

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: October 18, 2006
Item No.: 6.a.
Staff: Aaron Mount

VARIANCE

FILE NUMBER: V06-0006

OWNER/APPLICANT: Richard and Rebecca Downing

AGENT: Wayne Ford Residential Design

REQUEST: Variance to allow a reduction of a front setback from 20 feet to 13 feet for construction of a garage with storage.

LOCATION: On the northeast side of Sioux Street, approximately 0.5 mile east of the intersection with U.S. Highway 50 in the Meyers area. (Exhibit A)

APN: 034-232-07

ACREAGE: 10,448 square feet

GENERAL PLAN: Area Plan (AP) (Exhibit B)

ZONING: Tahoe One-family Residential (TR1) (Exhibit C)

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 the Tahoe One-family Residential (TR1) Zone District, to 13 feet parallel to the southeastern property line of Assessor's Parcel Number 034-232-07 and adjacent to Sioux Street for the purpose of development of a 528 square foot garage with storage area on the second floor. The subject parcel is lot 687 of the Tahoe Paradise Unit #5 subdivision.

Site Description: The subject parcel is at an average elevation of 6300 feet above mean sea level. Vegetation is dominated by Jeffrey pine with associated undergrowth. Improvements include a 1,408 square foot single family residence, a 220 square foot deck, and a paved parking area directly in front of the residence. Access is provided to the subject parcel from Sioux Street, a county maintained road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP	Single-family Residence
North	TR1	AP	Single-family Residence
South	TR1	AP	Undeveloped (USFS)
East	TR1	AP	Single-family Residence
West	TR1	AP	Single-family Residence

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.

Tahoe Area Plan Statement: The subject parcel is located within the TRPA Plan Area Statement, Meyers Residential, intended for residential uses maintaining the existing character of the neighborhood. The subject parcel is outside of the Meyers Community Plan. 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 124, 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 Zone District (TR1) which permits a minimum parcel size of seven thousand square feet. The existing 10,448 square foot parcel conforms to the minimum parcel size for the TR1 Zone District. 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

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 Tahoe Paradise Unit Number 5 subdivision. The subdivision map cover page states *Easements for light and air and for public utility poles, wires, and crossarms over those strips of land lying between the front lot line and those lines shown hereon and designated “SET BACK LINE” said strip of land to be kept open and free from buildings.* Subdivision map C-23A, Tahoe Paradise Unit # 5, shows this setback line to be 20 feet for lot 687.

ANALYSIS:

Section 17.22.630 requires four findings be made in order to approve a variance.

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: The subject site is constrained by an allowable TRPA coverage of one percent (1 percent) of the parcel due to a TRPA parcel designation of Special Ecological Zone. Due to the size of the lot, the allowable coverage and the location of the existing residence, the proposed garage with storage is in the most reasonable location. A site assessment conducted by a licensed architect indicates that permit records were found for an existing 1,660 square feet of onsite coverage and 196 square feet of offsite coverage. The proposed coverage would be 1,993 square feet of onsite coverage and 194 square feet of offsite coverage. Approval of this variance will reduce the amount of square footage that would be required to be obtained offsite while allowing a garage to be built within these constraints.

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 District. 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 528 square-foot garage and storage structure. 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 Sioux Street. 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 relatively flat, 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) coverage regulations which only allow one percent (1%) coverage. The architect has considered alternative locations for the garage, but has found that the location of the current driveway would not be ideal as it would block all sunlight from the front of the house. Staff found the proposed 528 square foot garage/storage to be modest in size in relation to existing structures within the project vicinity. As discussed in Finding 2, the proposed 528 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 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. The requested 13 foot setback is the minimum required to allow a two car garage to be designed within the TRPA constraints. 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 Sioux Street, 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 August 14, 2006 and observed several existing garages located within the minimum setbacks in the immediate project vicinity. The proposed garage would be located 21 feet from the edge of pavement. This would not impede snow removal or impact street parking.

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 Sioux Street to 13 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: Provided a statement regarding the required hold harmless agreement. The intent of the documents is to indemnify and hold the County harmless for any and all claims or lawsuits or damages, which arise in any way from this reduction in building setback. El Dorado County Department of Transportation snow blowers are capable of throwing snow and pebbles more than 70 feet horizontally and up to 20 to 30 feet vertically during routine snow removal operations. From Department of Transportation, Maintenance Division records, no less than one to two claims occur during the winter from this cause.

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 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 (V06-0006) is exempt from CEQA pursuant to *Section 15305(a)* of the *CEQA Guidelines*; and
2. Approve Variance V06-0006 to allow a reduction of the front 20-foot setback required by TR1 zoning to 13-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 D1-3.....	Site Plan and Elevations
Exhibit E.....	Site Plan Existing Structure
Exhibit F.....	Assessor’s Page
Exhibit G.....	Applicant’s Variance Support Information

ATTACHMENT 1
CONDITIONS OF APPROVAL

V06-0006 – Downing
October 18, 2006 Zoning Administrator Hearing

CONDITIONS OF APPROVAL

Planning Services

1. The minimum front yard setback shall not be less than thirteen feet from the property line as shown on Exhibit D. The Variance request is for construction of the garage with storage only; any additional construction shall meet all applicable setbacks.
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.

Department of Transportation

4. 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

V06-0006 – Downing
October 18, 2006 Zoning Administrator Hearing

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 V06-0006 will allow a TR1 20 foot front setback to be reduced to a 13 foot front setback for the construction of a 528 square foot garage/office.

2.1 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.

2.2 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.

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: The subject site is constrained by an allowable TRPA coverage of percent (1%) of the parcel due to a TRPA parcel designation of Special Ecological Zone. Due to the size of the lot, the allowable coverage, and the location of the existing residence, the proposed garage with storage is in the most reasonable location. Approval of this variance will reduce the amount of square footage that would be required to be obtained offsite while allowing a garage to be built within these constraints.

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 District. 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.

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 Sioux Street. 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 relatively flat, 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) coverage regulations which only allow one percent (1%) coverage. 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. The requested 13 foot setback is the minimum required to allow a two car garage to be designed within the TRPA constraints. 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 Sioux Street, and their related impacts such as noise and snow removal. The proposed garage would be located 21 feet from the edge of pavement. This would not impede snow removal or impact street parking.

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 Sioux Street to 13 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.