DEPARTMENT: Planning and Building  BY: Tim Evans  PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION:  (Policy Item:  Yes__  No X__)

Adopt a resolution denying the appeal and upholding the Planning Commission's action.

Staff's recommendation is based on the Planning Commission's action to deny the variance application.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
1. Uphold appeal and approve variance
2. Uphold appeal and approve variance subject to conditions.
3. Continue matter.

Negative action of recommended action would result in upholding the appeal and approving the variance.
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning & Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Variance Application Number 94-5
L. Gilbert Singh, Applicant/Appellant
Resolution Number 94-391

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS ORDER on September 13, 1994

ACTION AND VOTE:

11:03 a.m. Ed Johnson, Planning & Building Director;
PUBLIC HEARING to Consider an Appeal of the Planning
Commission's Action to Deny Variance Application Number 94-
5; L. Gilbert Singh, Applicant/Appellant
BOARD ACTION: Staff report was presented by Tim
Evans/Senior Planner, who reviewed the history of the
request and gave background information on the subject
parcel and presented photographs and illustrations
concerning the request. Staff responded to questions from
the Board relative to encroachment process for a deck versus
a covered deck and extension of the roof. Public portion of
the hearing was opened. The following input was received in
support of the appellant: Gil Singh/applicant-appellant,
advise there is only one neighbor opposing the variance
request and he stated he feels he should be able to cover
the existing deck. Donn Harter/member of the Fish Camp
Advisory Committee, advised of the Committee's
recommendation that the variance be granted, and referred to
the mitigation measures that were proposed. Margie
Gampedraglia/neighboring property owner, stated she feels
the trees over the fireplace chimney are more of a fire
hazard that the proposed deck roof; and advised of fencing
that was installed by another neighbor near the proposed
deck roof line. Mr. Singh presented photos of the fence
that was installed and responded to questions concerning
setbacks for his parcel. Persons speaking in opposition to
the appeal: Don Starchman/Starchman Law Offices,
representing Mr. Wooten/neighboring property owner, advised
that there are five mandatory findings that need to be made
to grant a variance and stated he does not feel anything has
been presented to make those findings; expressed concern
MINUTE ORDER
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with the potential impact that adding the deck roofing would have on the snow drainage and advised of location of the deck and fencing with regards to the property line. Mr. Singh and Marvin Wooten responded to questions from the Board as to whether the property line has been surveyed. There was no rebuttal from the appellant. Public portion of the hearing was closed and Board commenced with deliberations. Tim Evans responded to questions concerning his measurements of the setbacks. Mr. Singh responded to questions from the Board, advising that the deck covering would be an extension of the gable roof, which is a change in the design that was originally submitted. (M)Parker, (S)Balmain, Res. 94-391 adopted denying appeal and request for a variance/Ayes: Baggett, Balmain, Erickson, Parker; Noes: Taber.

cc: File
September 6, 1994

Re: Appeal of Variance Application No. 94-5 by applicant Labah Singh of Fish Camp

Mariposa County Board of Supervisors
P.O. Box 784
Mariposa, CA 95338
Chairman Art Baggett

Dear Chairman Baggett,

The Fish Camp Advisory Council at the request of Planning Director Ed Johnson reviewed the above Variance at its regularly scheduled meeting on August, 20, 1994.

A motion was brought before the council to support the issuance of the Singh Variance.

After discussion of the motion, the Council voted to support Variance.

The vote was 6 to 0 in favor of the Variance with Mr. Harter abstaining due to a possible conflict of interest.

It is the recommendation of this council that the Board support this Variance.

Sincerely,

Howard Davies
Chairman

cc: Gert Taber
    Ed Johnson
Call to Order & Welcome of Guests

Roll Call

Members: Ceroni, Covello, Davies, Durr, Harter, Hoover, Johnston, Keller, Pacheco, Schneider and Winterberg.
Ex-Officio: Supervisor Taber, Effird (USFS) and Olson (NPS).

APPROVAL OF MINUTES for the May 5, 1993 meeting (as mailed).

OLD BUSINESS & COMMITTEE REPORTS:

1. USFS Report
   Tom Effird

2. County Government Report
   Gert Taber

3. Fire Department Report
   Cordingley

4. Solid waste — Committee report
   Art Schneider

5. Review resolution for Fish Camp Advisory Council
   Specific Plan Amendments Committee report
   Davies
   Hoover

Other Old Business:

NEW BUSINESS:

1. Town Plan - Land Use
   Advertising Signs
   Ray Standley

2. Resolution: Snow play activities prohibited in Fish Camp T.P.A. unless permitted by property owner.

3. Resolution: Sheriff’s Dept. to enforce "No Trespassing" on private property Covello during weekends when snow on ground in Fish Camp T.P.A.

4. Appeal application to the Board of Supervisors over the Planning Commission ruling on the Singh variance No. 94-2

Other New Business

Next Meeting: Sunday, November 11, 1994 @ the Marriott Tenaya Lodge

Adjournment
1. MR. SINGH SUBMITTED AN APPLICATION FOR A VARIANCE TO THE FISH CAMP TOWN PLANNING AREA SIDE YARD SETBACK REQUIREMENT TO ALLOW FOR THE EXTENSION OF THE ROOFLINE OF HIS RESIDENCE TO COVER AN EXISTING DECK AND WALKWAY WHICH ARE LOCATED 4 FEET FROM THE SIDE PROPERTY LINE.

2. A STAFF REPORT WAS PREPARED, AND THE VARIANCE REQUEST WAS HEARD BY THE PLANNING COMMISSION AT THEIR JUNE 17, 1994, MEETING. AT THAT TIME PUBLIC TESTIMONY WAS TAKEN. BASED UPON THE OBJECTIONS FROM AN ADJACENT PROPERTY OWNER REGARDING THE SHEDDING OF SNOW AND RUN-OFF ONTO HIS PROPERTY, THE PLANNING COMMISSION MOVED TO CONTINUE THE HEARING UNTIL JULY 8TH TO ALLOW THE PC MEMBERS A CHANCE TO VISIT THE PROPERTY AND FOR STAFF TO TAKE ADDITONAL MEASUREMENTS.


THE PLANNING COMMISSION FOLLOWING DISCUSSION MOVED TO DENY THE VARIANCE REQUEST BECAUSE ALL THE MANDATORY FINDINGS FOR A VARIANCE COULD NOT BE MADE. THEIR ACTION IS CONTAINED IN P.C. RESOLUTION NO. 94-9. SPECIFICALLY THE PLANNING COMMISSION DETERMINED THAT THE APPLICANT FAILED TO PROVIDE SUFFICIENT EVIDENCE OF EXCEPTIONAL OR EXTRAORDINARY CIRCUMSTANCES AND CONSTRUCTION OF THE DECK AND WALKWAY CASUED A SELF INDUCED HARDSHIP. BASED UPON LACK OF EVIDENCE TO SUPPORT SPECIAL CIRCUMSTANCES, THE PC DETERMINED THAT APPROVAL OF THE VARIANCE MAY CONSTITUTE A GRANT OF SPECIAL PRIVILEGE.

4. THE APPLICANT HAS APPEALED THE PC ACTION STATING THAT HE SHOULD BE ALLOWED TO COVER THE DECK HE WAS PERMITTED TO BUILD, THAT CONSTRUCTION OF THE DECK AND WALKWAY ARE NOT IN VIOLATION OF ANY BUILDING CODE AND THAT HE DID NOT INTEND TO CREATE A HARDSHIP FOR HIMSELF.

BACKGROUND:


PICTURES/ILLUSTRATION