
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2004-45

**A Resolution Denying an Appeal by Ken LeBlanc, Appeal No.
2004-40, Assessors Parcel Number 006-040-017.**

WHEREAS on the 12th day of July 1988, Mariposa County issued Building Permit No. 8955 for a "log home and garage" on APN 006-040-017; property owner Kenneth LeBlanc. The permit shows the following information, based upon the Building Department's evaluation and approval of the applicant-submitted plans:

- Main floor: 1,200 square feet
- 2nd floor: 735 square feet
- Basement: 570 square feet
- Garage: 630 square feet
- Deck: 570 square feet
- No. of stores: 2
- No. of units: 1

and

WHEREAS on the 4th day of November 1990, a Certificate of Occupancy was issued by the Building Department for Permit No. 8955; and

WHEREAS Mariposa County Assessor's records show a 2½-story 1,800 square foot residence with 1,200 square foot of garage and storage, and 4 bedrooms on this parcel as of June 1991. Use is shown as "single"; and

WHEREAS on the 9th day of December 1990, a Transient Rental/Bed & Breakfast application was submitted by Ken LeBlanc for this structure and this application contains information about the structure including a reference to the garage; and

WHEREAS on the 9th day of May 1991, a letter was sent to the property owner indicating that the Bed & Breakfast application was approved for a 3-bedroom bed & breakfast in the residence on this parcel. This approval was based upon on-site inspections by county staff and the approval form includes a reference to the garage; and

WHEREAS Transient Occupancy Tax Certificate No. 134 issued by the Tax Collector's Office on May 3, 1991, and re-issued by the Tax Collector's Office on November 19, 1993 to the subject parcel. These certificates specifically authorized the listed business to collect the Transient Occupancy Tax; and

WHEREAS following amendments to Title 3 relative to collection of transient occupancy taxes, Transient Occupancy Tax Certificate No. 100265 was issued by Mariposa Planning on June 3, 2002 for one 3-bedroom unit on the subject parcel; and

WHEREAS Mariposa County Code, Zoning, §17.108.180, effective in 1989 requires an applicant to apply to the Mariposa County Planning Department for site plan review and approval, for a transient rental or bed & breakfast use; and

WHEREAS Mariposa County Ordinance No. 933 and Ordinance No. 934, the interim urgency and "moratorium" ordinance limit staff from issuing certain permits in Yosemite West. Staff considers past actions taken by the Board of Supervisors on appeals, when staff responds to permit requests and notices of violation; and

WHEREAS based upon a Request for Investigation, staff inspected the subject property and determined violations existed on the site; and

WHEREAS on the 23rd day of February 2004 a Notice of Violation was sent to Ken LeBlanc regarding the conversion of the existing permitted garage to a residential unit without the required building permit. The garage was converted from unconditioned space to conditioned or habitable space. The Notice of Violation also identified that the converted garage was utilized for transient rental purposes without a transient rental permit. The valid transient rental permit for this residence allows only 3 bedrooms to be used for transient rental purposes. There are a total of 7 bedrooms in the structure, and more than 3 bedrooms are rented from this property. The required resolution was to obtain a permit and return the residential unit back to the previously permitted garage use; and

WHEREAS on the 15th day of March 2004 a Notice of Appeal was received from Ken LeBlanc regarding the Notice of Violation. The appellant appealed both the findings of violation and the required violation resolution; and

WHEREAS a duly noticed public hearing was scheduled for the 18th day of June, 2004; and

WHEREAS on the 18th day of June, 2004 the Planning Commission continued the public hearing to the 3rd day of September, 2004; and

WHEREAS on the 3rd day of September, 2004 the Planning Commission continued the public hearing to the 5th day of November, 2004; and

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

WHEREAS the Planning Commission did hold a public hearing on the 5th day of November 2004 and considered all of the information in the public record, including the Staff Report and attachments, and testimony presented by the appellant and appellant's agent.

NOW BE IT THEREFORE RESOLVED THAT the Planning Commission of the County of Mariposa does hereby deny Appeal No. 2004-40, Ken LeBlanc, appellants, and uphold the Planning Director's notice and findings of violation for APN 006-080-017.

BE IT FURTHER RESOLVED THAT this action to deny Appeal No. 2004-57 is based on the following findings as supported by substantial evidence in the public record:

1. The property owner is violating Mariposa County Code, Zoning §17.108.080.H by using the second dwelling on APN 006-080-017 for transient rental uses without the required site plan review approval from the Planning Department.
2. The property owner is violating Mariposa County Code, Revenue and Finance §3.36.060 by using the second dwelling on APN 006-080-017 for transient rental uses without the required "Transient Occupancy Registration Certificate" for each rental unit.
3. The property owner is violating Mariposa County Ordinance 934, the Yosemite West Moratorium, by increasing flows in the wastewater treatment facility through the use of an unpermitted second dwelling on APN 006-080-017 for transient rental purposes without the required building permits or inspections.
4. There is no evidence available to show that the conversion of the garage to a second dwelling unit on APN 006-080-017 was covered by a building permit.

BE IT FINALLY RESOLVED THAT the Planning Commission does hereby amend the required resolution to the violation as follows:

1. The existing improvements for the second residential unit in the garage area may be kept until the Yosemite West Moratorium Ordinance is lifted, however the second residential unit may not be occupied. The facility shall be made available for inspection by county staff, to ensure compliance with this requirement, upon adequate notice from staff.
2. Upon lifting of the Yosemite West "moratorium" ordinance, the property owner may apply for a building permit for the second residential unit in the garage area.

3. Upon completion of the building permit process for the second residential unit in the garage area, the property owner may apply for a transient rental permit for the second residential unit in the garage area.


ON MOTION BY Commissioner Ludington, seconded by Commissioner Skyrud; this resolution is duly passed and adopted this 5th day of November by the following vote:

AYES: Ludington, Turpin, Rudzik, Skyrud, and Crain


NOES: None

EXCUSED: None

ABSTAIN: None


Susan Taber Crain, Chair
Mariposa County Planning Commission

Attest:


Tracy Gauthier, Secretary to the
Mariposa County Planning Commission