

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



Agenda of: December 16, 2020
Item No.: 9.a.
Staff: Melanie Shasha

VARIANCE

FILE NUMBER: V19-0002/Ciaponni

APPLICANT: Wyatt Ogilvy/Ogilvy Consulting

REQUEST: A variance to reduce the front setback from 20 feet to 0 feet for the construction of a two-car garage with storage space above and residence below. Code Enforcement case CE18-0081 shall be closed prior to issuing the certificate of occupancy for the proposed residence and garage.

LOCATION: The property is located on the east side of Meeks Bay Avenue roughly a third of a mile south of the intersection with Highway 89, in the Rubicon area, Supervisorial District 5. (Exhibit A)

APN: 016-081-040 (Exhibit B)

ACREAGE: 7,727 square feet

GENERAL PLAN

LAND USE DESIGNATION: Adopted Plan (AP) / Tahoe Regional Plan Area Statement Rubicon (Exhibit D)

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

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303(a) of the California Environmental Quality Act (CEQA) Guidelines (New Construction or Conversion of Small Structures).

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

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15303(a); and
2. Approve Variance V19-0002 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, with storage above and a guest house below, 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 1,173 square feet of land coverage. 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

TRPA was formed in 1969 by a bi-state compact between Nevada and California and 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 parcel was developed in conjunction with Lot 44 in 1956 with a single family residence, storage structure, piers and decks. A shared parking pad is located on the parcel to the north which is still under common ownership. Parking is currently not available on this lot. This site is limited to 1,173 square feet of verified land coverage to be used for the residence, storage structure, parking, decks and walk ways. A transfer of coverage and a residential allocation will be required to add the proposed structure and dwelling. The results of the site assessment will remain unchanged and no additional land coverage is granted as a part of this variance. (Exhibit C)

EXISTING CONDITIONS

The parcel is currently developed with a storage structure, decks, walkways and a pier. Vegetation consists of several large pine trees with native shrubs and undergrowth (Exhibit H). The site is located on Meeks Bay Avenue in the Meeks Bay Vista subdivision on the shores of Lake Tahoe (Exhibit C). The lot is 7,864 square feet in size with topographic slopes of 37%. Neighboring parcels in the subdivision are also developed with single-family dwellings except the publically owned parcels on the west side of Meeks Bay Avenue.

PROJECT DESCRIPTION

The applicant is requesting a variance to reduce the 20 foot front setback to 0 feet to allow a two-car garage with storage above and a dwelling below (Exhibit F). The garage will be 669 square feet with 590 square feet of storage and a 523 square foot single family dwelling. The height will be in compliance with TRPA height regulations. The total distance from the front of the proposed garage to the edge of pavement of Meeks Bay Avenue would be a minimum of 10 feet 5 inches. The total size of the proposed encroachment is 10 feet 5 inches feet deep and 29 feet wide to accommodate the two vehicle garage encroachment. The existing development is located on the east side of the parcel adjacent to Lake Tahoe. 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 front yard setback of 20 feet, side yard setbacks of 5 feet along the northern and southern property lines. The rear setback, along Lake Tahoe, was determined by the TRPA.

The two-car garage and residence is proposed within the existing front yard setback due to the limited amount of land coverage (Exhibit F). 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 CEQA pursuant to Section 15303(a) that one single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption. The garage is proposed to be situated on the least environmentally sensitive area of the parcel. Zoning Ordinance findings for a variance and an administrative setback reduction due to slope 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 A-006
Exhibit D.....	General Plan Land Use Map
Exhibit E.....	Zoning Map
Exhibit F.....	Proposed Site Plan
Exhibit G.....	Proposed Floor Plans
Exhibit H.....	Proposed Elevations
Exhibit I.....	Photos of Existing Site

FINDINGS

Variance V19-0002/Ciaponni Zoning Administrator/December 16, 2020

1.0 CEQA FINDINGS

- 1.1 The development of this residentially zoned parcel with a residence is found to be Categorically Exempt from CEQA pursuant to Section 15303(a) that allows one single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- 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, 95667.

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 Rubicon 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 structures on this property and include the dimension and side yard setbacks, slope of the land and the coverage limits placed on the property by the TRPA Code of Ordinances. And in fact, the Land Capability Class 1a is given to lands meeting the steepest of slopes. The remaining property is Land Capability Class 1b due

to its proximity with Lake Tahoe. The Site Assessment conducted by TRPA has confirmed that there is no additional allowable coverage with 1,173 square feet of verified coverage available onsite. The verified coverage includes the storage structure and walkways. The TRPA Code of Ordinances allows the relocation of coverage which will enable the owner to use existing coverage for the proposed structure (Exhibit F).

The portion of the property adjacent to Meeks Bay Avenue qualifies for an administrative reduction in front setback due to its slope. This reduction, with a letter from a licensed professional, is available to lots having 6 feet of topography between the edge of pavement and the required 20 foot front setback. This lot meets those requirements but would only reduce the setback to 10 feet. To develop a residence and covered parking on this lot without a variance to the front setback would be impossible given the amount of available coverage. In addition, the width of the lot and the maximum slope of 10% for driveways above 3,000 feet in elevation as found in the County Design and Improvement Standards Manual Volume 2, Section 3 B 9, could not be met in either 10 or 20 feet. 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 setbacks, 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: Nearby properties have been improved with single-family dwellings. By requiring the applicant to locate the proposed structure 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: This site is zoned Single-unit residential and two off-street parking places are required by the Parking and Loading Standards in the Zoning Ordinance. The applicant is requesting a variance to the front setback to develop a two-car garage and residence. The development will adhere to all other

applicable Zoning and Building regulations including: side yard setbacks and California building Code. Furthermore, this project will remain within the maximum TRPA coverage limits for the property allowed per the Code of Ordinances. The coverage allowed by TRPA standards is below the 35% coverage allowed by the Zoning Ordinance section 130.30.080 Hillside Development Standards; 30 Percent Slope Restriction. 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 and residence would not impact adjoining properties or the right of way of Meeks Bay Avenue. The project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the Variance. 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. Finding 3.4 can be made.

CONDITIONS OF APPROVAL

**Variance V19-0002/Ciaponni
Zoning Administrator/December 16, 2020**

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

Exhibit G.....Proposed Floor Plans

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:

A variance to reduce the front setback from 20 feet to 0 feet for the construction of a two-car garage with storage space above and residence below. Code Enforcement case CE18-0081 shall be closed prior to issuing the certificate of occupancy for the proposed residence and 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.