

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

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION**

Resolution

No. 2008-011 **A resolution conditionally approving Variance 2008-049, Mark Chapman; Applicant, Assessor Parcel Number 006-080-058.**

WHEREAS an application for Variance 2008-049 was received on March 4, 2008 from Mark Chapman for a property located at 7316 Black Oak Lane, Yosemite West, California, also known as Assessor Parcel Number 006-080-058; and

WHEREAS Variance 2008-049 proposes to build a residence within 15 feet from the front yard property line of Black Oak Lane and within 45 feet of the centerline of Black Oak Lane; and

WHEREAS Variance 2008-049 also proposes two on-site parking spaces in a garage. The applicant proposes parking spaces to be located in the Black Oak Lane 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 May 2, 2008; 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 2008-049; 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 DeSantis, seconded by Commissioner Rudzik, this resolution is duly passed and adopted this May 2, 2008 by the following vote:

AYES: DeSantis, Rudzik, Ross, Francisco, and Skyrud

NOES: None

EXCUSED: None

ABSTAIN: None



Skip Skyrud, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Variance No. 2008-049

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, after the relatively flat 17 feet between the property line and street edge, has a very steep grade. Building the home further back from the road would significantly increase the amount of fill that would have to be used to fill the gap between the flat area and the home, or it would require that an expensive bridge be built to cross over the void that would exist if the home was pushed further back. Designing the home to meet front yard setbacks would also result in a taller home on the downhill side, which is more mass and less compatible in the mountain community.

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 commented stating they have no concerns over the proposed configuration of the project. Also, many structures in Yosemite West have similar or even smaller setbacks, which shows the difficulty that comes with building in a mountain area. The surrounding parcels include vacant lots and developed parcels. The home will meet all other setbacks including side 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 Rural Residential zone. The applicant is proposing 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 duplex within the front yard setbacks will not adversely affect the General Plan if the Planning Commission finds that the individual site conditions warrant a deviating 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, a residence that meets setback standards would most likely not be feasible, at least not without significant environment costs. As previously stated, the property drops very steeply after the flat 17 feet between the property line and the street edge. Designing it to meet front yard setback standards would cause the need to use large amounts of fill and retaining walls to fill the gap that would be left between the street and the residence, or it would require the building of a bridge to access the structure. Designing it to meet front yard setbacks would also result in a taller home on the downhill side, which is more mass and less compatible in the mountain community. The proposed location requires the least amount of disturbance to the topography, and eliminates the need to use retaining walls or bridges.

Setback standards are written for parcels county wide and do not necessarily address steep, small parcels 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. 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 these same reasons. 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 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 with no 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.

EXHIBIT 2
CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
Variance No. 2008-049

Project Name: Variance for Mark Chapman

File Number: Variance No. 2008-049

Project Approval Date: May 2, 2008

The following conditions of approval and/or mitigation measures were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions/mitigation measures have been complied with and implemented.

Sign-Off Checklist for Conditions of Approval		
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT	<i>MONITORING DEPARTMENT</i>	<i>VERIFIED IMPLEMENTED</i>
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 May 2, 2008. A building permit shall be issued prior to the project expiration date. This approval shall expire on May 2, 2011. 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	Mariposa Planning	

expiration of approval.		
3. This approved variance is for the construction of a duplex 15 feet away from the front property line and 45 feet from the centerline of Black Oak Lane in substantial compliance with the plans on file with the Mariposa Planning Department dated February 25, 2008 and approved by the Planning Commission on May 2, 2008. No portion of the garage may be closer to the property line than five (5) feet.	Mariposa Planning	
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 front of the home is no closer than 15 feet from the front property line on Black Oak Lane.	Mariposa Planning	