

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: October 23, 2008
Item No.: 8
Staff: Robert Peters

VARIANCE

FILE NUMBER: V08-0011

APPLICANT: Joseph and Ingrid Herrick

REQUEST: A variance request to allow a reduction in the rear yard setback from 30 feet to 22 feet to allow replacement of a single-family residence damaged by fire and the addition of an attached carport structure matching the roof line of the replaced residential structure, utilizing an existing concrete pad.

LOCATION: On the east side of Boulder Lane, approximately 157 feet south of the intersection with Cold Springs Road, in the Placerville area, Supervisorial District III (Exhibit A).

APN: 323-250-45 (Exhibit B)

ACREAGE: 2.01 acres

GENERAL PLAN: Medium-Density Residential (MDR) (Exhibit C)

ZONING: One-Acre Residential (R1A) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant Sections 15303(a), 15303(e), and 15305(a) of the CEQA Guidelines.

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

1. Find that the project is Categorical Exempt pursuant to *CEQA Guidelines Sections 15303(a), 15303(e), and 15305(a)*; and
2. Approve Variance V08-0011 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

BACKGROUND: On May 26, 2008 the existing single family residential structure on the subject parcel was damaged by fire. On July 17, 2008 the applicant was issued Building Permit No. 189612-1 for repair of the roof and three walls of the structure damaged by fire. The original residential structure was constructed within the current required 30-foot rear yard setback and thus was a legal non-conforming structure. During demolition of the damaged portions of the structure the applicant discovered that the original structure was poorly constructed and removed the entire structure while saving the foundation and sub-floor, hot and cold water supply lines, propane lines, and sewage lines (see Exhibit E-1 and E-2). Pursuant to County Code Section 17.20.060 in the event the damage or deconstruction to the nonconforming structure exceeds fifty percent of its value, no restoration shall be made unless every portion of the structure is made to conform to all regulations for new structures in the zone in which it is located.

The applicant originally submitted this variance application to allow a carport addition attached to the northern end of the replaced home, utilizing an existing concrete pad and aligning to the proposed roofline. However; since more than fifty percent of the replacement would normally require the structure to be relocated to meet current setbacks, Planning Services has determined that approval of a variance would allow the structure to be reconstructed in its original location utilizing the existing foundation and sub-floor, and allow the addition of the carport structure to match the roof line of the replaced residential structure. Reconstruction of the residence began under the referenced building permit, however, construction has halted until resolution of this variance request (see Exhibit F).

STAFF ANALYSIS

Project Description: The applicant is requesting to reduce the rear yard setback from 30 feet to 22 feet to allow replacement of an approximately 1,744 square-foot single-family residence damaged by fire and addition of an approximately 572 square-foot attached carport structure matching the roof line of the replaced residential structure, utilizing an existing concrete pad (see Exhibit G). Excluding the addition of the attached carport structure, the footprint of the residence will not change. The applicant proposes to utilize the existing foundation and sub-floor for replacement of the residence (see Exhibit F). The existing residence on the adjoining lot to the east (identified as APN 323-250-44, see Exhibit B) is approximately 50 feet from the residence to be reconstructed.

Site Description: The 2.01 acre subject parcel is located in the Placerville area approximately 157 feet south of the intersection of Boulder Lane and Cold Springs Road, at an approximate elevation of 1,760 feet above mean sea level. The site slopes from east to west, from the rear of

the parcel down toward the driveway encroachment (see Exhibit G). Existing improvements include a single-family residence (damaged by fire and partially reconstructed, see Exhibit F) with a gravel driveway accessed from an existing gate, several residential accessory structures including a shed/carport structure, several small agricultural structures, and hardscape and landscape features. A mix of native and non-native vegetation exists on the site.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R1A	MDR	Developed with single-family residence
North	R1A	MDR	Developed with single-family residence
South	R1A	MDR	Developed with single-family residence
East	R1A	MDR	Developed with single-family residence
West	RE-5	MDR	Developed with single-family residence

The permitting of the proposed variance to allow reduction of the rear yard setback from 30 feet to 22 feet to allow replacement of single-family residence destroyed by fire and addition of an attached carport structure is not anticipated to negatively impact other residential uses in the project area. The residence is proposed to be relocated within the exact footprint which it was formerly constructed. Boulder Lane is developed with single-family residences that contain accessory residential structures. The addition of the proposed carport structure would not substantially reduce the existing setback for replacement of the residential structure. The existing residence on the adjoining lot to the east (identified as APN 323-250-44, see Exhibit B) is approximately 50 feet from the residence to be reconstructed.

Replacement of Residential Structure and Addition of Attached Carport: The original permit for the residential structure showed the residence at a distance of 32.5 feet from the rear property line (see Exhibit H). Also, in 2004 a building permit was finalized for expansion of the existing residence and that site plan showed the residence at a distance of 32.5 feet from the rear property line. A site visit by Planning Services staff on September 24, 2008 verified that the structure (verified by location of existing foundation) was constructed within the 30-foot rear yard setback.

Due to the amount of improvements installed on the property in conjunction with the residence (i.e. foundation, sub-floor, sewer lines, water lines, and propane lines), and considering that much of the residence has already been reconstructed (see Exhibit F), removal and relocation of the structure would require removal and relocation of existing improvements, additional grading, and removal of existing vegetation. Also, allowing addition of the attached carport structure, utilizing the existing concrete pad and matching the roof line of the replaced residential structure, would not result in further site grading, removal of existing improvements or vegetation on-site. Therefore, the applicant seeks to replace the entire residential structure, utilize the existing foundation, sub-floor, sewer lines, water lines, and propane lines, and utilize the existing

improvements associated the addition of the carport structure while matching the roof line of the replaced residential structure.

Comments were received from the Environmental Management - Environmental Health Division, Department of Transportation (DOT), Building Department (see Exhibit H), and the County Surveyor's with regard to the setback reduction, and applicable conditions have been incorporated into the Conditions of Approval (see Attachment 1). No comments were received which would prevent approval of the proposed variance request.

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 subject parcel is located in the Placerville Community Region. The County General Plan designates the subject parcel as Medium-Density Residential (MDR). This land use designation establishes areas suitable for detached single-family residences with larger lot sizes which will enable limited agricultural land management activities. The MDR designation is considered consistent with Community Regions. The maximum allowable density for the MDR designation is one (1) dwelling unit per 1.0 acres. The 2.01 acre lot contained a permitted residential structure (to be reconstructed), and contains associated accessory residential and agricultural structures consistent with the General Plan designation.

Policy 2.2.5.21 requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land use that are permitted by policies in effect at the time the development project is proposed. The applicant seeks a reduction of the rear yard setback from 30 feet to 22 feet to allow replacement of single-family residence destroyed by fire, a previously established use, and addition of an attached carport structure in conformance with the MDR designation and consistent with land uses in the project vicinity. The requested reduction in setback would re-establish the existing setback for the reconstructed residence and allow for a seemingly adequate setback for the attached residential accessory structure.

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

Zoning: The subject parcel is zoned One-Acre Residential (R1A), which permits a minimum parcel size of one (1) acre and allows single-family detached dwellings and accessory uses and structures including but not limited to a garage, swimming pool, pump house, and boat house. With the exception of the proposed zoning setback variance, the reconstruction of the residence and the addition of the attached carport structure would be permitted by right in the R1A zone district.

The project requests a variance based on the regulations established by *Section 17.22(X)* for encroachment into required yards for the garage. *Section 17.28.080(E)* identifies a rear yard setback of 30 feet in the R1A zone district. The applicant proposes a variance to allow reduction of the rear yard setback from 30 feet to 22 feet to allow replacement of single-family residence destroyed by fire and addition of an attached carport structure in conformance with the

R1A zone district and consistent with land uses in the project vicinity. The final location of the replaced residence with carport attached addition would be 22 feet from the rear property line, and the proposed reduction in setback would allow for a seemingly adequate setback for the residential accessory structure.

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 15303(a)* that allows one single family residence, or a second dwelling unit in a residential zone, *15303(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, and *Section 15305(a)* that allows minor alterations in land use limitations for a variance. The project proposes reconstruction of a residence and development of a carport structure 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	Zoning District Map
Exhibit E-1 and E-2	Variance Support Information from Applicant
Exhibit F	Site Photos
Exhibit G	Site Plan
Exhibit H	Building Department Comments

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance

File Number V08-0011-Herrick Planning Commission/October 23, 2008

I. PROJECT DESCRIPTION

1. This variance is based upon and limited to compliance with the project description, the Planning Commission hearing Exhibits A through H, dated October 23, 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 to allow reduction of the rear yard setback from 30 feet to 22 feet to allow replacement of an approximately 1,744 square-foot single-family residence and addition of an approximately 572 square-foot attached carport structure matching the roof line of the replaced residential structure.

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.

II. PROJECT CONDITIONS OF APPROVAL

Planning Services

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. The reduction in rear yard setback shall apply only to the reconstructed residence and the attached carport structure. All other structures shall conform to all setback requirements pursuant to Section 17.28.080.
4. All proposed exterior lighting installed as a result of this variance shall be shielded and directed downward to prevent light and glare from leaving the property and must conform to the provisions of *Section 17.14.170 for Outdoor Lighting*.
5. Prior to issuance of any additional building permits and/or finalizing of Building Permit No. 189612-1, the applicant shall pay all Development Services fees in full.
6. Prior to issuance of any additional building permits and/or finalizing of Building Permit No. 189612-1, 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.
7. A building permit shall be obtained for the attached carport structure or Building Permit No. 189612-1 shall be revised to include addition of the proposed attached carport structure.

ATTACHMENT 2

FINDINGS

Variance File Number V08-0011/Herrick Planning Commission/October 23, 2008

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to *Section 15303(a)* that allows one single family residence, or a second dwelling unit in a residential zone, *Section 15303(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, and *Section 15305(a)* that allows minor alterations in land use limitations for a set back variance.
- 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, 95667.

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 unique in that prior to the fire damage to the existing residential structure, the on-site residential structure was a legal non-conforming structure which was located within the required rear yard setback. The fire occurred at no fault of the homeowner, and the applicant is requesting to relocate the residential structure allowing reuse of existing improvements including the foundation, sub-floor, sewer lines, water lines, and propane lines. Without the proposed variance, the residential structure would be required to be relocated and no reuse of existing improvements would be possible. The addition of an attached carport structure utilizing an existing concrete pad and matching the roof line of the replaced residential structure, would not result in further site grading, removal of existing improvements or vegetation on-site, nor would it exacerbate the setback reduction.

- 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.*

Without the proposed variance, the residential structure would be required to be relocated and no reuse of existing improvements including the foundation, sub-floor, sewer lines, water lines, and propane lines would be possible. Also, without the proposed variance, the applicant could not utilize the existing concrete pad and driveway improvements to allow the attached carport. The steepness of the terrain and locations of existing improvements including driveways, hardscape and landscape features, and the existing septic would limit the applicant's ability to place additional structures, such as the proposed attached carport structure, on the subject parcel in close proximity to the reconstructed residence without the need for significant grading and removal of existing improvements and vegetation.

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

This variance request will allow replacement of the single-family residence destroyed by fire and construction of a new attached carport structure matching the roof line of the replaced residential structure, utilizing an existing concrete pad. The proposed rear yard setback of 22 feet to existing property lines is the minimum necessary to allow the applicant to legitimize the reconstructed residential structure and the addition of the carport structure utilizing the existing on-site improvements without the need for further grading or removal of existing improvements and vegetation.

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 or conditions were received to prevent approval of the variance. The proposed variance has been conditioned to require a building permit be obtained for the addition of the carport structure and/or revise the existing Building Permit (No. 189612-1) to include the addition of the proposed attached carport structure (see Attachment 1, Conditions of Approval). The proposed variance is not anticipated to negatively impact the public health, safety, and welfare, or injurious to the other residential uses in the project area.