

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

Resolution

No. 2021-007

A resolution conditionally approving Variance Application No. 2021-008, Eric Desplinter, Applicant, Eric Desplinter/Karen Ziebarth, Owners; Assessor Parcel Number 010-373-0040.

WHEREAS, an application for Variance No. 2021-008 was received on January 14th, 2021 from Eric Desplinter and Karen Ziebarth for a property located at 1233 Cedar Lane, Fish Camp, California, also known as Assessor Parcel Number 010-373-0040; and

WHEREAS, the variance proposes to reduce the rear property line set back from the required twenty (20) feet to thirteen (13) feet six (6) inches from the rear property line; reduce the side property line set back from the required ten (10) feet to five (5) feet from the side property line; and

WHEREAS, the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, a project review was scheduled for the duly noticed Fish Camp Town Planning Advisory Council meeting of April 17th, 2021; and

WHEREAS, a Staff Report and environmental determination were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS, the Fish Camp Town Planning Advisory Council did hold their meeting on the noticed date and considered all of the information in the public record, including the Staff Report, and their own knowledge of county code and the adopted Fish Camp Town Planning Area Specific Plan; and

WHEREAS, the Fish Camp Town Planning Advisory Council recommended that the Planning Commission approve the Variance on the subject property; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for April 23rd, 2021; 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, testimony presented by the public concerning the application and the comments of the applicant.

EXHIBIT 1
PROJECT FINDINGS for Variance No. 2021-008

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 Zoning Code)

EVIDENCE: The variance application is based on the small parcel size and proximity to Big Creek. Furthermore, the parcel was created in 1944, which predates the adoption of Fish Camp Town Planning Area Specific Plan by approximately 39 years. This represents an exceptional circumstance.

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 Zoning 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 5-foot side yard setback would allow for the construction of a driveway that allows vehicles to maneuver out of the proposed garage.

3. **FINDING (General Plan):** The granting of such variance will not adversely affect the comprehensive general plan. (§17.120.050.C, Mariposa County Zoning Code)

EVIDENCE: The property is subject to the Fish Camp Town Planning Area Specific Plan (FCSP) and will not adversely affect the Mariposa County comprehensive General Plan. Under the FCSP, the property is zoned for single-family residential use. The granting of this variance will not adversely affect the FCSP, as the Plan makes provisions for variances of this nature.

The purpose of the proposed variance is to allow for a single-family residence that must be consistent with building code requirements and the uses designated in the Single Family Residential 1/2 Acre Minimum of the FCSP.

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 Zoning Code)

EVIDENCE: Due to the encroachment of the Big Creek flood zone onto the rear of the parcel, septic system development must be at the front of the parcel thereby reducing the available building envelope towards the rear of the lot where the proposed residence encroaches into rear and side yard setback. The granting of the variance would allow the property owner to construct an average sized single-family dwelling, and the strict application of the zoning and land use regulations would deprive them of privileges enjoyed by other properties in the area.

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 Zoning Code)

EVIDENCE: By granting this variance, the applicant's home will be receiving privileges already enjoyed by other properties in the vicinity of the site in Fish Camp. Many homes do not meet the required setback standards. If other parcels do have similar circumstance, then they could apply for a variance to determine if deviation from the standards is appropriate.

Due to limited lot sizes, parcel proximity to Big Creek, and the general nature of the applicable setback standards it becomes difficult to build a structure that meet all regulations; therefore, nearby homes do not meet setback standards. Therefore, granting this variance would not constitute a grant of special privilege as other lots enjoy reduced setbacks which are the same benefit that would be allowed by this variance, reduced setbacks for single family residential use.

EXHIBIT 2
PROJECT CONDITIONS for Variance No. 2021-008

Project Name: Eric Desplinter

File Number: Variance No. 2021-008

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	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
1. The applicant will comply with all the building code requirements and permitting requirements.	Building Department	
2. Project approval is valid for a period of three years from April 23, 2021. A building permit shall be issued prior to the project expiration date. This approval shall expire on April 23, 2024. 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 dwelling, deck and garage located no closer than 5 feet from the side property line and 13 feet 6 inches from the rear property line in substantial compliance with the plans on file with the Mariposa Planning Department and approved by the Planning Commission on April 23, 2021. Planning Director verification of Building Permit plans for conformance to the approved Variance and to ensure the project does not impact the existing rock structure as shown on the approved site plan, shall be required prior building permit issuance.	Mariposa Planning	
4. Prior to construction, a licensed land surveyor will post the property corners and lines in the area of construction. This staking will be in place at the time of the foundation inspection to ensure that the dwelling, deck and garage is no closer than 5 feet from the side property line and no closer than 13 feet 6 inches from the rear property line, as well as not impacting the existing rock structure as shown on the approved site plan.	Mariposa Planning	

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 No. 2021-008.

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.

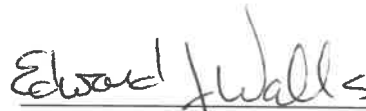
ON MOTION BY Commissioner McCamman, seconded by Commissioner Herman, this resolution is duly passed and adopted this by the following vote:

AYES: Walls, Wilmeth, Herman, Smith, McCamman

NOES: None

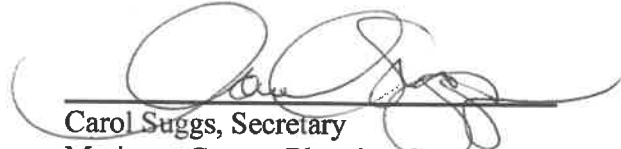
EXCUSED: None

ABSTAIN: None



Ed Walls, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary
Mariposa County Planning Commission