

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



Agenda of: December 4, 2013
Item No.: 4.a.
Staff: Tom Dougherty

VARIANCE

FILE NUMBER: V13-0003/Tissier Storage Building

APPLICANT: Merry Jane Tissier

REQUEST: A Variance request to allow a reduction in the front yard setback from 30 feet to 24 feet from the edge of the roadway easement to allow for a storage building.

LOCATION: East side of Shadow Lane, approximately 1,000 feet north of the intersection with Dawn Lane, in the Placerville periphery area, Supervisorial District 3. (Exhibit A).

APN: 325-370-41 (Exhibit B)

ACREAGE: 1.5 acres

GENERAL PLAN: Medium-Density Residential (MDR) (Exhibit D)

ZONING: One-Acre Residential (R1A) (Exhibit E)

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 Categorical Exempt pursuant to CEQA Guidelines Sections 15303(e) and 15305(a); and
2. Approve Variance V13-0003 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 two-story storage building on June 7, 2010. That permit was issued on September 20, 2010 but it was noted that the front corner of the deck was within the setback and that a cantilevered post support would be required to meet the setback requirement. The building was constructed without that cantilevered post support and therefore that support and the deck itself are now located six feet within the required setback. Rather than remove that portion of the building, the applicant has submitted a request for a variance to allow what was constructed to remain.

STAFF ANALYSIS

Project Description: The applicant is requesting a Variance to reduce the front yard setback from 30 feet to 24 feet to allow the existing storage building to remain at the current location (Exhibit F).

Site Description: Existing improvements include a single-family residence, two small sheds, the subject storage building, and associated hardscape and landscape features. A mix of native and non-native vegetation exists on the site. The entire parcel has slopes from north to south/southeast.

Discussion: The storage structure is currently constructed, (Exhibit F). A concrete driveway provides access to it. Shadow Lane is developed with single-family residences with accessory structures. The property to the south would be the only property directly affected by the project. Based on the site visit conducted on October 4, 2013 it appears that visual impacts to this adjacent property would be minimal. There is a retaining wall with metal fencing on top of it constructed within the setback creating further separation. The majority of the site, including the area directly within the setback, has average slopes that exceed one foot rise in four feet. Zoning Ordinance Section 17.14.020 states where the average slope of the front half of any building site is over one foot rise in four feet, the setback for a main building may be reduced by 50 percent.

While the storage building is not the “main building” on the parcel, the infringement of the structure’s deck corner and four inch by four inch wooden support would not impact the existing road easement. The slope, retaining wall, and metal tube fencing provide adequate separation for public safety of potential vehicular accidents. The Transportation Division reviewed the project and does not have concerns with the location of the proposed structure to the roadway because Shadow Lane is not a county maintained roadway. The applicant has submitted a letter of approval from the property owner most affected by the proposed Variance (Exhibit H).

Zoning: The subject parcel is zoned One-Acre Residential (R1A), which allows single-family detached dwellings and accessory uses and structures. With the exception of the proposed zoning setback variance, the construction of the storage structure would be permitted by right in the R1A 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 is 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 storage building was constructed 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.....	Parcel Map PM13-80
Exhibit D.....	General Plan Land Use Map
Exhibit E.....	Zoning District Map
Exhibit F.....	Site Plan
Exhibit G.....	Agent Variance Support Information
Exhibit H.....	Letter from affected neighbor
Exhibits I1 and I2	Site photos

ATTACHMENT 1

CONDITIONS OF APPROVAL

V13-0003/Tissier Storage Building Zoning Administrator/December 4, 2013

Conditions of Approval:

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

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 to allow the existing two-story, 1,440 square foot storage building to have a reduced setback from the Shadow Lane Road easement from 30 feet to 24 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. **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.
5. **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 Variance, 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.
6. **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.

ATTACHMENT 2

FINDINGS

V13-0003/Tissier Storage Building Zoning Administrator/December 4, 2013

1.0 CEQA FINDINGS

- 1.1 The modification of the structural setback 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 location of the storage building with a 24 foot front yard setback 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.**

The area directly within the front yard setback has average slopes that exceed one foot rise in four feet. There is a retaining wall with metal fencing on top of it constructed within the setback creating further separation. The parcel has a unique hour-glass shape that also limits the development potential.

- 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.**

An adjustment of the existing building of six feet is unnecessary. The slope and retaining wall/fencing provide adequate safety beyond what a full 30-foot setback on a flat surface would allow. Allowing the reduced setback for the storage building 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 storage structure currently 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 removal of critical building structural supports.

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 a letter from the adjacent property owner most affected by the proposed Variance, and they 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 south.