

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: August 2, 2006
Item No.: 5.a.
Staff: Michael C. Baron

VARIANCE

FILE NUMBER: V 06-0003

OWNER/APPLICANT: John and Diane Owens/Gary Davis Group, Gary

REQUEST: A variance to allow a reduction in the front yard setback from 20 feet, as required by the TR1 Zone District, to zero feet (0').

LOCATION: On the southeast side of Meeks Bay Avenue 0.25 miles southwest of the intersection with State Highway 89 in the Meeks Bay area. (Exhibit A)

APN: 016-081-18

ACREAGE: 6,754 square feet

GENERAL PLAN Area Plan (AP) (Exhibit B)

ZONING: Tahoe One-family Residential (TR-1) (Exhibit D)

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

SUMMARY RECOMMENDATION: Conditional Approval

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to allow a reduction in the 20-foot front yard setback, as required by TR1 Zone District, to zero feet (0') from the edge of the road easement, parallel to the northwestern property line of Assessor's Parcel Number 016-081-18 and adjacent to Meeks Bay Avenue for the purpose of development of a 576 square foot garage/office in place of an existing 546 square foot parking deck.

Site Description: The subject parcel has an area of approximately 6,754 square feet. The parcel lies at an elevation of approximately 6,250 feet above mean sea level and has a southeasterly slope of approximately 50 percent. There are numerous large pine species shown on the site plan (Exhibit D). Existing improvements on the parcel include a 1,658 square foot residence, 546 square foot parking deck, 263 square foot compacted parking area, 631 square feet of decks/walkways/dirt paths/stairs, 29 square foot bear box, and 70 square foot pier. Access is provided to the subject parcel from Meeks Bay Avenue.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP	Single-family Residence
North	TR1	AP	Single-family Residence
South	TR1	AP	Lake Tahoe
East	TR1	AP	Lake Tahoe
West	TR1	AP	Single-family Residence

Discussion: Under the 2004 Adopted General Plan, all parcels within the Tahoe Basin have a land use designation of AP (Adopted Plan) since they are within the Tahoe Regional Plan.

2004 Adopted General Plan: *The 2004 General Plan* identifies the project site as having an Adopted Plan (AP) land use designation within the Tahoe Regional Plan. As such, all projects within the Tahoe Basin must be consistent with the Regional Plan, which includes TRPA's Code of Ordinances, Plan Area Statements, and other TRPA regulations, as well as the County's General Plan and County Code. The following 2004 Adopted General Plan policy applies to this project:

Policy 2.10.1.1: *The County shall apply the standards of the Regional Plan for the Tahoe Basin and the Code of Ordinances and other land use regulations adopted by the Tahoe Regional Planning Agency in acting on applications for proposed land uses in the Tahoe Basin.*

Discussion: As discussed above, the granting of the requested front yard setback variance to allow the construction of the garage/office in place of an existing parking deck and avoid the need for coverage expansion is consistent with the Tahoe Regional Plan and 2004 Adopted El Dorado County General Plan.

Tahoe Area Plan Statement: The subject parcel is located within the TRPA Plan Area Statement intended for residential uses maintaining the existing character of the neighborhood. Single-family dwellings, public services, recreation, and resource management are allowed pursuant to the general list of permissible uses defined within the Plan Area Statement. Pursuant to Chapter 21, Density, the maximum density within the above referenced Plan Area is one single family dwelling unit per parcel. As proposed and conditioned, the requested variance is consistent with the policies of the TRPA Plan Area Statement.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, conforms to the 2004 Adopted General Plan, and the Tahoe Regional Plan (1984, as amended).

Zoning: The subject site is zoned Tahoe One-family Residential District (TR1) which permits a minimum parcel size of seven thousand square feet. Although the existing 6,754 square foot parcel does not conform to the minimum parcel size for the TR1 Zone District, the parcel would be considered legal non-conforming in that it was created prior to the zoning ordinance (*Meeks Bay Vista, 1924*). All development on a parcel within the TR1 Zone District is subject to the development criteria listed under *Section 17.56.040* of the *County Code*. *Section 17.56.040 (D)* establishes the following minimum yard setbacks:

Front	=	20 feet
Sides	=	5 feet
Rear	=	15 feet

ANALYSIS

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 generally do not apply 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: Due to the size of the lot and location of the existing parking deck, the proposed garage/office is in the most reasonable location. A site assessment conducted by a licensed architect indicates that permit records were found for an existing 3,197 square feet of onsite coverage and 62 square feet of offsite coverage. The proposed coverage would be 2,807 square feet of onsite coverage and 62 square feet of offsite coverage. Therefore, this project is reducing the total onsite coverage by reducing the square footage of decks/stairs/walkways by 390 square feet. No excess coverage issues would result from any act of the owner or applicant. Denial of this variance request will hinder the applicant's ability to use banked coverage to build the garage.

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: There are several homes and garages within the community that encroach into the front setback. It can be found that the strict application of the setback provisions would deprive the applicant reasonable use of the property, because variations to the front yard setback requirements have been allowed by the granting of front yard setback variances for other properties in the same zone. 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 South Lake Tahoe area because of weather conditions and the necessity for indoor vehicle storage.

The applicant has proposed to develop a 576 square foot garage/office on Assessor's Parcel Number 016-081-18. The project already has an existing parking deck where the garage/office is proposed. Furthermore, there are other single-family residences within the project vicinity that feature garages with zero front setbacks. The development of a 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 2.

Required Finding 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 Meeks Bay Avenue. A 15-foot rear yard setback and a five-foot side yard setback are also required from the respective property lines. Because the subject parcel is sloped toward the rear of the property, it does not qualify for administrative setback relief under *Sections 17.14.020 or 17.14.030 of County Code*. The variance request is necessary to facilitate compliance with Tahoe Regional Planning Agency's (TRPA) tree and coverage regulations. Staff considered alternative designs to allow the construction of the proposed garage with a 20-foot front yard setback by shortening the length of the garage and moving it back, but found this alternative to be infeasible, because of structural engineering constraints and excessive slope to the rear of the property. Staff found the proposed 576 square foot garage/office to be modest in size in relation to existing structures within the project vicinity.

As discussed in Finding 2, the proposed 576 square foot garage may be considered a reasonable use of the land as an accessory use, because Planning Services has historically granted variances for such uses within the South Lake Tahoe Basin 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 and TRPA regulations would effectively eliminate all feasible design alternatives for the construction of a garage at the subject site and deprive the applicant of the proposed garage. Finding 3 can be made for the requested variance.

Required Finding 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 TR1 Zone District required under *Section 17.56.040(D)* is to provide a buffer for residential structures from roadways, such as Meeks Bay Avenue, 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 the South Lake Tahoe area because of weather conditions and the need for indoor vehicle storage and access. Staff conducted a site visit on June 8, 2006 and observed several existing garages located within the minimum setbacks in the immediate project vicinity.

Based on this information, staff concludes that Finding 4 can be made for a reduction of the front yard 20-foot setback as required by TR1 Zone District parallel to Meeks Bay Avenue to zero (0') 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:

El Dorado County Department of Transportation

Discussion: The Department of Transportation provided conditions of approval for the project.

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 percent, which do not result in any changes in land use or density”. Pursuant to Resolution No. 240-93, a \$35.⁰⁰ 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 (V06-0003) is exempt from CEQA pursuant to *Section 15305(a)* of the *CEQA Guidelines*; and
2. Approve Variance V06-0003 to allow a reduction of the front 20-foot setback required by TR1 zoning to 0-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	2004 Adopted General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Site Plan and Elevations
Exhibit E	Assessor's Page
Exhibit F	Applicant's Variance Support Information
Supplemental Pictures	

ATTACHMENT 1
CONDITIONS OF APPROVAL

Zoning Administrator Hearing August 2, 2006
File Number V06-0003
John and Diane Owens/Gary Davis Group

Planning Services

1. The minimum front yard setback shall not extend beyond the property line as shown on Exhibit D.
2. All development on the parcel shall be subject to issuance of a building permit from the El Dorado County Building Services.
3. All development on the parcel shall be subject to compliance with all applicable Tahoe Regional Planning Agency policies.

Department of Transportation

4. The Variance to the setback will be allowed within the area necessary to construct the garage only. All remaining portions of the property setback which are not needed for the proposed garage improvements will remain at the current setback locations.
5. The applicant shall execute a Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the setback variance.

ATTACHMENT 2 **FINDINGS FOR APPROVAL**

Zoning Administrator Hearing August 2, 2006
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John and Diane Owens/Gary Davis Group

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 Categorical 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 \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

2.0 Administrative Findings

Variance V 06-0003 will allow a TR1 20 foot front setback to be reduced to a 0 foot front setback for the construction of a 576 square foot garage/office.

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. The required findings have been made and are as follows:

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.

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