

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2007-042

A resolution conditionally approving Variance 2007-141, Jerry and Rea Jackman; Applicant, Assessor Parcel Number 006-100-063.

WHEREAS an application for Variance 2007-141 was received on August 9, 2007 from Jerry and Rea Jackman for a property located on Yosemite Park Way, Yosemite West, California, also known as Assessor Parcel Number 006-100-063; and

WHEREAS Variance 2007-141 proposes to build a 1,880 square foot home within 10 feet from the front yard property line of Yosemite Park Way; and

WHEREAS Variance 2007-141 also proposes no on-site parking spaces. The applicant proposes two parking spaces in the Yosemite Park Way right-of-way to meet the parking requirements for the project; 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 5th, 2007; 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 approve a Notice of Exemption; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance 2007-141; 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 Skyrud, seconded by Commissioner Francisco, this resolution is duly passed and adopted this October 5th, 2007 by the following vote:

AYES: Skyrud, Rudzik, Francisco, and DeSantis

NOES: None

EXCUSED: Ross

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

Project Findings – Exhibit 1

VARIANCE NO. 2007-141 FINDINGS

Pursuant to the Mariposa County Zoning Ordinance, Section 17.120.050, and based on the evidence presented in the staff report and comments provided at the public hearings, the following Findings are recommended:

- 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: Most parcels in Yosemite West are steep. Less than ideal building and grading solutions are often incorporated to deal with the problems associated with living in a mountain community. This parcel is unique in that the back part of the parcel has a very steep grade; average grade of the parcel is 40% and the grade through the building site is 31%. The northern half of the parcel is unbuildable as it is cut in half by a drainage gully. Building the home further back from the road would significantly increase the amount of grading, as well as create excessive costs.

The need to make the residence ADA compliant, as well as the Path of Travel, which includes the path from the parking area to the entrance, creates a unique situation. Parking would need to be flat, which if done on site would lead to a lot of grading as well as the need for exceptionally large retaining walls. The Path of Travel is required to be less than 1:12 (8%) to be ADA compliant. The proposed location of the parking area is relatively flat as well as the route leading to the entry of the home. Placing the home further back on the lot creates the need for more grading and the possibility of not being able to comply with ADA standards or the house not being able to meet height standards.

By locating the parking to the side of the site and the side of the residence, it enables the applicant to take advantage of the grade, as they can build the Path of Travel “along the topo line” between the parking and the main entrance. They won’t have to maneuver the Path of Travel “down the hill” from the parking to the residence as would typically be the case, making it more difficult to design the access to be ADA compliant. The proposed configuration makes the path of travel the shortest distance to the entrance

of the home, which helps with extreme weather such as snow or rain and also reduces the amount of retaining walls needed, the length of the path of travel, and increases the ability to more easily meet the 1:12 grade necessary to be ADA compliant.

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. The Public Works Department has already approved the encroachment permit for the two parking spots to be located within the Yosemite Park Way right-of-way. They have placed conditions on the encroachment permit, so that the area will be improved to Public Works standards and not impact traffic or snow removal. Also, the Right-of-Way is significantly wider in the general area of the project, therefore allowing for adequate parking area, that will not affect the safety of the area.

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 zone. The applicant is proposing a single family residential development consistent with the surrounding zone. 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 single family residence within the front yard setback area with no on-site parking will not adversely affect the General Plan if the Planning Commission finds that the individual conditions warrant a deviating from the setback standards and the residential parking 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, a residence that meets setback standards would be extremely difficult according to the licensed architect. As previously stated, the slope of the property is 40% and is also bisected by a drainage gully; a massive amount of dirt would need to be moved and construction of retaining walls would need to be completed to build a residence, on-site parking, and an adequate

Path of Travel that is ADA compliant. The proposed location in the setback area requires the least amount of disturbance to the topography.

A house of the same size could be built with room for the required onsite parking and abide by the setbacks. However, enforcing the front yard setback requirements would make ADA compliant access very difficult if not impossible to achieve according to the licensed architect. The applicant is proposing to locate the parking area in the Yosemite Park Way right-of-way. The location as proposed will require the least amount of grading and would be the most direct Path of Travel for the disabled family member. This location will also reduce the need to create retaining walls for a driveway, parking area, or Path of Travel.

Setback standards are written for parcels county wide and do not necessarily address steep, small parcels (0.42 acres) at high elevations as is the case in Yosemite West. While there is flexibility in the County wide standards for high elevation parcels, it is only for garages and not residences and this project is not proposing a garage. Many homes in Yosemite West do not meet County wide setback standards including some that have been granted a variance to build with no front yard setbacks at all for this same reason. The draft Yosemite West Plan takes these difficulties into account as well and it contains more flexible setback standards for front yards, but until adopted, it cannot be used.

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 home, will be receiving privileges already enjoyed by other properties in Yosemite West. Many homes do not meet the required setback standards and some homes have been granted variances for on-site parking for the winter months. Several homes in Yosemite West have no onsite parking and many have developed parking areas within the right of way or very close to it as the applicant has proposed. 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.

Due to limited lot sizes, steep parcels that accompany higher elevations, and the general nature of the county wide setback standards it becomes difficult to build a single family residence that meet all regulations,

therefore many homes do not meet setback standards, including some that have been granted a variance to construct a home with no front yard setbacks. These same reasons also lead to difficulty of locating the required on-site parking. Many homes have not built garages or on-site parking and park within the Yosemite Park Way right-of-way or very close to it. Therefore, granting this variance would not constitute a grant of special privilege as others have enjoyed these types of variances as well.

Project Conditions– Exhibit 2

Project Name: Jerry and Rea Jackman File Number: Variance 2007-141
Project Approval Date: October 5, 2007

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies.

Conditions of Approval	Responsible Dept.
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 October 5, 2007. A building permit shall be issued prior to the project expiration date. This approval shall expire on October 5, 2010. Parking in the County right-of-way is valid for the duration of the encroachment permit.	Mariposa Planning
3. This approved variance is for the construction of a 1,880 square foot home 10 feet away from the front property line and provide no on-site parking.	Mariposa Planning
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. This staking will be in place at the time of the foundation inspection to ensure that the corner of the deck is no closer than 10 feet from the front property line on Yosemite Park Way.	Mariposa Planning