

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2011-012

**A resolution conditionally approving Variance No. 2011-064,
Lionel R. DeLouiz, Sr.; Applicant, Assessor Parcel Number 016-
140-016.**

WHEREAS an application for Variance No. 2011-064 was received on March 24, 2011 from Lionel R. DeLouiz, Sr., for a property located at 5031 Hornitos Road, Catheys Valley, California, also known as Assessor Parcel Number 016-140-016; and

WHEREAS Variance No. 2011-064 proposes to build a 50' by 50' storage structure within 10 feet from the side yard property line; 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 the 5th day of August, 2011; and

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

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance No. 2011-064; and

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 Tucker, seconded by Commissioner Marsden this resolution is duly passed and adopted this 5th day of August 2011 by the following vote:

AYES: Marsden, Francisco, Rudzik, Tucker, and Ross

NOES: None

EXCUSED: None

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Variance No. 2011-064

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: This parcel is unique in that it is oddly configured in a “Z” shape, creating essentially two parts to the property. The front half, located directly adjacent to Hornitos Road is the more “developable half, as it is fairly flat. The rear half increases in slope, which along with several large outcroppings creates less than ideal conditions for locating structures. The front part of the property is only 200 feet in width and is already developed with the septic system and a home. Along with the increasing slopes and rock outcroppings, the area most suitable for development in the back part of the property is developed with a well. All this leads to there being few accessible options on locations for the proposed structure.

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: This project will not be materially detrimental to the public welfare or injurious to the property or surrounding improvements. No agency has expressed concerns over the proposed configuration of the project. The proposed location of the structure will reduce the need for excessive grading or blasting in the rear part of the property. . The proposed location of the structure is flat and it will be located ten feet from the side yard property line, allowing a sufficient buffer between the adjacent property. Furthermore, the applicant has stated that “...personal property currently being left out in the open...” will be stored in the proposed structure. The proposed structure will meet all other setbacks including front and rear yard setbacks.

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 Catheys Valley Town Planning Area zone and the Interim Community Center Land Use in the Catheys Valley Community Planning Study Area. The applicant is proposing a structure consistent with the surrounding zone and land use. The variance is a process that is permitted by the county code and state law, if appropriate as determined by specific physical characteristics of the site. The granting of this variance to build a 50' by 50' storage structure within the side yard setbacks required will not adversely affect the General Plan if the Planning Commission finds that the individual site conditions warrant a deviation 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 setback standards were strictly applied to this parcel, the construction of the proposed structure that meets setback standards would require large amounts of grading and possibly rock blasting to construct it in the back portion of the property. As previously stated, the current locations of the septic system, the well, and the natural features on the back part of the property create a difficult situation in locating and accessing the proposed structure for its intended purpose. The small size and "Z" shape configuration also create special circumstances with regards to locating the proposed structure. The location as proposed will require the least amount of disturbance to trees and soil as a result of grading.

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: Based on the project and site characteristics, the granting of this variance is not a grant of special privilege. By granting this variance, the applicant will be able to construct the proposed 50' by 50' storage structure only 10 feet from the side yard property line, due to the existing site conditions. If other parcels have similar circumstances, they could also apply for a variance to determine if a deviation from the standards is appropriate.

6. **FINDING:** This variance is categorically exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, Article 19, § 15305(a).

EXHIBIT 2
CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
Variance No. 2011-064

Project Name: Lionel DeLouiz Sr.

File Number: Variance No. 2011-064

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		
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
1. The applicant will comply with all of the building code requirements, including but not limited to the fire wall rating/fire protection for any construction.	Building Department	
2. Project approval is valid for a period of three years from August 5, 2011. A building permit shall be issued prior to the project expiration date. This approval shall expire on August 5, 2014. 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 date.	Mariposa Planning	
3. This approved variance is for the construction of a storage structure (non-habitable) 10 feet away from the side yard property line in substantial compliance with the plans on file with the Mariposa Planning Department and approved by the Planning Commission on August 5, 2011.	Mariposa Planning	

<p>4. Prior to any construction, a licensed land surveyor or other qualified professional will post the property corners and lines in the area of construction, and will provide project layout staking for the structure. This staking will be in place at the time of the foundation inspection to ensure that the side of the structure is no closer than 10 feet from the side yard property line.</p>	<p>Mariposa Planning</p>	
<p>5. Storage containers (shipping containers and truck trailers) shall be removed from the property prior to the finalizing of the Building Permit.</p> <p>{General Plan Section 5.3.03.F(3)}</p>	<p>Mariposa Planning</p>	