

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



Agenda of: January 8, 2009
Item No.: 7
Staff: Jason R. Hade

VARIANCE

FILE NUMBER: V08-0012

APPLICANT: Carolyn Burke

REQUEST: Variance to reduce the side-yard setback from five feet to zero feet to allow the construction of a two-car garage.

LOCATION: On the west side of State Highway 89, approximately 200 feet south of the intersection with Wilson Avenue in the Tahoma area, Supervisorial District V. (Exhibit A)

APN: 015-420-02 (Exhibit B)

LOT SIZE: 1,620 square feet

GENERAL PLAN: Adopted Plan (AP), Tahoe Regional Planning Agency (TRPA) Regional Plan (Exhibit C)

ZONING: Tahoe Limited Family Multi-Family Residential (TR2) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 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 Categorically Exempt pursuant to CEQA Guidelines Sections 15303(e) and 15305(a); and
2. Approve Variance V08-0012 subject to the conditions of approval in Attachment 1 based on the findings in Attachment 2.

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to allow a reduction in the side-yard setback from five feet to zero feet to allow the construction of a two-car garage. An existing parking pad is located at the proposed garage site.

Site Description: The 1,620 square-foot subject lot is located in Sonoma Pines Estates on the west side of State Highway 89 at an approximate elevation of 6,300 feet above mean sea level. Existing improvements at the subject site include a 504 square foot cabin.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR2, PAS 154*	AP (TRPA Regional Plan)	Cabin
North	TR2, PAS 154	AP	Single-family residential
South	TR1, PAS 154	AP	Single-family residential
East	TR1, PAS 154	AP	Single-family residential / State Highway 89
West	TR2, PAS 154	AP	Single-family residential

*Plan Area Statement 154, Tahoma Residential, which is primarily residential use.

Discussion: The permitting of the proposed variance to allow a zero foot side-yard setback for the proposed garage is not anticipated to negatively impact other residential uses in the project area. The requested variance was reviewed by the Sonoma Pines Homeowner’s Association and they had no objections. Further, the applicant’s neighbor nearest the proposed garage location reviewed the request and also had no objections.

Variance Findings: The granting of a variance requires four findings pursuant to Section 17.24.040 of the County Zoning Ordinance. Appropriate findings for approval and their respective discussions are listed in Attachment 2 of this report.

General Plan: The County General Plan designates the subject parcel as Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 154, Tahoma Residential, which is primarily residential use (Exhibit F). The proposed garage is an allowed residential accessory structure. The granting of this variance, therefore, conforms to the Adopted Plan land use designation.

The County General Plan provides broad deference to the TRPA Regional Plan, for the implementation of related General Plan policies and for the review of County discretionary projects. With regard to the Tahoe Basin, the primary goal of the County General Plan is to integrate the County's regulations with those of TRPA, to eliminate inconsistencies with the Regional Plan and to simplify the regulatory environment in the Tahoe Basin, as articulated in *Goal 2.10* of the *County General Plan* and its associated policies.

Tahoe Regional Planning Agency (TRPA): TRPA approval would be required to construct the proposed garage. TRPA has reviewed and approved the reallocation of land coverage for the Sonoma Pines Estates.

Zoning: With the exception of the proposed zoning setback variance, the construction of a garage would be permitted by right in the TR2 Zone District. Section 17.18.060 requires two parking spaces not in tandem for a single family residence. The minimum five-foot side-yard setback would only allow for the construction of a single-car garage. However, the Zoning Ordinance, TRPA regulations, and HOA CC & R's all require a minimum of two parking spaces per home.

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(e) that allows accessory (appurtenant) structures including garages, 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. 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 Map
Exhibit C.....	General Plan Land Use Map
Exhibit D.....	Zoning District Map
Exhibit E.....	Site Plan
Exhibit F.....	TRPA Plan Area Statement 154
Exhibit G.....	Applicant's Variance Support Information

ATTACHMENT 1

CONDITIONS OF APPROVAL

**File Number V08-0012/Burke Variance
Planning Commission/January 8, 2009**

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, the Planning Commission hearing exhibit marked as Exhibit E, dated January 8, 2009, 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:

Variance to reduce the side-yard setback from five feet to zero feet for the construction of a two-car garage, as shown on the approved site plan, 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.

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. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
4. 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.
5. Prior to building permit issuance, an easement shall be recorded over the northeasterly 10 feet of APN 015-420-03 for the purpose of providing maintenance access for the proposed garage at the subject site.

Meeks Bay Fire Protection District

6. The garage shall be built to WUI Building Standards (Ch. 7A).
7. Pursuant to District ordinance, the roof shall be non-combustible. No wood materials are permitted.
8. The District's defensible space requirements must be met for the entire property regardless of property ownership.
9. The exterior of the garage shall be clad with 5/8 inch sheetrock under the siding, similar to that of a commercial building.
10. A minimum size of six inch house numbers must be posted and clearly visible from the road in either direction day or night.

Tahoe City Public Utility District

11. The applicant shall obtain a permit from the Tahoe City Public Utility District prior to construction.
12. Prior to permit issuance, the easement field shall be identified to ensure that the structure will not encroach into the easement.
13. Prior to construction, the applicant shall contact Underground Service Alert in order to properly locate District facilities.

ATTACHMENT 2

FINDINGS

File Number V08-0012/Burke Variance Planning Commission/January 8, 2009

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, 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.

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.*

Compliance with a minimum side-yard setback of five feet will preclude the construction of a two-car garage on the existing paved parking pad. Although the applicant could construct a single-car garage and meet the required setback, the Zoning Ordinance, TRPA regulations, and HOA CC & R's all require a minimum of two parking spaces per home. Further, construction of the proposed garage on the existing paved parking pad would not result in additional grading and associated environmental impacts that would be required if the existing parking pad were to be expanded to accommodate a larger garage to meet the five-foot side-yard setback.

- 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.*

It has been determined that covered garages in the Tahoe basin are a reasonable use of the property due to the amount of snow fall the area experiences. The location of the proposed garage is the most reasonable and appropriate location. If this variance is not approved, the applicant will be deprived the use of the garage, and arguably the reasonable use of the property allowed for other lands in the vicinity and the same zone district. The proposed garage will be utilized to meet the off-street parking requirement pursuant to Section 17.18.060 of the County Zoning Ordinance.

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

This variance request will permit the construction of a two-car garage to address severe weather concerns and meet the parking requirements of the Zoning Ordinance, TRPA regulations, and HOA CC & R's.

- 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 objections were raised. Additionally, the requested variance was reviewed by the Sonoma Pines Homeowner's Association and they had no objections. Further, the applicant's neighbor nearest the proposed garage location reviewed the request and also had no objections. The variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.