Resolution
No. 2016-007  A resolution conditionally approving Variance 2016-132, Jen-Hsien Yeh, Applicant; Michael Karby, Agent; Assessor Parcel Number 006-080-056.

WHEREAS, an application for Variance 2016-132 was received on July 11, 2016 from Te-Zen Yen & Mei-Lien Yen Kao for a property located at 7324 Black Oak Lane, Yosemite West, California, also known as Assessor Parcel Number 006-080-056; and

WHEREAS, Variance 2016-132 proposes to reduce the required front property line set-back from the required twenty-five (25) feet to sixteen (16) feet; and

WHEREAS, Variance 2016-132 proposes to increase the allowed height standard from natural grade to the peak of the roof from thirty-five (35) feet to forty-two (42) feet; 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 Planning Commission public hearing was scheduled for September 9, 2016; and

WHEREAS, a Staff Report and Notice of Exemption were 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, Notice of Exemption, 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 find that the project is exempt from environmental review.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance 2016-132.

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

ON MOTION BY Commissioner Harter, seconded by Commissioner Kennec, this resolution is duly passed and adopted this September 9, 2016 by the following vote:
AYES: Harter, Kennec, Becker, Kehoe and Herman

NOES: None

EXCUSED: None

ABSTAIN: None

Mark Becker, Chair
Mariposa County Planning Commission

Attest:

Susan Hunter, Secretary to the
Mariposa County Planning Commission
EXHIBIT 1
PROJECT FINDINGS
FOR
Variance No. 2016-132

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:
Unlike most properties in Yosemite West, the easement fronting the project site is variable widths (60 feet to 95 feet) significantly wider than most front parcels. The wide easement encompasses significant fill slopes for Black Oak Lane (indicative of steep terrain in the area of the project site). The distance between the edge of pavement and the front property line varies between 21 feet to 58 feet; the distance is 31 feet to 46 feet in the area of the building footprint. Additionally, there is a 10 foot wide P.U.E. along the front property line. While a garage could be located at 10 feet from the front property line pursuant to code, the residence would be required to be 25 feet from the front property line (or 56 feet to 71 feet from the edge of pavement). This is an exceptional circumstance applicable to this property. The applicant is requesting a 16 foot setback from the front property line for the residence.

With the proposed front yard setback distances listed above and based on the proposed foundation design, the total building height needs to be increased to 42 feet in order to keep the main floor of the proposed residence accessible from the parking area within the right-of-way to family members with walking difficulties by maintaining a maximum slope of 6%. This is 7 feet above the allowable 35 feet maximum height limit measured from natural grade. The actual maximum height when measured from the surface of Black Oak Lane is 22 feet. The maximum height from the side and rear of the house from the bottom of grade would be 58 feet including 24 feet of open under pinning foundation posts on concrete piers.

Staff also notes that there is unusual construction proposed. The applicant has proposed a bridge to connect the driveway from Black Oak Lane to the garage. The applicant has purposefully designed the structure to result in no impact to the existing 10’ P.U.E. Based on the method for determining building height, the applicant must secure a variance to the zoning height standards. If the design had proposed a stepped foundation and use of fill material (between the structure and Black Oak Lane), a variance to the zoning height standards would not have been required.

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:
The project will not be materially detrimental to the public welfare or the surrounding properties or surrounding improvements. Granting the variance would not affect public access to any road or right of way, nor would it affect adjacent property improvements.

The granting of a 16 feet front yard setback would still result in a practical setback of 56 feet garage from the downslope edge of Black Oak Lane. This is a greater front yard setback than most homes in Yosemite West.

The granting of the height variance of 7 feet (from 35 feet to 42 feet) will not impede the view of any residences on the uphill side of Black Oak Lane. The building is similar in height and mass to other residences in the community. The actual height of the proposed residence would be less than 22 feet when measured from the edge of payment of Black Oak Lane to the highest point (peak of the roof) of the proposed residence and requires a variance as part due to the proposed foundation design.

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

EVIDENCE:
The property is located within the Residential Land Use Classification. The applicant is proposing residential development consistent with the land use. The Variance is a process that is permitted by county code and state law, if appropriate as determined by special physical characteristics of the site. The granting of this Variance would allow construction of a single-family residence as desired by the property owner on a lot with a challenging downslope compounded by a property line set back 40 feet from the edge of Black Oak Lane.

Proposed rear elevation shows rock veneer work on exposed concrete siding treatment on foundation wall and landscaping. The proposed foundation style results in less mass, as areas below the first floor are open. All of these proposed features will minimize impacts of this structure on adjacent parcels.

The height variance will result in an actual height of the proposed residence to be 22 feet when measured from the surface of Black Oak Lane to the peak of the roof. The Planning Commission must find that the individual site conditions warrant a variance from the maximum set-back and height standards and that the General Plan will not be adversely affected by the variance.

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:
The location of the front property line places it 40’ from the edge of Black Oak Lane. Added to this distance is the 10’ existing public utility easement, which forces the proposed residence further downslope than a typical Yosemite West residence. As a result this residence will be located further away from Black Oak Lane than most
residences and only 22' in height above Black Oak Lane. Both of these conditions will create a similar impact from the road as most Yosemite West residences especially those on the uphill side of access roads. This house has been designed as a conventional a two-story, 2110 square foot, 3 bedrooms, and 2 bath home with a 484 square foot garage.

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:**
Most lots in Yosemite West are on steep slopes and as a result the residences using stepped foundations and are built fairly tall from the downhill side. Rather than using a stepped foundation this home is being constructed with open under pinning foundation posts on concrete piers. This design style has impacted the way height is measured. This parcel differs only in the great distance from the edge of pavement from Black Oak Lane to the front property line.

The taller building height is required due to the horizontal distance and foundation design style. The result of granting a setback and height variance will be a home that is similar to other downslope homes in Yosemite West when viewed from Black Oak Lane while still providing disabled access to the main floor. By granting this Variance, the applicant’s residence and garage will be receiving privileges already enjoyed by those of the neighboring properties. If other parcels do have similar circumstance then they could apply for a Variance to determine if deviation from the standards is appropriate.
**Project Conditions for Variance No. 2016-132**

**Project Name:** Yeh  
**File Number:** Variance No. 2016-132

The following conditions 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 Conditions of Approval

<table>
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<tr>
<th>CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT</th>
<th>MONITORING DEPARTMENT</th>
<th>VERIFIED IMPLEMENTED</th>
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<tbody>
<tr>
<td>1. The applicant will comply with all of the building code requirements and permitting requirements.</td>
<td>Building Department</td>
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<td>2. Project approval is valid for a period of three years from September 9, 2016. A building permit shall be issued prior to the project expiration date. This approval shall expire on September 9, 2019. A one and a half year (1.5) time extension may be granted for the project if a complete time extension application is submitted prior to the expiration of approval.</td>
<td>Mariposa Planning</td>
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<td>3. This approved variance is for the construction of a garage and residence to be located no closer than 16 feet from the front property line and for the maximum height of the residence to be no greater than 42 feet in substantial compliance with the plans on file with the Mariposa Planning Department dated May 30, 2016 and received at the Planning Department on July 8, 2016 and approved by the Planning Commission on September 9, 2016. No portion of the habitable structure may be closer than 16 feet from the front property line and no portion of the height of the residence may be taller than 42 feet measured from natural grade to the peak of the roof. The height measurement shall be calculated in accordance with § 17.108.140.C as shown in Appendix A of Title 17.</td>
<td>Mariposa Planning</td>
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<td>4. Prior to any construction, a licensed land surveyor will post the property corners and lines in the area of construction, and will provide project layout staking for the structure. The surveyor shall verify the location of the footing forms prior to placing concrete. A wet stamped letter by the surveyor verifying this requirement has been met shall be submitted to the Building and Planning Departments.</td>
<td>Mariposa Planning</td>
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