

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: December 2, 2009

Item No.: 5.a.

Staff: Gina Hunter

VARIANCE

FILE NUMBER: V08-0006

APPLICANT: Kelly and Elizabeth Rosser

AGENT: GS Concepts- Gary Schnakenberg

REQUEST: Variance to reduce the front yard setback from 20 feet to 5 feet to allow for the construction of a garage (Exhibit F).

LOCATION: On the east side of Minal Street, approximately 200 feet south of the intersection with Cirugu Street in the Meyers area, Supervisorial District V. (Exhibit A)

APN: 035-213-08 (Exhibit B)

LOT SIZE: 8,827 square feet

GENERAL PLAN: Adopted Plan (AP), Tahoe Regional Planning Agency (TRPA) Regional Plan – Meyers Community Plan (Exhibit C)

ZONING: Meyers Community Plan-5 – Community Design Review (MCP-5-DC) (Exhibit D)

ENVIRONMENTAL DOCUMENT: The Variance is Categorically Exempt pursuant to Section 15305 (a) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Certify that Variance V08-0006 is Categorically Exempt pursuant to Section 15305 (a) of the CEQA guidelines.
2. Approve Variance V08-0006 based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

STAFF ANALYSIS

Background: The existing residence was built in 1982. The existing site coverage is 2,547 square feet. Due to maximum land coverage provisions, the removal of an existing deck, stairs, a/c paving and a porch would be required to accommodate a new garage. The lot is sloped; therefore, significant grading and earth disturbance would be necessary if the garage were to be located towards the rear of the lot. To minimize earth disturbance, a reduced front yard setback is found to be necessary for the site.

To achieve a reduced setback, a zoning setback Variance and a Map Amendment are required. The Variance application would be considered by the Zoning Administrator. The Map Amendment is being processed under separate application (TM69-0048C) and would be considered by the Board of Supervisors.

Project Description: The applicant is requesting a Variance to allow a reduction in the front yard setback from 20 feet to 5 feet to allow for the construction of a garage.

Site Description: The 8,827 square-foot lot is located in the Tahoe Paradise Unit No. 56 subdivision. The property is identified at Lot 271 and is located near the intersection of Cirugu Street and Minal Street, at an approximate elevation of 6,347 above mean sea level. Existing improvements at the subject site include a single family residence.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	MCP-5, PAS 125*	AP (Meyers Community Plan-Special Area #5 (MCP- 5)	Residential/primary residence
North	MCP-5, PAS 125	AP (MCP-5)	Undeveloped Residential Land
South	MCP-5, PAS 125	AP (MCP-5)	Residential/Single-family residence

East	TR1, PAS 136**	AP (MCP-5)	Vacant-US Forest Service Land
West	MCP-5, PAS 125	AP (MCP-5)	Residential/Single-family residence

*Plan Area Statement: Upper Truckee River Land Use District (Special Area #5). The district is located south and west of the U.S. 50/California 89 intersection along the Upper Truckee River. It is the gateway to Meyers and the Tahoe Basin for eastbound travelers arriving over Echo Summit. Several single family homes are the only existing development within the district. Its land use theme is residential and recreation uses. The plan identifies the area as the preferred site for a permanent Meyers Visitors Center. Residential uses along Minal Street are expected to remain.

** Plan Area Statement: Koa-Rainbow, is located along the Upper Truckee River south of Meyers near the Echo Summit grade. The boundaries of this area are depicted on TRPA maps F-21 and F-22. This area provides developed facilities for summer recreationists. The KOA campground and the Tahoe Pines campground are private facilities that provide a total of 117 camp sites. Fifty-one summer homes have been built in the Rainbow Tract through lease agreements with the USFS. Other uses include fishing on the Upper Truckee River.

Discussion: The permitting of the proposed Variance to allow a garage within the front yard setback is not anticipated to negatively impact other residential uses in the project area.

Variance Findings: The granting of a Variance requires four findings pursuant to Section 17.24.040 of the County Zoning Ordinance. Findings for approval are provided in Attachment 2 of this report.

General Plan: The County General Plan designates the subject parcel as Adopted Plan, which refers to the Meyers Community Plan. The parcel is located within TRPA Plan Area Statement (PAS) 125, Meyers Commercial - Upper Truckee Land Use District (Special Area # 5). The existing single-family dwelling and the proposed garage are allowed uses. The granting of the Variance, therefore, conforms to the Adopted Plan land use designation.

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* of the *County General Plan* and its associated policies.

Tahoe Regional Planning Agency (TRPA): TRPA approval would be required to construct the proposed garage.

Zoning: With the exception of the proposed zoning setback Variance, the construction of the garage would be permitted by right in the MCP-5 Zone District. The Variance application was routed the County of El Dorado Department of Transportation-Tahoe Engineering Division (EDOT-TED) for review. EDOT-TED did have concern with the potential risk of property damage that could be caused by snow removal operations, as the snow blower is capable of throwing snow and pebbles more than 70 feet horizontally and up to 30 feet vertically during routine snow removal operations.

Maintenance Division records indicate no less than 1 to 2 claims per year during the winter months. If setbacks continue to be reduced, there would be limited area for the County snow removal crews to store snow plowed from the roads. Therefore, if the Variance is granted reducing the setback to 5 feet, EDOT-TED recommends that the property owner execute a Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the reduced setback for the new living space and new garage.

As proposed, the project would be consistent with all other development standards contained within Section 17.56.040 of the Zoning Ordinance.

Conclusion: As discussed above, staff finds the Variance, as proposed and conditioned, would be consistent with all applicable provisions of County Zoning Ordinance Title 17.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations for a Variance. No further environmental analysis is necessary. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

- Attachment 1.....Conditions of Approval
- Attachment 2.....Findings

- Exhibit ALocation Map
- Exhibit B.....Assessor’s Map
- Exhibit C.....Meyers Community Plan
- Exhibit D.....Zoning District Map
- Exhibit EGarage Addition Site Plan
- Exhibit FApplicant’s Variance Support Information

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance Application V08-0006/Rosser Zoning Administrator/December 2, 2009

CONDITIONS OF APPROVAL

1. This Variance is based upon and limited to compliance with the project description, the Staff Report exhibit marked as Exhibit E, 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:

Variance to reduce the front yard setback from 20 feet to 5 feet for the construction of a garage, as shown on the approved site plan, Exhibit E.

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. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. **Hold Harmless:** 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.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding 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 variance.

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

3. **Development Services Processing Fees:** The applicant shall make the actual and full payment of all Development Services processing fees prior to issuance of a building permit.

4. **Project Conformance Documentation:** Prior to issuance of a building permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.
5. **Map Amendment:** Development Services shall verify that that the property owner has filed an amendment to Map D-88-A to abandon the 20-foot setback for light and air and the 10-foot utility easement prior to issuance of a building permit.

Department of Transportation

6. **Setback:** The Variance to the setback shall be allowed only within the area necessary to construct the project as described in the project description and as provided within Exhibit E. The reduced setback shall only include the footprint for the new garage. All remaining portions of the existing structure shall remain at the current setback limit.
7. **Hold Harmless and Indemnification:** 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 the project. 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.

ATTACHMENT 2

FINDINGS

Variance Application V08-0006-Rosser Zoning Administrator/December 2, 2009

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to 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 existing residence was built in 1982. The existing site coverage is 2,547 square feet. Due maximum land coverage provisions, the removal of an existing deck, stairs, a/c paving and a porch would be required to accommodate the proposed garage. The lot is sloped; therefore, significant grading and earth disturbance would be necessary if the garage were to be located towards the rear of the lot. To minimize earth disturbance, a reduced setback is found to be necessary for the site. No further expansion into the front yard will occur, as the existing residence will be altered to comply with the TRPA maximum coverage provisions.

- 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.*

Due to topographical constraints, the proposed garage would be located in the front half of the parcel, necessitating the need for the front setback Variance. Due to snow and extreme weather events within the Tahoe Basin, garage parking for vehicles is found to be a reasonable use of the land, enjoyed by other residential uses within the vicinity.

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

The proposed garage would be located where the existing a/c driveway is currently located, and would be removed to accommodate the garage. The garage would have a minimum 5 foot front setback, while the primary residence would maintain a 20 foot front setback which is the minimum necessary for reasonable use of the site.

- 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 objections were raised. Therefore, the Variance, as conditioned, will not be detrimental to the public health, safety, and welfare of the neighborhood.