

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: June 20, 2007
Item No.: 4. a.
Staff: Thomas A. Lloyd

VARIANCE

FILE NUMBER: V 07-0002

APPLICANT: Allan and Robin Colman

AGENT: Frank Ross / Davis Group

REQUEST: A variance request to allow a reduction in front yard setback from 20 feet to 2 feet for construction of an addition. The proposed addition will include; an elevated parking area, a 576 square-foot garage, 536 square-feet of living space below the garage, and a 96 square-foot enclosed breezeway attaching the garage to the residence.

LOCATION: On the south side of Meeks Bay Avenue, approximately 500 feet south of the intersection with State Route 89 in the Meeks Bay area, Supervisorial District V (Exhibit A).

APN: 016-081-20

ACREAGE: Approximately 0.19 Acres (8,110 sq. ft.)

GENERAL PLAN: Adopted Plan, TRPA Regional Plan (Exhibit B)

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

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to CEQA Sections 15303(e) and 15305(a)

SUMMARY RECOMMENDATION: Conditional Approval

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to allow a reduction in the front yard setback from 20 feet to 2 feet to allow construction of a proposed addition (see Exhibit D).

Site Description: The parcel is located in the Meeks Bay area near the intersection of Meeks Bay Avenue and State Route 89, within the Meeks Bay Vista Subdivision (see Exhibit A). This site, originally developed in the 1920’s, has an extraordinarily steep downslope (over 50 percent), between the edge of the roadway cut and the front property line. The triangular shaped parcel is wedged between two adjacent lots, each of which front Lake Tahoe. The parcel slopes steeply downward toward the lake and the convergence of the adjacent parcels. This parcel does not have direct shoreline access. It is, however, subject to TRPA shoreline assessment as it is clearly visible from the lake. Numerous large boulders can be found throughout the property. The existing structure is built in close proximity to the southwestern boundary line. As the parcel tapers to its narrowest point (northeast), no development is visible. Previously, however, structures including a pump house and an L.P tank existed on that portion of the parcel. These were the property of the now defunct Meeks Bay Water Company and were removed in 2001.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 149*	AP (TRPA Regional Plan)	Developed with single-family dwelling
North	TR1, PAS 149	AP	Undeveloped
South	TR1, PAS 149	AP	Developed with single-family dwelling
East	TR1, PAS 149	AP	Developed with single-family dwelling
West	TR1, PAS 149	AP	Developed with single-family dwelling.

*Plan Area Statement 149, Rubicon, which is a TRPA residential PAS.

Sensitivity to the Neighborhood: The permitting of the proposed garage is not anticipated to negatively impact other residential uses in the project area. Meeks Bay Avenue is intensely developed. Most of the properties along Meeks Bay Avenue have some sort of enclosed garage structure. Additionally, few of the garages appear to be outside the required setback area. This can be attributed to the aforementioned steep downslope between the edge of the roadway cut and the front property line, which is consistent along the street. Comments were received from the Department of Transportation, Meeks Bay Fire Protection District, TRPA, and the El Dorado County Building Department, and have been incorporated into the Conditions of Approval (see Attachment 1).

Variance Findings: The granting of a variance requires four findings pursuant to *Section 17.24.040* of the *County Code*. These findings for approval and their respective discussions are listed in Attachment 2 of this report.

General Plan: The General Plan designates the subject site as an Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 149, Rubicon, which is a residential PAS. The proposed addition is an allowed residential structure for this PAS. While TRPA has not yet conducted a Site Assessment to verify existing land coverage, land capability, or existing shorezone structures, the proposed addition would comply with the 2,182 square-foot maximum land coverage allowed. This number was calculated by combining the coverage of the existing structure with coverage removed from the property by Meeks Bay Water Company in 2001. The County's permitting of the addition will not create additional land coverage on the parcel, as existing coverage from a previously removed structure is being utilized (see Exhibit D). The granting of this variance, therefore, conforms to the Adopted Plan land use designation.

Per General Plan Policy 7.1.2.1, development or disturbance shall be prohibited on slopes exceeding 30 percent unless necessary for access. However, the *Interim Interpretive Guidelines for Policy 7.1.2.1*, adopted by the Planning Commission on June 22, 2006 states that the guidelines for slopes of 30 percent or greater do not apply to projects located within the Lake Tahoe Basin. Such projects are subject to the policies and regulations of the Tahoe Regional Planning Agency.

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 and its associated policies.

Conclusion: As discussed above, staff finds that the project, as proposed and conditioned, conforms to the General Plan and TRPA Regional Plan.

Zoning: The subject site is zoned One-family Residential (TR1) District, which permits a minimum parcel size of 7,000 square feet when the lot is served with public water supply and sewage system. The parcel is served by a public water and sewage system by the Tahoe City Public Utility District.

The project requests a variance based on the regulations established by the Zoning Ordinance Sections 17.22.600 for encroachment into required yards for the addition. *Section 17.56.040* identifies a front yard setback of 20 feet in the TR1 Zone District.

With the exception of the proposed zoning setback violation, a garage addition would be permitted by right in the TR1 Zone District. Staff finds the proposed variance, as conditioned, is consistent with all applicable provisions of County *Zoning Ordinance Title 17*.

Tahoe Regional Planning Agency (TRPA): TRPA comments are geared toward potential height, area mass and scenic impacts of the proposed building addition/garage. TRPA has verified the Baseline Scenic Shoreland Assessment on the property. Based on the contrast rating

score information submitted with the application, TRPA has reviewed the applicant's submittals and calculated a Composite Scenic Baseline Contrast Rating Score of 10. This score is consistent with the submitted composite score of 10.47. During TRPA staff review, adjustments were made to some of the reported scores which resulted in the revised composite score. Using this Contrast Rating Score, TRPA has calculated that the parcel may have an allowable visible area of 150 square feet. While there is no minimum score requirement, each project is analyzed on a case by case basis. As the contrast rating score is relatively low, TRPA will need the applicant to demonstrate clearly how they will screen and or mitigate the additional visual mass which will be introduced as a result of the proposed building addition. It should be noted that changes in vegetation, colors, measurements and visibility due to lack maintenance, natural occurrences, fire, lot line adjustments, etc., could affect future site conditions and ultimately any final visual impact score. Section 30.15.C of the TRPA Code of Ordinances describes the levels of scenic review and mitigation that might be required based on the level of activity or project.

The baseline assessment fulfills TRPA's initial scenic requirement for a shoreland project by documenting the existing scenic baseline condition on the site and by identifying scenic impact mitigation measures that may be required for future projects. The information regarding scenic impact mitigation is intended to serve as a planning and design tool to assist the applicant with designing future projects so that project proposals in the shoreland and shorezone meet the scenic quality ordinances. Scenic Best Management Practices (BMPs) are mitigation measures used by TRPA which reduce the visual impact of structures. They can be implemented to increase the contrast rating of the structure in order to meet possible future requirements. The Visual Assessment Tool (Appendix H of TRPA Design Review Guidelines) can be used to test the design elements of scenic BMPs and how they may affect the Contrast Rating of the structure. TRPA recommends several BMPs including, but not limited to: increased texture in building materials, the use of dark roofing, siding and/or paint, additional screening of perimeter/facade of structure, the use of low reflectivity glass treatment, and the use of trellis and overhangs to create breaks and depth.

In the case of this project, changing the glass to a lower reflectance, use of a darker color for the siding material, and providing additional screening to further reduce the visible perimeter of the residence would increase the contrast rating score. TRPA has recommended conditions which require compliance with Agency regulations regarding the issues discussed above.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to *Section 15303(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as *Section 15305(a)* that allows minor alterations in land use limitations for a variance. The project proposes development in the least sensitive parts of the property and impacts to the environment will not occur with the approval of a variance. No further environmental analysis is necessary. Pursuant to Resolution No. 240-93, a \$50.00 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 that the project is Categorical Exempt pursuant to *CEQA Guidelines Sections 15303(e) and 15305(a)*; and
2. Approve V 07-0002 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1.....	Conditions of Approval
Attachment 2.....	Findings
Exhibit A.....	Vicinity Map
Exhibit B.....	General Plan Land Use Map
Exhibit C.....	Zoning Map
Exhibit D.....	Variance Site Plan
Exhibit E.....	TRPA Plan Area Statement Map D-13

ATTACHMENT 1

CONDITIONS OF APPROVAL

File Number V 07-0002 / Colman addition variance June 20, 2007 Zoning Administrator Hearing

CONDITIONS OF APPROVAL

Planning Services

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibits A-E dated June 20, 2007, 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:

A variance request to reduce the front yard setback from 20 feet to 2 feet to allow construction of an addition. The proposed addition will include: an elevated parking area, a 576 square feet garage, 536 square feet of living space below the garage, and a 96 square feet enclosed breezeway attaching the garage to the residence, as shown on Exhibit D.

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. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

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, as provided in *Section 66474.9(b)* of the *California Government Code*.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing 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 subdivision, which action is brought within the time period provided for in *Section 66499.37*.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

3. Any exterior lighting installed as a result of the proposed addition and remodeling shall be shielded to prevent light and glare from leaving the property and must conform to the provisions of *Section 17.14.170* for *Outdoor Lighting*.
4. The applicant shall provide to El Dorado County Development Services documentation demonstrating compliance with all applicable Tahoe Regional Planning Agency policies.
5. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.

El Dorado County Building Department

6. The applicant shall apply for a building permit for the proposed construction project. All necessary permits shall be issued prior to construction.

El Dorado County Department of Transportation

7. 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.

Tahoe Regional Planning Agency (TRPA)

8. The applicant shall demonstrate clearly to TRPA how they will screen and or mitigate the additional visual mass which will be introduced as a result of the proposed building addition.
9. The applicant shall comply with TRPA's Scenic Best Management Practices (BMPs).
10. The applicant shall receive verification from TRPA with regards to existing land coverage, land capability or existing shorezone structures as part of the formal building application review process.

Meeks Bay Fire Protection District

11. All flammable building(s) within the setback shall be constructed with 5/8 inch sheetrock under the exterior siding (similar to a commercial building).
12. If the total square footage of the home and new structure exceeds 3,000 square feet, the project shall require installation of an in-home, fire suppression sprinkler system.

ATTACHMENT 2

FINDINGS

File Number V 07-0002 / Colman addition variance June 20, 2007 Zoning Administrator Hearing

1.0 CEQA FINDINGS

1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to *Section 15303(e)* that allows accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as *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 subject parcel is a small triangular shaped lot, wedged between Meeks Bay Avenue, and two adjacent parcels in close proximity to the west shore of Lake Tahoe. The proposed garage cannot meet a front setback of 20 feet for several reasons. This property is restrained with regards to residential development by the limited land coverage allowed for the parcel through TRPA regulations. Positioning the structure elsewhere on the property would result in additional land coverage (via the longer necessary driveway), which is prohibited. If the proposed addition were built within the setback, the slope of the property would require a driveway connection with a downslope grade much steeper than the 10 percent allowed by the County's Design and Improvement Standards Manual. Given the land coverage limitations discussed above, staff finds that Finding 1 can reasonably be made.

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.*

The close proximity of the existing residence to the adjacent property to the southwest, in conjunction with constraining topography, and TRPA land coverage restrictions, prohibits the relocation of the addition to meet front yard setback requirements (see Exhibit D). If this variance were not approved, the applicant would be deprived the use of the garage, and arguably the reasonable use of the property allowed by other landowners in the vicinity and the same Zone District.

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

This variance request will authorize a proposed garage addition, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Given the shape of the parcel, its steep slope, TRPA coverage requirements, and numerous large boulders found throughout the property, the requested variance is the minimum necessary for the reasonable use of the land (see Exhibit D).

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 comments were received to prevent approval of the variance. The variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.