

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



Agenda of: March 6, 2013
Item No.: 5.a.
Staff: Gina Paolini

VARIANCE

FILE NUMBER: V12-0007/Berg Storage Shed

APPLICANT: James Berg

REQUEST: A Variance request to allow a reduction in the front yard setback from 30 feet to 0 feet from the edge of the roadway easement to allow for the construction of a shed.

LOCATION: On the west side of Manx Road, approximately 2.9 miles north of the intersection with Starkes Grade in the Pollock Pines area, Supervisorial District 2 (Exhibit A).

APN: 076-320-40 (Exhibit B)

ACREAGE: 2.61 acres

GENERAL PLAN: Low-Density Residential (LDR) (Exhibit C)

ZONING: Estate Residential Five-Acre (RE-5) (Exhibit D)

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

RECOMMENDATION:

Staff recommends that the Zoning Administrator take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Sections 15303(e) and 15305(a); and
2. Approve Variance V12-0007 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2

BACKGROUND: The applicant submitted a building permit request for a 572 square foot shed on October 18, 2012. Building Permit No. 209638 was issued on November 2, 2012. Building Services staff inspected the project for setbacks and footings on November 28, 2012. Upon inspection it was determined that the site plan had misidentified a roadway easement as a driveway. By doing so, the setbacks were incorrectly identified during the plan check process. Building Services staff was unable to approve the setbacks and directed the applicant to work with Planning Services to resolve the issue in order to proceed with construction. The applicant submitted a Variance application on December 31, 2012, understanding that if construction proceeds without approval, the applicant is doing so at his own risk (Exhibit E).

STAFF ANALYSIS

Project Description: The applicant is requesting a Variance to reduce the front yard setback from 30 feet to zero feet to allow the construction of a storage shed (Exhibit F).

Site Description: The 2.61 acre site is located within the Pollock Pines area, at an approximate elevation of 3,400 feet above mean sea level. Existing improvements include a single-family residence, including hardscape and landscape features. A mix of native and non-native vegetation exists on the site.

Discussion: The shed structure is currently being constructed, with the footings and concrete poured thus far (Exhibit G). A gravel driveway provides access to the pad. Manx Road is developed with single-family residences with accessory structures. The properties to the east and the south would be the only properties affected by the project. Based on the site visit conducted on January 16, 2013 it appears that visual impacts to these adjacent properties would be minimal. The applicant has submitted letters of approval from the property owners most affected by the proposed Variance (Exhibits H1 and H2).

The structure would be placed at the edge of an existing gravel driveway, and would not impact the existing road easement. The Department of Transportation (DOT) reviewed the project and does not have concerns with the location of the proposed structure to the roadway because Manx Road is not a county maintained roadway.

Zoning: The subject parcel is zoned Estate Residential Five-Acre (RE-5), which permits a minimum parcel size of five acres and allows single-family detached dwellings and accessory uses and structures. With the exception of the proposed zoning setback variance, the construction of the shed structure would be permitted by right in the RE-5 zone district.

Variance Findings: The granting of a Variance requires four findings pursuant to Section 17.22.630 of the County Code. These findings for approval and their respective discussions are provided in Attachment 2.

ENVIRONMENTAL REVIEW

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

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning District Map
Exhibit E	Applicant's Letter- 12/4/12
Exhibit F	Variance Site Plan
Exhibit G	Photo of Site
Exhibit H1 and H2	Letters from Affected Neighbors

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance Application V12-0007/Berg Storage Shed Zoning Administrator/March 6, 2013

Conditions of Approval:

1. This Variance approval is based upon and limited to compliance with the project description and following hearing Exhibits:

Exhibit F.....Site Plan

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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 for the construction of a 572 square foot shed to have a reduced setback from the Manx Road easement from 30 feet to zero feet.

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

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this 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.
4. **Hold Harmless Agreement:** 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 applicant 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 by El Dorado County. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

5. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services upon project approval.
6. **Permit Implementation:** Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this Special Use Permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with conditions of approval.

ATTACHMENT 2

FINDINGS

Variance Application V12-0007/Berg Storage Shed Zoning Administrator/March 6, 2013

1.0 CEQA FINDINGS

- 1.1 The shed structure is found to be Categorically Exempt from CEQA pursuant to *Section 15303(e) of the CEQA Guidelines* which allows for 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. There is no reasonable possibility that the construction of the shed will have a significant effect on the environment due to unusual circumstances.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department, Planning Services, at 2850 Fairlane Court, Placerville, CA.

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.*

Due to unusual lot configurations and road alignments throughout the neighborhood, easements were not correctly identified. The applicant has submitted letters from each of the adjoining property owners most affected by the proposed Variance, and all have stated support for the proposed variance.

- 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 roads throughout the neighborhood are privately maintained. In review of the area, which includes Manx Road and Linx Trail it is apparent that many of the roads bisect a majority of the properties within the area. Because of this, main structures and accessory structures may be built closer to the roads than typically permitted. Many of the parcels were not created by Parcel Map which makes identifying road locations difficult. Some properties had Records of Survey's conducted which identified the centerline of the 15 foot wide gravel road, again showing the road bisecting the properties. Without the proposed Variance, the graded pad and footings could not

be utilized by the applicant. The applicant's property and road location is similar to many other properties within the neighborhood. Allowing the reduced setback for the shed structure would not impact adjoining properties, nor would it impact the access road.

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

This variance request will legitimize the shed structure currently being constructed. All other setbacks would be complied with in accordance with Section 17.28.210.D (Development Standards) of the County Code. The setback requested is the minimum necessary to allow the applicant to utilize existing on-site improvements without the need for further grading or removal additional improvements and vegetation.

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 applicant has submitted letters from each of the adjoining property owners most affected by the proposed Variance, and all have stated support for the proposed Variance. The proposed Variance allowing a reduction in the front yard setback will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area, specifically those to the east and south.