

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2005-33

A resolution conditionally approving Variance Application No. 2005-99, Tommy Caldwell and Beth Rodden, applicants. Assessor Parcel Number 006-100-009.

WHEREAS an application for Variance No. 2005-99 was received on May 25, 2005 from Tommy Caldwell and Beth Rodden for a property located in Yosemite West on Yosemite Park Way approximately 300 feet north of the intersection with Choke Cherry Lane. The address is 7392 Yosemite Parkway, Assessor Parcel Number 006-100-009; and

WHEREAS Variance No. 2005-99 proposes to allow a single family residence to be built at a zero foot setback along the front property line to allow reasonable pedestrian access during winter months; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled for October 7, 2005; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS the Planning Department did find that the project is categorically exempt from the review procedures established by the California Environmental Quality Act; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant,

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve a Notice of Exemption; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance Application No. 2005-99; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms and conditions set forth in Exhibit 2.

ON MOTION BY Commissioner De Santis, seconded by Commissioner Ludington, this resolution is duly passed and adopted this October 7, 2005 by the following vote:

AYES: Commissioners Ludington, De Santis, Ross, Rudzik, Skyrud

NOES:


EXCUSED:

ABSTAIN:



Bob Rudzik, Chair
Mariposa County Planning Commission

Attest:



Tracy Gauthier, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
VARIANCE APPLICATION #2005-99

1. **FINDING:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity. (§17.120.050.A, Mariposa County Zoning Code)

EVIDENCE: The right-of-way for Yosemite Parkway directly adjacent to this parcel is has a width of between 85 and 120 feet. The majority of this parcel is 40 feet below Yosemite Parkway with an approximate slope of 37% from Yosemite Park Way to the front property line. The applicants are proposing access is via the fire road that comes off Yosemite Park Way and connects to Manzanita Lane. The fire road is gated in the winter; the applicants will have to utilize temporary parking in the Yosemite Park Way right of way.

2. **FINDING:** The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the property is located. (§17.120.050.B, Mariposa County Zoning Code)

EVIDENCE: After speaking with several home owners in the immediate vicinity, many utilize the right of way in the area for temporary parking when snow prevents them from using their driveways. Public Works has not expressed a concern with this temporary parking or hazards associated from snow removal activities. When the applicants use the temporary parking along Yosemite Park Way they will be required to walk down from the road to their residence, this variance will significantly shorten that distance and lessen the chance of hazards associated with standing snow and ice.

3. **FINDING:** The granting of such variance will not adversely affect the comprehensive general plan. (§17.120.050.C, Mariposa County Zoning Code)

EVIDENCE: This property is located within the Rural Residential land use classification. The applicant is proposing development consistent with the surrounding zone. Ordinances no. 933 and 934 established a building moratorium in Yosemite West due to insufficient septic capacity. No building permits will be issued until these ordinances are rescinded. The variance is a process that is permitted by the general plan, county code, and state law, if appropriate as determined by specific physical characteristics of the site. The granting of this variance to build a single family residence in the front yard setback will not adversely affect the General Plan if the Planning Commission finds that the individual condition warrant a deviating from the setback standards

4. **FINDING:** There are special circumstances applicable to the property in which the strict application of zoning ordinance regulations will deprive the property of privileges enjoyed by other property in the vicinity and under the identical zone. (§17.120.050.D, Mariposa County Zoning Code)

EVIDENCE: If front yard setback standards were applied to this parcel, the applicants would be deprived of reasonable access during winter months enjoyed by the majority of the parcels in the area. When the fire road gate is locked during, the applicants will utilize temporary parking in the Right-of-way. By locating the residence along the front property line, the pedestrian access is significantly improved.

While a house of the same size could be built on the parcel and abide by the setbacks, enforcing the front yard setback requirements would make pedestrian access inadequate from the right-of-way.

5. **FINDING:** The granting of such variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (§17.120.050.E, Mariposa County Zoning Code)

EVIDENCE: As this property is the only one in the immediate vicinity that faces these particular development challenges, the granting of this variance is not a grant of special privilege. By granting this variance, the applicant's house will still be located 65 feet from centerline of Yosemite Parkway, the majority of houses in Yosemite West are closer than this. If other parcels do have similar circumstance then they would be subject to the variance process to determine if deviation from the standards is appropriate.

EXHIBIT 2
CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
VARIANCE APPLICATION #2005-99

Project Name: Tommy Caldwell and Beth Rodden File Number: Variance 2005-99

Project Approval Date: October 7, 2005

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of Approval		
	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PLANNING DEPARTMENT		
1. Prior to the issuance of a building permit the applicant shall contact all affected utility companies, excluding PG&E, regarding the encroachment into the existing public utility easement along the front property line. The applicant shall provide evidence to the Planning Department that all affected utility companies concur with the encroachment.	Planning	