

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2020-17. **A resolution conditionally approving Variance Application No. 2020-115, Keith Rutherford, Applicant; Assessor Parcel Number 006-080-0090.**

WHEREAS, an application for Variance No. 2020-115 was received on the 19th day of August 2020 from Keith Rutherford for a property located at 7255 Yosemite Parkway, Yosemite West, California, also known as Assessor Parcel Number 006-080-0090; and

WHEREAS, the variance proposes to reduce the front property line set back from the required twenty-five (25) feet to ten (10) feet from the front property line and from the required fifty-five (55) feet from the center line of the public right-of-way to fifty-four (54) from the center line of the public right-of-way; 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 the 18th day of December 2020; 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, Draft Resolution, 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 Application No. 2020-115.

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 McCamman, seconded by Commissioner Sweeney, this resolution is duly passed and adopted this 18th day of December 2020 by the following vote:

AYES: Harris, McCamman, Herman, Sweeney

NOES: None

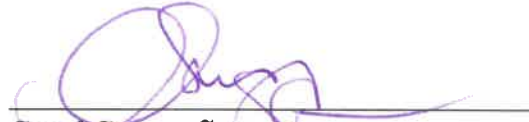
EXCUSED: Walls

ABSTAIN: None



Larry Harris Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS FOR
Variance Application No. 2020-115

1. **FINDING (Exceptional Circumstances):** 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 Code)

EVIDENCE:

Unlike most properties in Yosemite West, the right-of-way (ROW) fronting the project site is a variable width ROW (41 feet to 59 feet). The wide ROW encompasses significant fill slopes for Yosemite Parkway (indicative of steep terrain in the area of the project site). The residence is required to be 25 feet from the front property line, due to the unusual lot shape, the distance between the edge of pavement and the front property line varies from 35 feet to 52 feet in width, with an additional 10 foot wide Public Utility Easement (PUE) along the front property line, placing the proposed residence further down the hill at 75 feet from the edge of the blacktop. This is an exceptional circumstance applicable to this property. The applicant is requesting a 10-foot setback from the front property line for the residence.

2. **FINDING (Material Detriment):** 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 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 10 feet front yard setback would still result in a practical setback of 60 feet to the proposed residence from the downslope edge of Yosemite Parkway. This is similar to front yard setbacks for nearby homes on Yosemite Parkway, where the ROW is not as wide.

3. **FINDING (General Plan):** The granting of such variance will not adversely affect the comprehensive general plan. (§17.120.050.C, Mariposa County 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 that is set back 50 feet from the edge of Yosemite Parkway.

4. **FINDING (Special Circumstances):** 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 Code)

EVIDENCE: The location of the front property line combined with the unusual parcel shape places parcel boundary lines 35 feet to 52 feet from the edge of Yosemite Parkway. Added to this distance is the existing 10-foot 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 Yosemite Parkway than most nearby residences creating further disparity between both the distance from Yosemite Parkway and increased structure height. This duplex has been designed as a single story, 1,845 square foot (868 square foot each unit with 109 square foot common area), 4 bedrooms and 2 bath total (2 bedrooms, 1 bath each unit) with a 1,826 square foot deck.

5. **FINDING (Special Privilege):** 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 Code)

EVIDENCE: As this property is not 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 these same reasons. If other parcels do have similar circumstances then they could apply for a variance to determine if deviation from the standards is appropriate.

Due to limited lot sizes, steep parcels, higher elevation location, and the general nature of the setback standards (applicable to all rural areas of the county) it is difficult to build a structure that meet all regulations, therefore many homes do not meet setback standards, including some that have been granted a variance to construct a home within the front yard setbacks. Therefore, granting this variance would not constitute a grant of special privilege as others have enjoyed these types of variances as well.

6. **FINDING (CEQA Exemption):** The granting of the variance to front yard setback standards for a proposed duplex in Yosemite West is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303(a). The project will result in construction of a duplex (two dwelling units) in a residential zone.

Project Conditions for Variance Application No. 2020-115

Project Name: Keith Rutherford; Variance Application No. 2020-115

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 shall comply with all the building code requirements and permitting requirements.	Building Department	
2. Project approval is valid for a period of three (3) years from December 18, 2020. A building permit shall be issued prior to the project expiration date. This approval shall expire on December 18, 2023. A one and a half year (18 month) time extension may be granted for the project if a complete time extension application is submitted prior to the expiration of approval.	Mariposa Planning	
3. This variance approval is for the construction of a residence located no closer than 10 feet from the front property line and no closer than 54 feet from the centerline of the Yosemite Parkway right-of-way. A Building Permit Site Plan shall be submitted showing the residence complies with these reduced setbacks. A walkway not to exceed 6 feet in width is permitted within the front yard setback.	Mariposa Planning	
4. Prior to construction, a licensed land surveyor shall post the property corners and property lines in the area of construction and shall provide project layout staking for the structure. The surveyor shall verify the location of the footing forms prior to placing concrete to be no closer than 10 feet from the front property line and no closer than 54 feet from the centerline of the Yosemite Parkway right-of-way. A wet stamped letter by the surveyor verifying this requirement has been met shall be submitted to the Building and Planning Departments.	Mariposa Planning	
5. The Applicant shall complete issued encroachment permit for driveway improvements and utilities. This will be verified by Public Works prior to issuance of Certificate of Occupancy.	Public Works	