

**EL DORADO COUNTY DEVELOPMENT SERVICES  
STAFF REPORT**



**Agenda of:** April 5, 2006  
**Item No.:** 6.b.  
**Staff:** Michael C. Baron

**VARIANCE**

**FILE NUMBER:** V05-0006

**APPLICANT:** Marc Messner

**REQUEST:** Variance to allow a reduction in the front-yard setback from 20 feet to 7 feet for garage/addition

**LOCATION:** On the north side of Dolly Varden Way, approximately 20 feet west of the intersection with Shad Way in the Pollock Pines area. (Exhibit A)

**APN:** 042-462-03

**ACREAGE:** 0.26 acre

**GENERAL PLAN:** High Density Residential (HDR) (Exhibit B)

**ZONING:** One-family Residential (R1) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt pursuant to Section 15305 of the CEQA Guidelines

**SUMMARY RECOMMENDATION:** Conditional Approval

**BACKGROUND:** A building permit was issued October 14, 1977 (Building Permit #164768) by Building Services for a garage/addition. The site plan showed that the portion of property adjacent to Shad Way was only constrained by a five-foot side-yard setback and not a 20-foot front-yard setback as required by One-family Residential (R1) Zone District for corner lots.

**STAFF ANALYSIS**

**Project Description:** The applicant is requesting a variance to allow a reduction in the required 20-foot front-yard setback, as required by One-family Residential (R1) Zoning, to seven-feet from the edge of the road easement parallel to the northeastern property line of Assessor’s Parcel Number 042-462-03 adjacent to Shad Way in order to allow the addition of 890 square-feet of living space as a second floor and 400 square-foot garage on the subject parcel.

**Site Description:** The subject parcel is approximately 11,604 square feet in size and is located in the Sly Park Hills subdivision in the Pollock Pines area. There is an existing residence on the property with access provided via Dolly Varden Way.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
Site	R1	HDR	Improved Residential
North	R1	HDR	Improved Residential
South	R1	HDR	Improved Residential
East	R1	HDR	Improved Residential
West	R1	HDR	Improved Residential

**General Plan:** The General Plan designates the subject site as High Density Residential, which permits a minimum of one to five dwelling units per an acre. The existing 0.26 acre parcel therefore conforms to the General Plan Land Use Designation. There are no General Plan policies that apply to variances:

**Conclusion:** As discussed above, the construction of a residence on the property is consistent with the General Plan; however variances are required for encroachments into zoning setbacks.

**Zoning:** The subject site is zoned One Family Residential (R1) which permits a minimum parcel size of 10,000 square feet if served by public water and septic. Therefore, the existing 0.26 acre parcel conforms to existing zoning. The Development standards for the R1 Zone District are as follows:

17.28.040 Development Standards The following provisions shall apply in R1 Districts unless and until a variance is obtained from the Planning Commission:

- A. Minimum lot area, six thousand square feet when the lot is served with public water supply and sewage system; ten thousand square feet when either the proposed water supply as a well located on the lot, or the proposed sewage disposal system is a septic tank located on the lot; twenty-thousand square feet when the proposed water supply is a well and the proposed sewage disposal system is a septic tank, both located on the lot;

- B. Maximum lot coverage, thirty-five percent (including accessory buildings);
- C. Minimum lot width, sixty feet;
- D. Minimum yards: front, twenty feet; sides, five feet, except the side yard shall be increased one-foot for each additional foot of building height in excess of twenty-five feet (25'); rear, fifteen feet (15'); (Ord. 4236, 1992)
- E. Maximum building height, forty feet (40').

The purpose of this variance is to reduce a front-yard setback. Chapter 17.06 (V) defines a front yard as, *a yard extending across the full width of a building site between any road easement or road right-of-way and to the nearest line of the building; provided, that if any official plan line has been established for the street upon which the building site faces, then the measurement shall be taken from the official plan line to the nearest line of the building. Further, front yards shall exclude all road easements. Roads established through prescriptive right of undefined road easements, shall be assumed to have a right-of-way of twenty-five (25) feet from the existing centerline of the roadway for the purpose of establishing minimum front yard.* (Ord. 4236, 1992)

**Other Issues:** The applicant is required to file a map amendment as well as the variance to ensure consistency with the policies set forth by the Sly Park Hills subdivision. The subdivision map cover page states *The front 20-foot setback of all lots are offered as public utility easements for poles, guy wires, anchors, overhead and underground wires and conduits, with the right to trim and remove tree limbs, trees and brush from the first 10 feet to comply with State of California Senate Bill No. 643.*

### **ANALYSIS**

The granting of a variance requires four findings pursuant to Section 17.24.040 of the County Code. These findings are listed below with a discussion in regards to this variance request.

**Required Finding No. 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.

**Discussion:** The parcel is a corner lot and is considered a double fronted lot. A double fronted lot is required to have two 20-foot front setbacks. Although all corner lots have two 20-foot setbacks, the house faces Dolly Varden Lane and the orientation of the existing driveway and previous carport site makes Shad Way serve as a side yard because this is an exceptionally small lot in the subdivision.

**Required Finding No. 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.

**Discussion:** The strict application of minimum setbacks pursuant to Section 17.56.040 (D) of County Code to the subject site, severely limit building options for the construction of the proposed 890 square-foot second story addition and 400 square-foot garage. Although strict application of County Code may deem that a garage is an accessory structure and not a necessary use, the Planning Department has historically granted variances for such structures within the area because of weather conditions and the necessity for indoor vehicle storage.

The applicant has proposed to develop a garage on Assessor's Parcel Number 042-462-03. Other single-family residences within the project vicinity also feature garages. The development of an addition and garage on the project parcel is a reasonable and permissible use of land by right. Therefore, strict application of the setbacks pursuant to Section 17.56.040 (D) of County Code would deprive the applicant of reasonable use of the land allowed for other land in the vicinity and the same Zone District. Staff finds that a rational argument can be made in support of Finding No. 2.

**Required Finding No. 3:** The variance is the minimum necessary for the reasonable use of the land or building.

**Discussion:** Under County Code, the subject site must have a 20-foot minimum front yard setback from Shad Way. A 15-foot rear-yard setback and five-foot side yard setbacks are also required from the respective property lines. Because the subject parcel is relatively flat, it does not qualify for administrative setback relief under Sections 17.14.020 or 17.14.030 of County Code. Staff considered alternative designs to allow the construction of the proposed garage with a 20-foot front yard setback but found these alternatives to be infeasible because of the location of the existing driveway access to Dolly Varden Lane. Staff found the proposed 890 square-foot second floor addition and 400 square-foot garage to be modest in size in relation to existing structures within the project vicinity.

As discussed in Finding No. 2, the proposed 890 square-foot second floor addition and 400 square-foot garage may be considered a reasonable use of the land as an accessory use because the Planning Services has historically granted variances for such uses within the area because of weather conditions. For this reason, space for indoor vehicle storage is considered a necessity rather than a simple convenience. Compliance with County Code would effectively eliminate all feasible design alternatives for the construction of a second floor addition and garage at the subject site and deprive the applicant of the proposed improvement. Finding No. 3 can be made for the requested variance.

**Required Finding No. 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.

**Discussion:** The intent of the 20-foot front yard setback for the R1 Zone District required under Section 17.56.040(D) is to provide a buffer for residential structures from roadways, such as Shad Way, and their related impacts such as noise and snow removal. The setbacks also provide for neighborhood design consistency and appearance. Variances for garages within required setbacks have been granted in the past within area because of weather conditions and the need for indoor vehicle storage and access. Additionally, the distance from the property line to the edge of the street

is 12.5 feet. A 400 square-foot garage will satisfy the minimum off-street parking requirements for the existing use of two spaces not in tandem, as required under Section 17.18.060(1) of County Code. Staff finds a seven-foot setback along Shad Way meets the intent of the Zoning Ordinance.

The requested variance would permit a residential accessory structure to be built within seven feet from the property line and could potentially hinder snow removal operations. Planning Services has recommended approval of the variance with a condition requiring the recording of a legally binding document on the property for the purpose of indemnifying and holding the County harmless for any and all claims or lawsuits or damages, which arise in any way from this reduction in the building setback.

Based on this information, staff concludes that Finding No. 4 can be made for a reduction of the front yard 20-foot setback along Shad Way to seven-feet. As requested, the variance is in conformity with the intent of this article and is not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The variance will not compromise the purpose and intent of the applicable Ordinances.

**Agency and Public Comments:** The following agencies provided comments on this application:

El Dorado County Department of Transportation  
El Dorado County Environmental Management Department  
El Dorado County Fire Protection District

### **ENVIRONMENTAL REVIEW**

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15305 of the CEQA Guidelines stating that *minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.* Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.

### **RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Find the project (V05-0006) is exempt from CEQA pursuant to Section 15305(a) of the CEQA Guidelines; and
2. Approve Variance V05-0006 to allow a reduction of the front 20-foot setback required by One-family Residential (R1) zoning to 7-feet, as the required findings can be made as noted in Attachment 2 based on the analysis in the staff report, and conditions itemized in Attachment 1.

## **SUPPORT INFORMATION**

**Attachments to Staff Report:**

Exhibit A.....Vicinity Map

Exhibit B.....General Plan Land Use Map

Exhibit C.....Zoning Map

Exhibit D.....Assessor’s Map

Exhibit E.....Site Plan

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**

**FILE NUMBER V05-0006**

**CONDITIONS OF APPROVAL**

**Planning Services**

1. Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.
2. The minimum setback from the property line shall not be less than 7-feet as shown on Exhibit E.
3. The applicant shall file a *Hold Harmless* agreement with the County for the purpose of indemnifying and holding the County harmless for any and all claims or lawsuits or damages, which arise in any way from this reduction in the building setback.
4. The applicant shall not be allowed a second driveway encroaching onto Shad Way.
5. Subject to issuance of a building permit from El Dorado County Building Services.

**El Dorado County Fire Protection District**

6. Fire safe review of \$50.00 prior to issuance of a building permit.

## **ATTACHMENT 2** **FINDINGS FOR APPROVAL**

### **FILE NUMBER V05-0006**

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

### **FINDINGS FOR APPROVAL**

#### **1.0 CEQA Finding**

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15305 of the CEQA Guidelines stating that *minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density*. Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.

#### **2.0 Administrative Findings**

Variance V 05-0006 will allow an R1 20-foot front setback to be reduced to a 7-foot front setback for the construction of an 890 square-foot second floor addition and a 400 square-foot garage.

**Required Finding No. 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.

**Discussion:** The parcel is a corner lot and is considered a double fronted lot. A double fronted lot is required to have two 20-foot front setbacks. Although all corner lots have two 20-foot setbacks, the house faces Dolly Varden Lane and the orientation of the existing driveway and previous carport site makes Shad Way serve as a side yard because this is an exceptionally small lot in the Subdivision.

**Required Finding No. 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.

**Discussion:** The strict application of minimum setbacks pursuant to *Section 17.56.040 (D)* of *County Code* to the subject site, severely limit building options for the construction of the proposed 890 square-foot second-story addition and 400 square-foot garage. Although strict application of *County Code* may deem that a garage is an accessory structure and not a necessary use, Planning Services has historically granted variances for such structures within the area because of weather conditions and the necessity for indoor vehicle storage.

The applicant has proposed to develop a garage on Assessor's Parcel Number 042-462-03. Other single-family residences within the project vicinity also feature garages. The development of an addition and garage on the project parcel is a reasonable and permissible use of land by right. Therefore, strict application of the setbacks pursuant to Section 17.56.040 (D) of County Code would deprive the applicant of reasonable use of the land allowed for other land in the vicinity and the same Zone District. Staff finds that a rational argument can be made in support of Finding No. 2.

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As discussed in Finding No. 2, the proposed 890 square-foot second floor addition and 400 square-foot garage may be considered a reasonable use of the land as an accessory use because the Planning Services has historically granted variances for such uses within the area because of weather conditions. For this reason, space for indoor vehicle storage is considered a necessity rather than a simple convenience. Compliance with County Code would effectively eliminate all feasible design alternatives for the construction of a second floor addition and garage at the subject site and deprive the applicant of the proposed improvement. Finding No. 3 can be made for the requested variance.

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The requested variance would permit a residential accessory structure to be built within seven feet from the property line and could potentially hinder snow removal operations. Planning Services has recommended approval of the variance with a condition requiring the

recording of a legally binding document on the property for the purpose of indemnifying and holding the County harmless for any and all claims or lawsuits or damages, which arise in any way from this reduction in the building setback.

Based on this information, staff concludes that Finding No. 4 can be made for a reduction of the front yard 20-foot setback along Shad Way to seven feet. As requested, the variance is in conformity with the intent of this article and is not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The variance will not compromise the purpose and intent of the applicable Ordinances.

**2.1 Granting of a variance is found to comply with the requirements of County Code Section 17.22.630, granting the proposed variance would not be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood.**

The variance is in conformity with the intent of this article and is not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The variance will not compromise the purpose and intent of the applicable Ordinances.

**2.2 The proposed variance request is consistent with the policies in the El Dorado County 2004 General Plan, adopted July 19, 2004.**

The proposed variance request, as determined by staff, is compliant with County regulations, addressing aesthetics, environmental issues and health and safety concerns, as required by the 2004 General Plan.