

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



Agenda of: **October 7, 2020**
Item No.: **5.a.**
Staff: **Melanie Shasha**

VARIANCE

FILE NUMBER: PROJ20-0002/Spencer

APPLICANT: Mike Dill

REQUEST: Variance Permit to allow a reduction of the front setback from 20 feet to 10 feet to allow for the construction of a two-car garage.

LOCATION: The property is located on the south side of Mewuk Drive approximately a quarter mile west of the intersection with North Upper Truckee Road, in the South Lake Tahoe area, Supervisorial District 5. (Exhibit A)

APN: 034-562-001 (Exhibit B)

ACREAGE: 0.35 acre

GENERAL PLAN

LAND USE DESIGNATION: Adopted Plan (AP) / Tahoe Regional Plan Area Statement
Tahoe Paradise – Upper Truckee (Exhibit D)

ZONING DESIGNATION: Single-unit Residential, Tahoe Overlay (R1) (Exhibit E)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15305(a) of the CEQA Guidelines (Minor Alterations in Land Use Limitations- Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel)

RECOMMENDATION: Staff recommends 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 PROJ20-0002 based on the Findings, and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

The applicant is requesting a variance to the primary front setback to develop a two-car garage which would provide onsite covered parking for two vehicles. This site is located in the Tahoe Basin with the Tahoe Overlay and development is limited to 1,943 square feet of land coverage on the parcel. The amount of land coverage, limited by the Tahoe Regional Planning Agency (TRPA), prevents the construction of the parking structure at the 20 foot front setback line. Covered parking is recognized as a reasonable use of the land in this area due to winter weather conditions.

BACKGROUND / HISTORY

The TRPA was formed in 1969 by a bi-state compact between Nevada and California, which was ratified by Congress. TRPA's Compact limits growth in the Tahoe Basin in several ways, one being the amount of land which can be developed with impervious surfaces. This site is limited to 1,943 square feet of land coverage to be used for the residence, decks, walk ways and covered parking. This parcel was developed in 1978 with a single family residence, decks and parking pad accommodating two parking spaces. Half of the parking pad is currently within the roadway easement. The results of the parcel's site assessment will remain unchanged and no change in verified coverage is a part of this variance.

The Tahoe Paradise Unit Number 29 subdivision map lists a front setback easement of 20 feet (Exhibit C). The subdivision setback overlays the 20 foot front setback required by the Zoning Ordinance for Single-unit Residential zoned parcels. An application has been submitted requesting to amend the subdivision map and request a reduction of the additional setback line. This matter will be heard by the Board of Supervisors at the conclusion of the variance request.

EXISTING CONDITIONS

The parcel is currently developed with a single-family dwelling and has several large pine trees with native shrubs and undergrowth (Exhibit G). The site is located in the Tahoe Paradise subdivision and is on the corner of Mewuk Drive and Poewin Street (Exhibit C). The lot is 14,956 square feet in size with topographic slopes generally of 18% but only 11-12% at the site of the proposed project. Neighboring parcels in the subdivision are also developed with single-family dwellings except for the vacant parcel directly to the north which is publically owned. Parking for this residence currently straddles the parcel line with a portion within the roadway easement.

PROJECT DESCRIPTION

The applicant is requesting a variance to reduce the 20 foot front setback to 10 feet to allow a two-car garage to be built (Exhibit F). The proposed garage will be 20 feet wide and 20 feet deep. The height will be in compliance with TRPA height regulations. The total distance from the front of the proposed garage to the traveled lane of Mewuk Drive will be a minimum of 20 feet to the edge of pavement. The total size of the proposed encroachment is approximately 15 feet deep and 20 feet wide to accommodate the two vehicle garage. The existing residence is located at the 20 foot front yard setback on the west side of the parcel. No additional reductions are requested for the other required zoning setbacks.

STAFF ANALYSIS

This site is limited in locations with which to place a structure to provide covered parking. This site has a primary and secondary front yard setback of 20 feet and a single side yard setback of 5 feet along the eastern property line. The two-car garage is proposed within the existing front yard setback, and on top of a portion of the existing parking pad, due to the limited amount of land coverage (Exhibit F). The existing residence is situated 20 feet from the edge of the primary front property line. Alternative locations for this structure which would meet setback requirements for the structure, land coverage limitations, and not require excessive grading do not exist.

General Plan: The subject parcel is in the Tahoe Regional Planning Agency Adopted Plan. This use has been found to be in accordance with the TRPA Code of Ordinances and the General Plan.

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 covered parking and garage 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 Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows 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, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The garage is proposed to be situated on the least environmentally sensitive area of the parcel. Zoning Ordinance findings for a variance have been made. No further environmental analysis is necessary.

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.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Location Map
Exhibit B.....	Assessor's Parcel Map
Exhibit C.....	Subdivision Map D-007A
Exhibit D.....	General Plan Land Use Map
Exhibit E.....	Zoning Map
Exhibit F.....	Proposed Site Plan
Exhibit G.....	Photo of Existing Site

FINDINGS

Variance PROJ20-0002/Spencer Zoning Administrator/October 7, 2020

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 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 El Dorado County Planning and Building Department, at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

- 2.1 **The project is consistent with General Plan Policy 2.2.5.2: All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.**

Rationale: The subject parcel is in the Tahoe Regional Planning Agency Adopted Plan. This use has been found to be in accordance with the TRPA Code of Ordinances and the General Plan. Furthermore, this site is in the Tahoe Regional Plan Area Statement Tahoe Paradise – Upper Truckee and residential structures are a permissible use. The proposed project is consistent with the General Plan and therefore finding 2.1 can be made.

3.0 ZONING FINDINGS

The project is consistent with Title 130:

- 3.1 **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.**

Rationale: Several factors limit the location of new accessory buildings on this property including the position of the existing home, required subdivision map setbacks, slope of the land and the coverage limits placed on the property by the TRPA Code of Ordinances. The portion of the property adjacent to Mewuk Drive is Land Capability Class 3 while the portion along Poewin Street is Land Capability Class 1. Class 1 is more sensitive than Class 3.

Development in the proposed portion of the lot would be placed in the higher capability portion, and would not result in excessive grading and destruction of undisturbed land.

The Site Assessment has confirmed that there is no additional allowable coverage with 1,943 square feet of verified coverage available onsite. The verified coverage includes the residence, deck, driveway and steps. The TRPA Code of Ordinances allows the relocation of coverage which will enable the owner to use coverage associated with the decks for the future garage (Exhibit F). Staff has determined that the variance is the minimum necessary for the reasonable use of the land consistent with the TRPA land coverage requirements.

Due to significant constraints on the property as it relates to land coverage, slope 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 3.1 can be made.

3.2 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).

Rationale: Adjacent developed properties have been developed with covered parking especially when those properties were permitted after the enforcement of TRPA coverage requirements. By requiring the applicant to locate the proposed garage in compliance with the building setbacks of the Single-unit Residential Zone District, the strict application of these provisions of the ordinance would deprive the applicant of the reasonable use of the land and buildings allowed for other lands in the vicinity and the same zone, and therefore, Finding 3.2 can be made.

3.3 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).

Rationale: Covered parking in the Tahoe Basin is recognized as a reasonable use. The applicant is requesting a variance to the front setback to develop a two-car garage. This is to provide onsite, covered parking for two vehicles in compliance with the Parking and Loading Standards found in the Zoning Ordinance. Furthermore, this project will remain within the maximum TRPA coverage limits for the property of 1,943 square feet of land coverage allowed per the Code of Ordinances. As such, granting the variance request would not constitute a grant of special privileges inconsistent with the

limitations on other properties in the vicinity and zone in which the property is situated. Therefore, Finding 3.3 can be made.

3.4 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.

Rationale: Allowing the reduced front yard setback for the addition of a garage would not impact adjoining properties or the right of way of Mewuk Drive. The project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the Variance. This proposed Variance has a complementary Map Correction application to also reduce a 20 foot subdivision map setback. The application is compatible with 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. Therefore, Finding 3.4 can be made.

CONDITIONS OF APPROVAL

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CONDITIONS OF APPROVAL:

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

Exhibit F.....Proposed 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 Permit to allow a reduction of the front setback from 20 feet to 10 feet to allow for the construction of a two-car garage.

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 location of buildings 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.