

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



Agenda of:	February 19, 2020
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 15 feet 10 inches to allow for the development of a one-car attached garage.

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: 016-211-011 (Exhibit B)

ACREAGE: 0.35 acre (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) (Minor Alterations in Land Use Limitations) of the CEQA Guidelines

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

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

EXECUTIVE SUMMARY

This site, located on a private roadway easement on the west shore of Lake Tahoe, is requesting a variance to the 20 foot front yard setback. This variance, if granted, will be consistent with other variances in the area. The existing structure is located, at its closest, at approximately 19 feet from the edge of the traveled way. The proposed single car garage is located predominantly within the existing footprint of the residence with approximately 6 feet of the new garage within the current location of the driveway. The request for a reduced front yard setback is from 20 feet to 15.833 feet.

BACKGROUND

This application was previously agenzied and heard at the 1/23/2019 Zoning Administrator meeting. At that meeting the applicant requested that the matter be continued off calendar so that they could have further discussions with the immediate neighbors. The project was then revised and new exhibits submitted with changes to the project. The location of the project is still within the front setback. The change from the original proposal is an increase in front yard setback from 14.5 feet of setback to 15.833 feet of setback.

OTHER CONSIDERATION

STAFF ANALYSIS

Site Description: The property is located within the Lake Tahoe Basin on Lakeside Drive (Exhibit A) within the Rubicon Residential TRPA Plan Area Statement (Exhibit D). The parcel is shown on the recorded subdivision map (Exhibit C) titled Rubicon Properties. 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 one-car garage is currently dwelling space, parking area, retaining walls, and native vegetation.

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 an attached garage structure would be permitted by right in the R1 zone district.

Project Description: The applicant is requesting a Variance to reduce the front yard setback from 20 feet to 15 feet 10 inches to allow for the construction of a one-car attached garage. The setback is determined by the edge of pavement for the traveled right-of-way associated with a private Road and Public Utility Easement (PUE) without a defined location. The garage is proposed to be constructed inside of the existing residence. The internal dimensions of the proposed garage are 13 feet wide and 21.5 feet deep (Exhibit G).

The proposed one-car garage will be located at the southwest side of the property with two proposed driveways of asphalt concrete paving extending approximately 18 feet from edge of pavement on Lakeside Drive. The garage is the minimum size for a single covered parking space. The existing placement of the house on the lot prevents a minimum sized garage from

fitting anywhere else on the lot without additional grading. This site is constrained due to existing development, setbacks, and land coverage.

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 a one-car garage structure, the exterior materials and finishes, articulated roof line, and other architectural details are to match the existing single family home. The proposed garage will be complementary to the visual character of the property.

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.

The permitting of the proposed variance to allow a reduced front yard setback of 15 feet 10 inches is not anticipated to negatively impact other uses in the project area.

AGENCY REVIEW

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

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.

Department of Transportation

The Transportation Division reviewed the project and does not have concerns with the variance.

North Tahoe Fire Protection District

The North Tahoe Fire Protection District had no objections to the project.

ENVIRONMENTAL REVIEW

This project is Categorically Exempt from the requirements of 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:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

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
Exhibit G.....Garage Floor Plan

FINDINGS

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1.0 CEQA FINDINGS

- 1.1 The modification of the structural setback is found to be Categorically Exempt from CEQA pursuant to Section 15305(a) that allows) 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:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel

Rational: The project will not have a significant effect on the environment due to unusual circumstances. The one-car attached garage is 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.

- 1.3 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.**

Rational: 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 garage 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 as well as the limits of new land coverage imposed by TRPA. The slope across the house footprint is almost 30% with steeper slopes on the undisturbed portion of the lot. The

same situation exists for the side yards to the north and south of the structure; steep undisturbed ground.

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).

Rational: It has been determined that a garage 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 residential development and with the same zoning designation have been approved for reduced front yard setbacks to develop an attached garage. 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).

Rational: The area directly within the front yard setback would allow for the development of the attached garage 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.

Rational: 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

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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.....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 a one-car attached garage, to match the architectural features of the existing single family dwelling, with a reduced front yard setback from 20 feet to 15 feet 10 inches.

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.