

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



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

VARIANCE

FILE NUMBER: V06-0005

OWNER/APPLICANT: Rick and Dana Page/Susan Daniels

REQUEST: Variance to allow a reduction in the front yard setback from 20 feet, as required by the TR1 Zone District, to 12 feet.

LOCATION: On the east side of Ninth Avenue at the intersection with Spruce Street in the Tahoma area. (Exhibit A)

APN: 015-032-08

ACREAGE: 6,250 square feet

GENERAL PLAN Area Plan (AP) (Exhibit B)

ZONING: Tahoe One-family Residential (TR1) Zone District (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 reduce the required 20-foot front yard setback as required by TR1 Zone District to twelve feet (12') from the edge of the road easement parallel to the southern property line of Assessor's Parcel Number 015-032-08 adjacent to Spruce Street in order to allow the development of a 1,312 square foot residence with attached garage.

Site Description: The subject parcel has an area of approximately 6,250 square feet. The parcel lies at an elevation of approximately 6,250 feet above mean sea level and is relatively flat. There are numerous large pine species shown on the site plan (Exhibit D). There are no existing improvements on the parcel. Access is provided to the subject parcel from Ninth Avenue with the undeveloped Spruce Street on the southern property line.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP	Single-family Residence
North	TR1	AP	Single-family Residence
South	TR1	AP	Single-family Residence
East	TR1	AP	Single-family Residence
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 Tahoe Regional Planning Agency (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 a single-family residence with attached garage and would avoid the need for additional coverage expansion to be 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 (7,000) square-feet. Although the existing 6,250 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 (*Tahoe Cedars, 1914*). 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 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: Due to the size of the lot and proximity to Spruce Street, the proposed single-family residence with attached garage is in the most reasonable location. A site assessment conducted by a licensed architect proposes 1,799 square feet of coverage. The allowable coverage is 1,625 square feet with 174 square feet of transferred coverage for a total allowable coverage of 1,800 square feet. Therefore, this project, as proposed will be consistent with allowable coverage requirements set forth by the Tahoe Regional Planning Agency. 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 build the house with attached garage.

Required Finding 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 front setback as required by Zoning Code is necessary, Planning Services has historically granted variances in such instances within the South Lake Tahoe area because some older subdivisions (*Tahoe Cedars, 1914*) were created prior to zoning ordinance. Therefore,

consideration would not be given to building constraints related to front setbacks during the creation of the subdivision.

The applicant has proposed to develop a 1,312 square foot single-family residence with attached garage on Assessor's Parcel Number 015-032-08. Furthermore, there are other single-family residences within the project vicinity that feature single-family residences and garages within front setbacks. The development of a single-family residence with attached 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 Spruce Street. A 15-foot rear yard setback and five-foot side yard setbacks are also required from the respective property lines. Staff found the proposed 1,312 square foot single-family residence and garage to be modest in size in relation to existing structures within the project vicinity.

As discussed in Finding 2, the proposed 1,312 square foot single-family residence with attached garage may be considered a reasonable use of the land because Planning Services has historically granted variances for such uses within the South Lake Tahoe Basin because of the circumstances under which the sub-division was created without consideration given to front setbacks. Compliance with County Code and TRPA regulations would effectively eliminate all feasible design alternatives for the construction of a single-family dwelling with attached garage on the subject parcel and deprive the applicant of the proposed development. Finding 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 TR1 Zone District required under Section 17.56.040(D) is to provide a buffer for residential structures from roadways, such as Spruce Street, and their related impacts such as noise and snow removal. The setbacks also provide for neighborhood design consistency and appearance. Variances for development within required setbacks have been granted in the past within the South Lake Tahoe area, specifically the Tahoe Cedars sub-division due to the circumstances to which the sub-division was created, without consideration given to front setbacks and building area. Staff conducted a site visit on June 7, 2006 and observed several existing structures located within the minimum setbacks in the immediate project vicinity.

Based on this information, staff concludes that Finding No. 4 can be made for a reduction of the front yard 20-foot setback as required by TR1 Zone District parallel to Spruce Street to twelve feet

(12'). 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 submitted comments to Planning Services stating that Spruce Street was permanently closed due to a 1987 erosion control project and the right-of-way re-vegetated. Closed streets are still under County control and there are no plans to relinquish ownership, vacate, abandon or re-open them. Also stated in comments by Department of Transportation staff was, “*Any parcel adjacent to these closed streets/roads are not considered a [Corner Parcel] by the Department of Transportation.*” While the Department of Transportation does not consider the parcel as a corner lot, Planning Services is required to identify the parcel as a corner lot for development of a single-family dwelling with attached garage until such time that the Department of Transportation takes initiative to relinquish ownership, vacate, abandon or re-open Spruce Street.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of California Environmental Quality Act 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.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Find the project V06-0005, is exempt from CEQA pursuant to *Section 15305(a)* of the *CEQA Guidelines*; and
2. Approve Variance V06-0005 to allow a reduction of the front 20-foot setback required by TR1 Zone District to 12-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 Map
Exhibit F.....Applicant's Variance Support Information
Supplemental Pictures

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER V06-0005

Planning Services

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

ATTACHMENT 2 **FINDINGS FOR APPROVAL**

FILE NUMBER V06-0005

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 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.

2.0 Administrative Findings

Variance V06-0005 will allow a TR1 20 foot front setback to be reduced to a 12 foot front setback for the construction of a 1,312 square foot single-family residence with attached garage.

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.

Discussion: Due to the size of the lot and proximity to Spruce Street, the proposed single-family residence with attached garage is in the most reasonable location. A site assessment conducted by a licensed architect proposes 1,799 square feet of coverage. The allowable coverage is 1,625 square feet with 174 square feet of transferred coverage

for a total allowable coverage of 1,800 square feet. Therefore, this project, as proposed will be consistent with allowable coverage requirements set forth by the Tahoe Regional Planning Agency. 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 build the house with attached garage.

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 front setback as required by Zoning Code is necessary, Planning Services has historically granted variances in such instances within the South Lake Tahoe area because some older sub-divisions (Tahoe Cedars, 1914) were created prior to zoning ordinance. Therefore, consideration would not be given to building constraints related to front setbacks during the creation of the sub-division.

The applicant has proposed to develop a 1,312 square foot single-family residence with attached garage on Assessor's Parcel Number 015-032-08. Furthermore, there are other single-family residences within the project vicinity that feature single-family residences and garages within front setbacks. The development of a single-family residence with attached 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.

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 Spruce Street. A 15-foot rear yard setback and five-foot side yard setbacks are also required from the respective property lines. Staff found the proposed 1,312 square foot single-family residence and garage to be modest in size in relation to existing structures within the project vicinity.

As discussed in Finding 2, the proposed 1,312 square foot single-family residence with attached garage may be considered a reasonable use of the land because Planning Services has historically granted variances for such uses within the South Lake Tahoe Basin because of the circumstances under which the sub-division was created without consideration given to front setbacks. Compliance with County Code and TRPA regulations would effectively eliminate all feasible design alternatives for the construction of a single-family dwelling with attached garage on the subject parcel and

deprive the applicant of the proposed development. Finding 3 can be made for the requested variance.

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 Spruce Street, and their related impacts such as noise and snow removal. The setbacks also provide for neighborhood design consistency and appearance. Variances for development within required setbacks have been granted in the past within the South Lake Tahoe area, specifically the Tahoe Cedars subdivision due to the circumstances to which the subdivision was created, without consideration given to front setbacks and building area. Staff conducted a site visit on June 7, 2006 and observed several existing structures 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 Spruce Street to twelve feet (12'). 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.