, the existing and proposed on-site development, to include the garage footprint, equals 3,544 square feet. This falls within the maximum coverage limits for the property of 3,544 square feet of verified existing coverage by the TRPA (Bailey 1a & Bailey 1b designations) while also meeting the setbacks for the zone. As such, granting the variance request would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. Therefore, Finding 2.3 can be made.

2.4 **The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, 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 proposed Variance allowing a reduction in the front yard setback is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan and will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area. Finding 2.4 can be made.

CONDITIONS OF APPROVAL

**V18-0001/Micelli
Zoning Administrator/September 19, 2018**

Conditions of Approval:

1. This Variance approval is based upon and limited to compliance with the project description and following exhibits:

Exhibit F.....Site Plan

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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:

Variance to allow for the building of two one-car attached garages, to match the architectural features of the existing single family dwelling, with a reduced front yard setback from 20 feet to 14.5 feet.

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 must be submitted for review and approval and shall be implemented as approved by the County.

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this 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. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services upon project approval.

5. **Permit Implementation:** Pursuant to Zoning Ordinance Section 130.54.060, implementation of the project must occur within 24 months of approval of this Variance, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with conditions of approval.

6. **Hold Harmless Agreement:** 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.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.