



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: DECEMBER 13, 2018
TO: ZONING ADMINISTRATOR
FROM: PLANNING STAFF
SUBJECT: V_2017-0003 UPDATES TO STAFF REPORT

At the public hearing on November 8, 2018 it was determined by the Zoning Administrator to continue the proposed variance for further review of the site in question and the proposal as submitted to the Department.

First, staff clarified in a revised public notice an amended project description to better reflect the requested variance proposal. The project description is updated, as shown on the revised public notice distributed for this project, as follows:

A Variance for the reduction of the corridor preservation setback along Cromwell Drive (Private) from 25 feet to 0 feet for construction of a garage in place of the existing carport. The request also includes reducing the corridor preservation and property line setbacks along East Side Calpella Road (CR 227). The corridor preservation setback along East Side Calpella Road (CR 227) would be reduced from 30 feet to 20 feet, and the property setback from 20 feet to 0 feet, allowing for construction of an 8 foot fence along a portion of the northwestern property boundary.

Second, a site visit was performed at the project site on November 20, 2018 by the Zoning Administrator, Planning and Building Services Director, and the Applicant. The primary purpose of the site visit was to review the merits of the particular site with regards to the variance request. After reviewing the project site and the revised project description for the project, staff must change their proposed recommendation for the requested 8-foot view obscuring fence that was proposed to be located 20 feet from the centerline of East Side Calpella Road (CR 227) from approval to denial. The change in recommendation is primarily the result of concerns related to the sight distance and safety at the intersection of East Side Calpella Road (CR 227) and Cromwell Drive (private). Installation of an 8-foot view obscuring fence in this location would reduce sight distance in an already reduced visibility area and may result in safety concerns for drivers exiting Cromwell Drive (private).

Staff still supports approval of a variance from the corridor preservation setback for the proposed garage that will replace the existing carport.

Resolution Number: _____

County of Mendocino
Ukiah, California
December 13, 2018

V_2017-0003 – SHANE & RONEISHA ROBERTS

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A CATEGORICAL EXEMPTION AND GRANTING A VARIANCE FOR THE REDUCTION OF THE CORRIDOR PRESERVATION SETBACK ALONG CROMWELL DRIVE (PRIVATE) FROM 25 FEET TO 0 FEET FOR CONSTRUCTION OF A GARAGE IN PLACE OF AN EXISTING CARPORT AND DENIAL OF THE PORTION OF THE VARIANCE REQUESTING REDUCED SETBACKS FOR CONSTRUCTION OF A VIEW OBSCURING FENCE.

WHEREAS, the applicant, SHANE ROBERTS, filed an application for a VARIANCE with the Mendocino County Department of Planning and Building Services to reduce the front yard setback on Cromwell Dr. (Private) from 45 ft. of the center of the road to 20 ft. of the property line, and the placement of a 8 ft. view obscuring fence on the northwestern property line from ting on East Side Calpella Rd. (CR 227) within 20± ft. from centerline of the roadway at 800 Cromwell Drive, Ukiah (APN: 168-223-01).

WHEREAS, the Secretary for Resources has found that certain classes of projects have been determined not to have a significant effect on the environment and are therefore exempt from the requirement for the preparation of environmental documents, and the Project was determined to meet the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Class 5 ; and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator held a public hearing on, December 13, 2018, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Zoning Administrator has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Zoning Administrator regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Administrator makes the following findings;

1. General Plan Findings: The subject property is classified Rural Residential (RR:1) under the General Plan. The proposed variance is consistent with the General Plan and the Ukiah Valley Area Plan.
2. Zoning Findings: The subject property is zoned Rural Residential (RR-1), 40,000 square-foot minimum. Although the lot size is about half an acre, it is considered legal non-conforming as it is developed per its zoning designation. The request for a reduction of the corridor preservation setback for the placement of a garage is consistent with the Variance provisions of Chapter 20.200 of the County Code. The request for the over-size fence is not consistent with the Variance provisions since it fails to meet the required findings.
3. Variance Findings for the garage and the fence: The Zoning Administrator approves V_2017-0003, as modified, and subject to the conditions of approval recommended by staff, and further finding:

(A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding;

The property is a corner lot to East Side Calpella Road (CR 227) and Cromwell Drive (a private road). Cromwell Drive is considered a local private road since at least 5 different parcels can be benefited from this road. The property is subject to 2 (two) corridor preservation setbacks. The portion of East Side Calpella Road is mainly used for people passing by since there are no crosswalks, nor many driveways around it. There is one driveway originated off East Side Calpella Road by its intersection with Cromwell Drive which forms a "Y," the other closest driveway formed off East Side Calpella Road is about 560 feet north of the subject property and is on the west-side of the road. The northernmost portion of the property is a hillside with a steep elevation drop from the road line into the property. The built environment on and near the property is residential and access.

The requested variance for reduction of the front yard setback on Cromwell Drive from 45-feet from the center of the road to 20 feet from the property line is to allow permitted uses in the property. A garage is a permitted use, as described in the Mendocino County Code Section 20.164.015 Residential and Agricultural Accessory Use Types. There is no other place on the property to build the existing residence's garage. The parcel is about half-acre in size, is a corner lot subject to 2 (two) front yard and corridor preservation setbacks, developed with a residence, existing septic, and steep hillside on the northern portion of the property. Therefore, this finding can be made.

The requested variance to allow the placement of an 8 foot view obscuring fence on the northwestern property line fronting East Side Calpella Road is intended to protect the residential lot. The East Side Calpella Road portion adjacent to the property is a corridor without traffic calming measures, south-bound traffic is subject to a declining road grade and a counter-clockwise curve. Additionally, the steepness in the portion adjacent to the proposed fenced perimeter has the potential to add velocity to any vehicle entering the property from the County road. There has been multiple incidents in the past, including people entering the property after losing control of their cars while driving on East Side Calpella Road. Therefore, this finding can be made.

(B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division;

The requested variance to reduce the front yard setback on Cromwell Drive is not due to an applicant's action on site. The triangular-shaped corner lot is developed with a residence, septic system, and a small structure damaged by fire. Although the existing residence was placed in the recent years, its size is standard and there is not much space for a garage in the property without encroaching into any setbacks dictated by the Zoning Ordinance. Therefore, this finding can be made.

The requested variance to allow the placement of an 8 foot view obscuring fence on the property line adjacent to East Side Calpella Road is not due to an applicant's action on site. The fence is intended to prevent vehicles commuting on the County road from losing control and getting into the property. The environmental setting has made it easier in the past for drivers to lose control of their vehicles and end up inside the property. Therefore, this finding can be made.

(C) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.

The requested variance to reduce the front yard setback on the private road would allow the residents to enjoy an accessory structure allowed by the Zoning Ordinance as it is a private

garage. Structures accessory to the existing residence would complement the residential use on-site. Multiple neighbors who share access through the private road have existent existing garages. Finally, allowing the proposed setback would allow the applicant to build a garage, increasing the property's value. Therefore, this finding can be made.

The requested variance to allow the placement of an 8 foot view obscuring fence on a portion of the northern property line would not increase the site residents' enjoyment, since it would block the public's sight distance and it would provide them with a sense of danger. The subject property is unique in topography and adjacency to an internal curve in the vicinity. The property owner fears more cars will get into the property if a variance for an 8 foot view obscuring fence is not approved to be placed on the northern property line adjacent to the county road; however, the proposed fence would cause a safety hazard since it would reduce the already poor sight distance and could increase accidents in the area. The property's enjoyment of current and future residents at the subject site and the vicinity would not be secured by the approval of this requested variance and the owner is not being deprived a right or privilege enjoyed by adjacent properties. Therefore, this finding cannot be made.

(D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;

The granting of the requested variance to reduce the front yard setback adjacent to the private road for construction of the proposed garage will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity. The requested setback variance is to build a garage. Encroachment into a neighbor's property or right-of-way would not occur upon the approval of this variance or further development. Therefore, this finding can be made.

The granting of the requested variance to allow the placement of the view obscuring fence has the potential to be detrimental to the public welfare or injurious to the property. A fence over the 3'-6" limit with frontage on East Side Calpella Road or the west side of Cromwell Drive would block the public's view of oncoming traffic, creating an unsafe environment for vehicle circulation in the vicinity. The Mendocino County Department of Transportation commented that the sight distance should be maintained in order to prevent road-related accidents, and a fence at this location is not feasible. Therefore, this finding, cannot be made.

(E) That the granting of such variance will not adversely affect the General Plan (including the Ukiah Valley Area Plan).

The granting of the setback reduction variance for the proposed garage would not adversely affect the General Plan. The variance is associated with the existing residential use on a parcel designated Rural Residential by the General Plan. The requested variance would not influence the density, use or lot size of the subject parcel. The variance would further a goal of the Ukiah Valley Area Plan by visually complementing the residential aspect of the vicinity. Therefore, this finding can be made.

The granting of the variance to allow the placement of the view obscuring fence would not adversely affect the General Plan. The variance would not reduce the livability of the subject property, nor reduce the area for agricultural or residential use as mandated by the General Plan. The variance would not influence the density, use or lot size of the subject parcel. Therefore, this finding can be made.

BE IT FURTHER RESOLVED that the Zoning Administrator hereby grants the requested VARIANCE for the garage and denies the requested VARIANCE for the view obscuring fencing, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Zoning Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Zoning Administrator decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Zoning Administrator action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: ADRIENNE THOMPSON
 Administrative Services Manager

BY: IGNACIO GONZALEZ
 Zoning Administrator

By: _____

EXHIBIT A

CONDITIONS OF APPROVAL V_2017-0003 – SHANE ROBERTS DECEMBER 13, 2018

APPROVED PROJECT DESCRIPTION: Variance for the reduction of the corridor preservation setback along Cromwell Drive (Private) from 25 feet to 0 feet for construction of a garage in place of the existing carport.

CONDITIONS OF APPROVAL:

1. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
2. A land survey must be performed in order to find the property boundaries, and be able to place the garage and fence within the height and non-view obscuring limits per the Zoning Ordinance. The property line adjacent to East Side Calpella Road and the 30-foot west portion of Cromwell Drive are identified as areas to be protected for sight distance. Therefore, it is critical that fencing in these areas shall use non-view obscuring materials such as deer fence; fencing with smaller holes similar to cyclone fence are not acceptable. Vegetation shall be managed in order to not exceed the height limitations or encroach into the County's right-of-way.
3. This permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

The garage requires a building permit and it may require engineering plans.

4. The pending building permit applications must be re-instated and finalized prior to the issuance of a building permit for the garage. The existing wooden fence perpendicular to Cromwell Drive must be either removed or modified in order to be in compliance with the view obscuring and height provisions of MCC Section 20.152.015(E), prior to the issuance of the building permit for the requested fence.
5. That the application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith shall be mandatory, unless a modification has been approved by the Zoning Administrator.
6. The applicant is advised that this variance will expire at the end of two (2) years, on December 13, 2020, unless construction of the garage is commenced and diligently pursued in compliance with required building permits prior to that date.