

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



Agenda of:	December 11, 2008
Item No.:	8
Staff:	Robert Peters

VARIANCE

FILE NUMBER: V08-0002

APPLICANT: Bruce and Michele Raley

REQUEST: A variance request to allow a reduction in the front yard setback from 30 feet to 26.33 feet and the side yard setback from 15 to 7.5 feet to legitimize existing additions to a residential structure.

LOCATION: On the north side of Sunshine Lane, approximately 0.5 miles northwest of the intersection with El Dorado Road, in the El Dorado area, Supervisorial District IV (Exhibit A).

APN: 327-050-58 (Exhibit B)

ACREAGE: 1.26 acres

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

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

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant Sections 15301(e) and 15305(a) of the CEQA Guidelines.

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

1. Find that the project is Categorically Exempt pursuant to *CEQA Guidelines Sections 15301(e) and 15305(a)*; and
2. Approve Variance V08-0002 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

BACKGROUND: The lot containing the existing residence on the project site was purchased by the applicants in July of 1996. Prior to ownership, additions to the residence had been constructed without benefit of permit and within the required front and side yard setbacks. The additions were believed to have been constructed in 1984, but the exact date is unknown. The applicant is seeking to legitimize the referenced additions. The applicant submitted the proposed Variance, V08-0002, on February 6, 2008, and the application was deemed complete for processing on August 15, 2008. The Technical Advisory Committee (TAC) Meeting scheduled for September 29, 2008 was canceled due to lack of comments/conditions from County departments and outside agencies.

STAFF ANALYSIS

Project Description: The applicant is requesting a reduction in the front yard setback from 30 feet to 26.33 feet and the side yard setback from 15 to 7.5 feet to legitimize existing additions to a residential structure consisting of a bedroom and master bath addition and a recreation room addition which were constructed without benefit of permit within the required setbacks (see Exhibit E and F).

Site Description: The 1.26 acre subject parcel is located in the El Dorado area approximately 0.5 miles northwest of the intersection of Sunshine Lane and El Dorado Road, at an approximate elevation of 1,680 feet above mean sea level. The site slopes from north to south. Existing improvements include a single-family residence with gravel driveway accessed from an existing gate, several residential accessory structures and hardscape and landscape features. The existing residence is currently located within the required front and side yard setbacks (see Exhibit E and F). 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	R1A	MDR	Developed with single-family residence

Discussion: The permitting of the proposed variance to allow reduction of the rear yard setback from 30 feet to 26.33 feet and the side yard setback from 15 feet to 7.5 feet to legitimize existing residential additions is not anticipated to negatively impact other residential uses in the project area. The existing land uses in the vicinity include single-family residences of similar sizes. The applicant has submitted a letter of support from the owners of the lot to the north most affected by the proposed variance request (see Exhibits G). The applicant seeks to legitimize the existing structure in its current location.

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 El Dorado/Diamond Springs 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 maximum allowable density for the Medium-Density Residential designation is one (1) dwelling unit per 1.0 acres. The subject parcel is currently 1.26 acres and contains a single-family residence. The lot currently contains a permitted residential structure with unpermitted additions. The minimum health and safety requirement would be met through the building permit process.

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 to legitimize an existing additions to the previously established single-family residential use in conformance with the Medium-Density Residential designation and consistent with land uses in the project vicinity. The applicant has submitted a letter of support from the property owners to the north most affected by the proposed variance (see Exhibits G). The existing location of the structure is 26.33 feet from the front property line and 7.5 feet from the side property line, and the proposed reduction in setback would allow for a seemingly adequate setback for the residential 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 dwelling. With the exception of the proposed zoning setback variance, the construction of the residential addition 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 front yard setback of 30 feet and a side yard setback of 15 feet in the R1A zone district. The applicant proposes to legitimize existing additions to a previously established single-family residential use in conformance with the R1A zone district and consistent with land uses in the project vicinity. The applicant has submitted a letter of support from the property owners to the north most affected by the proposed variance (see Exhibits G). The existing location of the structure is 26.33 feet from the front property line and 7.5 feet from the side property line, and the proposed reduction in setback would allow for a seemingly adequate setback for the residential 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 15301(e)* that allows additions to existing structures provided that the addition will not result in an increase more than 50 percent of the floor area of the structures before the addition, or 500 square feet, whichever is less, as well as *Section 15305(a)* that allows minor alterations in land use limitations for a variance. The project proposes to legitimize existing residential additions 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.....	Variance Site Plan
Exhibit F.....	Photos of Existing Residence
Exhibit G	Letter from Affected Neighbors

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance

File Number V08-0002/Raley

Planning Commission/December 11, 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 G, dated December 11, 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 in the front yard setback from 30 feet to 26.33 feet and the side yard setback from 15 feet to 7.5 feet to legitimize existing additions to a residential structure consisting of a bedroom and master bath addition and a recreation room addition which were constructed without benefit of permit within the required setbacks, as shown on Exhibit E.

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 front and side yard setback shall apply only to the existing additions to the residence. All other structures or additions to the existing residence 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 building permits, the applicant shall pay all Development Services fees in full.
6. Prior to issuance of a building 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.

El Dorado County Building Department

7. The applicant shall apply for a building permit to legitimize the existing additions to the residential structure. Said permit application shall be filed within 60 days following approval of this variance.

ATTACHMENT 2

FINDINGS

Variance

File Number V08-0002/Raley Planning Commission/December 11, 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(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as *Section 15305(a)* that allows minor alterations in land use limitations for a 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 the site has an existing residence which has had two additions constructed without benefit of permit which are currently located within the front yard and rear yard setbacks. The applicant purchased the property after the additions were constructed and seeks to legitimize those additions. Without the proposed variance, the existing additions to the residential structure could not be utilized by the applicant and would have to be removed. The applicant has submitted a letter from the adjoining property owners to the north most affected by the proposed variance and those property owners support for the proposed variance to legitimize the existing additions (see Exhibits G). The proposed variance has been conditioned to require a building permit be obtained for the residential additions (see Condition of Approval No. 7, Attachment 1).

- 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 existing residential additions could not be utilized by the applicant and would have to be removed. Legitimizing the previously constructed

additions will not result in expansion of the existing structure and the overall residence is similar in size to existing residences within the project vicinity.

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

This variance request will legitimize the existing additions to the residential. No expansion of the existing structure is proposed. The proposed front yard setback of 26.33 feet and side yard setback of 7.5 to the existing property lines is the minimum necessary to allow the applicant to legitimize the existing additions to the residential structure and utilize the existing improvements without the need for removal of these portions of the residence.

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 applicant has submitted a letter from the adjoining property owners to the north most affected by the proposed variance and those property owners support for the proposed variance to legitimize the existing additions (see Exhibits G). The proposed variance has been conditioned to require a building permit be obtained for the residential additions (see Condition of Approval No. 7, Attachment 1). 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, specifically those to the north.