

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: April 15, 2020
Item No.: 4.b.
Staff: Melanie Shasha

VARIANCE

FILE NUMBER: V19-0004/Kaplan

APPLICANT: Evolve Design Works, Inc., Hanni Schwiesow

REQUEST: Variance Permit to allow a reduction of the front setback from 20 feet to 0 feet to allow for the construction of a two-car garage.

LOCATION: The east side of Sweetwater Court, approximately 200 feet west of the intersection with Cedar-Ridge Road, in the Rubicon area, Supervisorial District 5. (Exhibit A)

APN: 016-554-002 (Exhibit B)

ACREAGE: 0.32 acre

GENERAL PLAN

LAND USE DESIGNATION: Adopted Plan (AP) / Tahoe Regional Plan Area Statement Rubicon (Exhibit D)

ZONING DESIGNATION: Single-unit Residential, Tahoe Overlay (R1) (Exhibit E)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15305(a) of the CEQA Guidelines (Minor Alterations in Land Use Limitations- Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel)

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is Categorical Exempt pursuant to CEQA Guidelines Section 15305(a); and
2. Approve Variance V19-0004 based on the Findings, and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

The applicant is requesting a variance to the front setback to develop a two-car garage which would provide onsite covered parking for two vehicles. This site is located in the Tahoe Basin with the Tahoe Overlay and development is limited to 1% land coverage on this lot. The site qualifies for an administrative reduction of the front setback due to slope. Covered parking is recognized as a reasonable use in this area due to winter snow storms.

BACKGROUND / HISTORY

The Tahoe Regional Planning Agency was formed in 1969 by a bi-state compact between Nevada and California and ratified by Congress. TRPA's Compact limits growth in the Tahoe Basin in several ways, one being the amount of land which can be developed with impervious surfaces. This site is limited to 1% of the parcel size to be used for the structure, driveways and garages. This parcel was developed with a single family residence in 1978 with a parking pad in the right-of-way accommodating two parking spaces. The results of the site assessment will remain unchanged and no change in verified coverage is a part of this variance.

EXISTING CONDITIONS

The parcel is currently developed with a single-family dwelling, several large pine trees with native shrubs and undergrowth (Exhibit I). The site is located in the Tahoe Hills subdivision and is fronted by Sweetwater Court (Exhibit C). The lot is 14,022 square feet in size with slopes exceeding 35%. Neighboring parcels in the subdivision are also developed with single-family dwellings except the vacant parcels directly to the west and south west which are publically owned. Parking for this residence is currently within the right-of-way.

PROJECT DESCRIPTION

The applicant is requesting a variance to reduce the 20 foot front setback to 0 feet to allow a two-car garage (Exhibit G). The garage proposed will be 22 feet wide and 23 feet deep. Height will be in compliance with TRPA height regulations. Elevations submitted show a structure which matches the look and feel of the existing residence. The total distance from the front of the proposed garage to Sweetwater Court would be approximately 20.1 feet to edge of pavement. At the parcel line there will be a retaining wall. The total size of the proposed encroachment is 20.1 feet deep and almost 30 feet wide which will provide at least two additional parking spaces off the travelled way. The existing residence is located 14.5 feet into the 20 foot front yard setback. No additional reductions are requested for the other required setbacks.

STAFF ANALYSIS

This site is limited in location with which to place a structure to provide covered parking. This site has a primary front yard setback of 20 feet, two side yard setbacks of 5 feet and a rear yard setback of 15 feet. The slopes on the bulk of the site exceed 30%. The two-car garage is proposed within the existing front yard setback to minimize disturbance. The existing residence is situated 5.5 feet from the edge of the property line. This proposal would allow an additional 5.5 foot encroachment into the front yard setback. This would still provide at least 20 feet from the existing garage on the neighboring lot. Alternative locations for this structure which would

meet setback and slope requirements for the driveway do not exist onsite. The current proposed location is preferred because it would minimize the cut and fill disturbance to the site and removal of vegetation. The location of the proposed garage is vegetated with native shrubs but no trees.

The site qualifies for a front setback reduction for slope (Zoning Ordinance section 130.30.050.B.1). This section states that a ministerial approval can be granted if:

“...the elevation of a lot measured at the required front setback line averages six (6) feet or more...at the edge of road pavement adjacent to said lot, the required front setback for a dingle-story structure may be reduced by 50 percent, except:
(130.30.050.B.1.b) Any parking structure allowed by this Subsection B.1 at a reduced front setback shall provide at least 20 feet of parking area between the edge of road pavement and the structure.”

The location of the garage with storage space below, while sited on a location exceeding 30% slope, qualifies for administrative relief in the Zoning ordinance. The reason for this variance is that the maximum coverage amounts do not allow for the additional driveway structure to set the structure at the ten (10) foot reduced setback.

South Tahoe Public Utility District (STPUD): STPUD provides water and wastewater collection services to the project area. The developer shall contact STPUD to apply for any applicable permits and to review any utility work to be performed.

Tahoe Regional Planning Agency (TRPA): TRPA approval will be required to allow construction of the covered parking and garage. Residential structures and their accessory structures are an allowed use in the Rubicon Plan Area Statement.

General Plan: The subject parcel is the Tahoe Regional Planning Agency Adopted Plan. This use has been found to be in accordance with the TRPA Code of Ordinances and the General Plan.

Zoning: The subject parcel is zoned Single-unit Residential (R1), which allows single-family detached dwellings, and accessory uses and structures. With the exception of the proposed setback variance, the construction of the covered parking and garage would be permitted by right in the R1 zone district.

Variance Findings: The granting of a Variance requires four findings pursuant to Section 130.52.070 of the County Code. These findings for approval and their respective discussions are provided following this report.

ENVIRONMENTAL REVIEW

This project is Categorical Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances

not resulting in the creation of any new parcel. The garage is proposed to be situated on the least environmentally sensitive area. Zoning Ordinance findings for a variance have been made. No further environmental analysis is necessary.

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.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Location Map
Exhibit B.....	Assessor's Parcel Map
Exhibit C.....	Subdivision Map E-028A
Exhibit D.....	General Plan Land Use Map
Exhibit E.....	Zoning Map
Exhibit F.....	Proposed Site Plan
Exhibit G.....	Proposed Elevations
Exhibit H.....	Photos of Existing Site

FINDINGS

Variance V19-0004/Kaplan Zoning Administrator/April 15, 2020

1.0 CEQA FINDINGS

- 1.1 The modification of the structural setback is found to be Categorically Exempt from CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations through a Variance. There is no reasonable possibility that the location of the garage and carport within the rear 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 Community Development Services, Planning and Building Department, at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

- 2.1 **The project is consistent with General Plan Policy 2.2.5.2: All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.**

Rationale: The subject parcel is the Tahoe Regional Planning Agency Adopted Plan. This use has been found to be in accordance with the TRPA Code of Ordinances and the General Plan. Furthermore, this site is in the Tahoe Regional Plan Area Statement Rubicon and residential structures are a permissible use.

3.0 ZONING FINDINGS

The project is consistent with Title 130:

- 3.1 **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.**

Rationale: Several factors limit building additions to this property including the position of the existing home on the property and the coverage limits placed on the property by the TRPA Code of Ordinances. If the addition were to be developed at the standard 20 foot front setback, the structure would require twice the amount of disturbance when compared to the proposed location.

The Site Assessment has confirmed that there is 140 square feet of allowable coverage and 1,000 square feet of verified coverage. The verified coverage includes the residence, deck and steps. The TRPA Code of Ordinances allows an additional 400 square feet of coverage for onsite parking which is just enough to add the garage (Exhibit G).

Staff has determined that the variance is the minimum necessary for the reasonable use of the land consistent with the TRPA land coverage requirements. The site qualifies for a front setback reduction for slope (Zoning Ordinance section 130.30.050.B.1). The location of the garage with storage space below, while sited on a location exceeding 30% slope, qualifies for administrative relief in the Zoning ordinance. The reason for this variance is that the coverage amounts do not allow for the additional driveway structure to set the structure at the reduced 10 foot setback.

Due to significant constraints on the property as it relates to land coverage and existing development, it can be found that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in this application, and that these circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 2.1 can be made.

3.2 The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other property in the vicinity and the same zone (California Government Code Section 65906).

Rationale: Allowing the reduced front yard setback for the addition of garage would not impact adjoining properties or the right of way of Sweetwater Court. By requiring the applicant to relocate the proposed garage in accordance with the building setbacks of the Single-unit Residential Zone District, the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone, and therefore, Finding 2.2 can be made.

3.3 The variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).

Rationale: Covered parking in the Tahoe Basin is recognized as a reasonable use. The applicant is requesting a variance to the front setback to develop a two-car garage. This is to provide onsite, covered parking for two vehicles. Furthermore, this project will remain within the maximum TRPA coverage limits for the property of 1,400 square feet of land coverage allowed per the Code of Ordinances. As such, granting the variance request would not constitute a grant of special privileges inconsistent with the limitations upon

other properties in the vicinity and zone in which the property is situated. Therefore, Finding 2.3 can be made.

3.4 The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.

Rationale: The project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the Variance. The proposed Variance allowing a reduction in the front yard setback is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan and will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area. Finding 2.4 can be made.

CONDITIONS OF APPROVAL

Variance V19-0004/Kaplan Zoning Administrator/April 15, 2020

CONDITIONS OF APPROVAL:

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

Exhibit F.....Proposed 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 Permit to allow a reduction of the front setback from 20 feet to 0 feet to allow for the construction of a two-car garage.

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 location of buildings 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 Zoning Ordinance Section 130.54.060, implementation of the project must occur within 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.