

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



Agenda of: March 20, 2024

Staff: Melanie Shasha

VARIANCE

FILE NUMBER: V23-0003/Hanewinkel

APPLICANT: Sudhausen Design and Draft, Eric Sudhausen

REQUEST: Variance to allow a reduction of the front setback from 20 feet to 6 feet 3 inches to allow for the construction of a two-car garage with dwelling space above.

LOCATION: The project is located on the east side of Tionontati Street, approximately 530 feet north of the intersection with Oflyng Drive and Pioneer Trail, in the South Lake Tahoe area, Supervisorial District 5 (Exhibit A).

APN: 081-074-001 (Exhibit B)

ACREAGE: 0.18 acre

GENERAL PLAN

LAND USE DESIGNATION: Adopted Plan (AP) / Tahoe Regional Plan Area Statement
Tahoe Paradise (TP) Meadowvale (Exhibit C)

ZONING DESIGNATION: Single-Unit Residential, Tahoe Overlay (R1) (Exhibit C)

ENVIRONMENTAL DOCUMENT: The activity is covered by Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines (Minor Alterations in Land Use Limitations) – construction of an addition to an existing single-family residence.

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

1. Find Variance V23-0003 is covered under the New Construction or Conversion of Small Structures exemption pursuant to CEQA Guidelines Section 15305(a); and
2. Approve Variance V23-0003 based on the Findings, and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Variances are used when, because of special circumstances applicable to the property, including location, shape, size, surrounding, topography, or other physical features, the strict application of the development standards for the zone denies the property owner rights enjoyed by other property owners in the vicinity and in the same zone. The applicant is requesting a Variance to the front setback to develop a two-car garage that would provide covered parking for two (2) vehicles. This site is in the Tahoe Basin with the Tahoe Overlay. Development is limited to 2,000 square feet of land coverage. The amount of land coverage, limited by the Tahoe Regional Planning Agency (TRPA), prevents the construction of the parking structure at the 20-foot front setback line. Covered parking is a reasonable use of the land due to winter snowstorms and several houses on Tionontati Street have garages. An Abandonment of Easement application with the County Surveyor's Office has been submitted to reduce the 25-foot setback required by the subdivision map. Completion of that process is a Condition of Approval. Staff is recommending approval of this request.

BACKGROUND / HISTORY

TRPA was formed by a Bi-State Compact between Nevada and California and was ratified by Congress in 1969. TRPA's Compact limits development in the Tahoe Basin in several ways. It affects this parcel specifically in two (2) ways: the amount of land that can be developed and its location. This site is limited to 2,000 square feet of land coverage. Land coverage includes structures that prevent rain and sun from reaching the ground such as a house, driveway, shed, and decks.

EXISTING CONDITIONS

Access to this site is from County-maintained Tionontati Street. This parcel is Lot 327 of the Tahoe Paradise Unit No. 48 Subdivision Map recorded on September 30, 1970 (Exhibit D). This map lists a front subdivision setback of 25 feet as well as a snow storage easement as the first five (5) feet of all lots parallel to the roadway. The County Surveyor's Office will process an Abandonment of Easement to reduce the subdivision 25-foot front setback. This project moves the location of the encroachment to the east side of the parcel and narrows it from 21 feet to 16 feet. The proposed structure does not infringe on the five-foot snow storage easement. As with the existing driveway, it is up to the property owner to clear their encroachment of snow generated from the roadway.

The site is currently developed with a single-family dwelling, deck, and parking pad. It is covered with native trees and forbs. The lot is 8,001 square feet (0.18 acre) with slopes at the location of the project of approximately 12 percent.

LAND CAPABILITY

TRPA regulates the amount of land that can be covered by impervious surfaces such as roofs, pavement, and decks. One way they do this is to assign land coverage amounts based on soil type. There are seven (7) basic soil types which have a range of allowable coverage from one (1) percent to 30 percent. In 2023, El Dorado County verified a land capability of Class 5. Class 5 lands are considered some of the most appropriate for development and are allowed 25 percent land coverage. This parcel is 8,001 square feet in size resulting in 2,000 square feet of allowable land coverage (Exhibit E).

LAND COVERAGE

El Dorado County verified the existing land coverage of 1,704 square feet in 2023. Total land coverage is limited by TRPA for a parcel this size at 2,000 square feet. Future land coverage would include the garage, dwelling, walkway, and deck. This Variance does not grant new allowable or verified land coverage. Final land coverage is reviewed and approved during the building permit process.

NEIGHBORHOOD COMPATIBILITY

Development in the neighborhood includes single-family dwellings on all the privately owned parcels. A vacant parcel is publicly owned and located across the street. The following table lists the nearby development on Tionontati Street (Exhibit A).

Street Number	Location	Ownership	Garage
1595	South	Private	Carport
1591	Subject Property	Private	No
1585	North	Private	No
1596	West	Private	Two-car garage
1592	Northwest	Public	Undeveloped
1586	North northwest	Public	Undeveloped

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow a reduction of the front setback from 20 feet to 6 feet 3 inches for the construction of a two-car garage with dwelling space above (Exhibit G). The total distance from the front of the proposed garage to edge of pavement of Tionontati Street would be 18 feet. The total reduction in the front yard setback is 13 feet 9 inches. The garage is proposed to be 20 feet wide and 22 feet deep. The height will comply with TRPA's height standards.

An Abandonment of Easement application with the County Surveyor's Office will be required to reduce the 20-foot setback required by the subdivision map.

Lake Valley Fire Protection District (LVFPD) has approved the reduced Fire Safe Setbacks.

STAFF ANALYSIS

Alternative locations for the garage do not exist. This site has limited locations on which to place a structure to provide covered parking. This site has a front yard setback of 20 feet, two (2) side yard setbacks of five (5) feet, and a non-vehicular easement on the rear parcel line. The setbacks are measured parallel to the front property line. Land coverage has been verified for the residence, decks, and driveway of 1,704 square feet. Up to 2,000 square feet of coverage is allowed on-site. The project is unable to add a two-car garage at the 20-foot setback due to the limited amount of allowable land coverage. The proposed project results in a total land coverage amount of 1,998 square feet of coverage.

Liberty Utilities: Liberty Utilities provides electric services to the project area. The developer shall contact Liberty Utilities to apply for any applicable permits and to review any utility work.

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.

Lake Valley Fire Protection District (LVFPD): LVFPD provides fire protection services to the project area. A Defensible Space Inspection was performed, and no violations were observed. Home hardening was not required.

Pacific Gas and Electric Company (PG&E): PG&E provides natural gas services to the project area. The developer shall contact PG&E to apply for any applicable permits and to review any utility work.

Tahoe Regional Planning Agency (TRPA): A TRPA permit will be required to allow construction of the garage. Residential structures and their accessory structures are an allowed use in the Tahoe Paradise – Meadowvale, Plan Area Statement 120. The Building Division will issue this permit as allowed in the Memorandum of Understanding with TRPA.

General Plan: The subject parcel is in the TRPA Adopted Plan. This use is consistent with the TRPA Code of Ordinances and Plan Area Statements.

Zoning: The subject parcel is zoned R1, which allows single-family detached dwellings, and accessory uses and structures. Except for the proposed setback Variance, the construction of the garage is allowed by right in the R1 zone district.

Variance Findings: The granting of a Variance requires four (4) Findings pursuant to Section 130.52.070 of the County Zoning Ordinance. These Findings for approval and their respective discussions are provided below.

ENVIRONMENTAL REVIEW

This project is covered by the Section 15305(a) exemption (Minor Alterations in Land Use Limitations) of CEQA. Class 5 exemptions apply to minor alterations in land use limitations in

areas with an average slope of less than 20 percent, which do not result in any changes in land use density. The slope at the location of the project is approximately nine (9) percent. Slope on the overall parcel is nine (9) percent. This exemption applies to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. 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	General Plan Land Use and Zoning Designation Map
Exhibit D	Subdivision Map
Exhibit E	Site Assessment
Exhibit F.....	Existing Conditions
Exhibit G.....	Proposed Plans

FINDINGS

Variance V23-0003/Hanewinkel Zoning Administrator/March 20, 2024

1.0 CEQA FINDINGS

The activity is covered by Section 15305(a) exemption (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act (CEQA). Class 5 exemptions apply to minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use density. The slope at the location of the project is approximately nine (9) percent. Slope on the overall parcel is nine (9) percent. This exemption applies to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. No further environmental analysis is necessary. The activity is not a project subject to CEQA. No exceptions listed under CEQA Section 15300.2 apply, including the “unusual circumstances” exception because the evidence in the record supports the conclusion that there is no reasonable possibility the size and location of the project will have a significant effect on the environment due to unusual circumstances.

- 1.1 The documents, and other materials which constitute the record of proceedings upon which this decision is based, are in the custody of the El Dorado County 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 in the Tahoe Regional Plan, Plan Area Statement Tahoe Paradise – Meadowvale, and residential structures are a permissible use. Tahoe Regional Planning Agency (TRPA) Code of Ordinances Chapter 21.3.1.A lists garages as an allowed accessory use. This use also complies with the General Plan. Staff finds the project is consistent with the General Plan and Adopted Plan.

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 exceptional or extraordinary circumstances limit the location of new buildings on this property. Land coverage amount and location are limited by the TRPA Code of Ordinances.

The land coverage was verified by TRPA staff in 2023 as high capability land Class 5. Further, the amount of land that can be covered is limited to 2,000 square feet. As shown in Exhibit G, the proposed project uses 1,998 square feet of the 2,000 square feet of land coverage available. Staff has determined that the Variance is the minimum necessary for the reasonable use of the land consistent with the TRPA land coverage requirements.

Staff finds that there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in this application due to significant constraints on the property as it relates to land coverage and land capability. These circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 3.1 is 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 properties in the vicinity and the same zone (California Government Code Section 65906).

Rationale: The strict application of the building setbacks of the Single-unit Residential (R1) zone district 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. Developed parcels in the immediate vicinity include no garage or carport, just a carport, or an attached two-car garage. The single-family dwelling to the south of the subject property is developed with a carport. The house to the west is developed with an attached two-car garage. The house to the north does not have a garage or carport. No other location exists on-site that meets the requirements for setbacks, land coverage, and land capability.

Staff finds that the strict application of the zoning regulations would deprive this property of privileges enjoyed by neighboring properties in the same vicinity and zone. Allowing the reduced front and side yard setbacks for the addition of a garage would not affect adjoining properties or the right-of-way of Tionontati Street. Therefore, Finding 3.2 is 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 not a grant of special privileges. The development of a two-car garage is to provide on-site covered parking for two (2) vehicles in compliance with the Parking and Loading Standards found in the Zoning Ordinance. Other properties on Tionontati Street are developed with garages or carports.

Staff finds that 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 3.3 is 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 proposed Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan. It will not affect public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area.

The General Plan in the Tahoe Basin is the Regional Plan of the TRPA. In this area, TRPA Plan Area Statement Tahoe Paradise – Meadowvale lists the allowed uses. Residential structures are listed as a use allowed by right. TRPA Code of Ordinances, Chapter 21 lists garages as an accessory use when the parcel is developed with a residence.

An Abandonment of Easement application with the County Surveyor's Office is required to reduce the 25-foot setback listed in the subdivision map. Condition of Approval No. 10 for this application specifies that both the Variance and the Abandonment of Easement are required to issue the building permits.

Condition of Approval No. 8 requires a hold harmless and indemnification agreement protecting the County from liability arising from snow removal activity because of the approval of this setback Variance.

Staff finds that the project is compatible with maps, objectives, policies, programs, and general land uses. Therefore, Finding 3.4 is made.

CONDITIONS OF APPROVAL

Variance V23-0003/Hanewinkel
Zoning Administrator/March 20, 2024

Planning Services

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

Exhibit G.....Proposed Plans

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 a reduction of the front setback from 20 feet to 6 feet 3 inches to allow for the construction of a two-car garage with dwelling space above.

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 Division 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 Division upon project approval.
5. **Permit Implementation:** Pursuant to Zoning Ordinance Section 130.54.060 (Time Limits, Extensions, and Permit Expiration), implementation of the project must occur within 24

months of approval of this Variance, otherwise this permit shall become null and void. The applicant may request a time extension with the Department at least 30 days prior to permit expiration. If a timely request is filed, the County may, at its discretion, extend this time limit by not more than 36 months. 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. **Legal Indemnity/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.

7. The shed located in the rear setback will be relocated to the minimum setbacks of 5 feet from the western property line and 15 feet from the southern property line.

Department of Transportation

8. Prior to issuance of building permits, 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 County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe Office.

County Surveyor's Office

9. All boundary monuments that may be disturbed or destroyed during project construction shall be identified and referenced and/or reset by a Professional Land Surveyor or Qualified Engineer as defined by Section 8771 of the California Business and Professions Code (Land Surveyors Act).
10. An Abandonment of Easement application with the County Surveyor's Office must be completed to reduce the 25-foot setback required by the subdivision map prior to approval of the building permit for the garage structure.