

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



Agenda of: August 27, 2009

Item No.: 7

Staff: Jason R. Hade

VARIANCE

FILE NUMBER: V09-0002/Fry Variance

APPLICANT: Pat and Renate Fry

AGENT: Kristina Hill

ARCHITECT: Ben Fagan Designs

REQUEST: Variance to reduce the front-yard setback from 35 feet to 17 feet and reduce the rear-yard setback from 15 feet to five feet for the reconstruction of a single-family residence.

LOCATION: On the west side of Fallen Leaf Road, approximately three miles south of the intersection with Emerald Bay Road in the Fallen Leaf Lake area, Supervisorial District V. (Exhibit A)

APN: 021-331-04 (Exhibit B)

LOT SIZE: 27,300 square feet

GENERAL PLAN: Adopted Plan (AP), Tahoe Regional Planning Agency (TRPA) Regional Plan South Fallen Leaf Lake Plan Area Statement 145 – residential land use classification (Exhibit C)

ZONING: Tahoe One-Family Residential (TR1) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 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 Section 15305(a); and
2. Approve Variance V09-0002 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 front-yard setback from 35 feet to 17 feet and a reduction in the rear-yard setback from 15 feet to five feet for the reconstruction of a single-family residence.

Site Description: The 27,300 square-foot subject lot is located in Fallen Leaf Lake area on the west side of Fallen Leaf Road at an approximate elevation of 6,390 feet above mean sea level. Existing improvements at the subject site include a primary residence, second dwelling, guesthouse, boathouse, and two piers. The existing home is located adjacent to Fallen Leaf Lake approximately 12 feet from the high waterline.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 145*	AP (TRPA Regional Plan)	Residential/primary residence, second dwelling, guesthouse, boathouse, and two piers
North	TR1, PAS 145	AP	Residential/Single-family residence
South	TR1, PAS 145	AP	Residential/Single-family residence
East	TR1, PAS 145	AP	Residential/Single-family residence
West	TA, PAS 145	AP	Fallen Leaf Lake

*Plan Area Statement 145, South Fallen Leaf Lake, which is primarily residential use.

Discussion: The permitting of the proposed variance to allow a 17 foot front-yard setback and five foot rear-yard setback for the proposed home reconstruction is not anticipated to negatively impact other residential uses in the project area. As shown in the photographs included within Exhibit G, approximately seven other homes within the project vicinity do not meet current front-yard setback requirements. Additionally, several other homes in the project vicinity also do not meet the current rear-yard setback requirements.

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) 145, South Fallen Leaf Lake with a land use designation of residential (Exhibit F). The proposed reconstructed single-family dwelling is an allowed residential use. 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 reconstruct the proposed single-family dwelling.

Zoning: With the exception of the proposed zoning setback variance, the reconstruction of a single-family dwelling would be permitted by right in the TR1 Zone District. As proposed, the project is consistent with all other development standards contained within Section 17.56.040 of the Zoning Ordinance.

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 Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations for a variance. No further environmental analysis is necessary. A \$50.00 administrative 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 145
Exhibit G Applicant’s Variance Support Information

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance Application V09-0002/Fry Planning Commission/August 27, 2009

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, the Staff Report exhibit marked as Exhibit E, 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 front-yard setback from 35 feet to 17 feet and the rear-yard setback from 15 feet to five feet for the reconstruction of a single-family dwelling, 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.

The developer and land owner 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 of El Dorado County concerning a variance.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall 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.

Department of Transportation

5. The variance to the setback will be allowed only within the area necessary to construct the project as listed above. All remaining portions of the property setback which are not needed for the proposed project shall remain at the current setback limit.
6. Prior to building permit issuance, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback variance. The form of said document shall be reviewed and approved by the County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe office.

Environmental Management Department

7. Prior to building permit issuance, a will serve letter from the Fallen Leaf Mutual Water Company shall be submitted to the Environmental Management Department.

Fallen Leaf Lake Community Services District Fire Department (FLLCSDFD)

8. Prior to occupancy, the applicant shall construct a paved turnout no less than 45 feet in length and 10 feet in width with at least 28 feet of full depth with tapering entrance and exit. The center of this turnout must also be situated directly across from the point or points in the new construction that come within 10 feet of the edge of the existing pavement on Fallen Leaf Road if the width of the property allows.
9. Public roads shall remain open to through traffic at all times during project construction. Obstruction of the road for longer than a 10 minute loading or unloading period is prohibited. All vehicles shall be parked so the tires are off the pavement and/or out of the main roadway.
10. Prior to occupancy, house address numbers shall be installed in an appropriate location on the house, clearly visible from the street and visible from either direction of travel. If the house is farther than 20 feet from the edge of the road, an additional set of address numbers shall be installed within 20 feet of the road. If the property has a boat dock, address numbers shall be installed at the boat dock. Numbers are to be a minimum of four inches high, reflective, and mounted on a contrasting background.
11. Prior to occupancy, the exterior materials and construction shall comply with Chapter 7A of

the current California Building Code regarding flame and ember resistance construction.

12. Prior to occupancy, a six-inch drafting hydrant shall be installed within 300 feet of the new project to the satisfaction of the FLLCSDFD.
13. At least one smoke detector (installed according to manufacturer's specifications) shall be installed outside of each sleeping area and one in each room used for sleeping purposes as well as one on each floor of the building prior to occupancy.
14. Prior to occupancy, every sleeping room below the fourth story shall have at least one exterior opening for egress/rescue purposes. The openings shall be a minimum of 5.7 square feet and 20 inches wide by 24 inches high. The finished sill height of the opening shall be no higher than 44 inches from the floor. Ladder access shall be provided for sleeping rooms with window sills higher than 25 feet off the ground.
15. LPG propane installation shall be per NFPA 58 and the California Fire Code and include the following: (1) installation of the tank no less than 10 feet from the building or from any other combustibile material on approved reinforced concrete slab or piers with proper winter marking poles at each end; (2) proper piping materials; (3) installation of the first stage regulator underneath the cover connected to the appropriate plumbing/piping throughout; and (4) installation of a second stage regulator shut off valve and snow protection cover where the gas line enters the building.
16. Prior to occupancy, CA PRC 4291 defensible space compliance is required to be completed to the satisfaction of FLLCSDFD.
17. At time of building permit submittal, the site plan shall reflect the relocation of the trash storage area at least five feet from the edge of the pavement of Fallen Leaf Road.

ATTACHMENT 2

FINDINGS

Variance Application V09-0002/Fry Planning Commission/August 27, 2009

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to 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.*

The existing residence to be reconstructed was built in 1927. The entire property on the lakeside of the roadway is approximately 60 feet deep, making compliance with the front and rear setback requirements nearly impossible. No further expansion into the front or rear-yard setbacks will occur as the residence will be reconstructed at the same location as the existing residence.

- 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.*

As shown in the photographs included within Exhibit G, approximately seven other homes within the project vicinity do not meet current front-yard setback requirements. Additionally, several other homes in the project vicinity also do not meet the current rear-yard setback requirements. Requiring the applicant to comply with the Zoning Ordinance setback provisions would deprive them of the same reasonable use of their land as the other existing homes within the project vicinity.

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

The proposed location of the residence has the same front and rear-yard setbacks as the existing residence which is the minimum necessary for reasonable use of the site.

- 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. Comment letters received from the Fallen Leaf Lake Community Services District Fire Department and South Tahoe Public Utility District indicate that the requested variance will not interfere with their operations. Further, as part of project implementation, the applicant will be providing a new paved turnout and fire hydrant in accordance with the FLLCSDFD recommended conditions of approval in Attachment 1 enhancing public safety within the project vicinity. Therefore, the variance, as conditioned, will not be detrimental to the public health, safety, and welfare of the neighborhood.