

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

Resolution
No. 2021-015

**A resolution conditionally approving Variance Application
No. 2021-055, Blessed Hope Wolf, Applicant; Assessor Parcel
Number 006-090-0040.**

WHEREAS, an application for Variance No. 2021-055 was received on the 7th day of April 2021 from Blessed Hope Wolf for a property located at 7178 Yosemite Parkway, Yosemite West, California, also known as Assessor Parcel Number 006-090-0040; and

WHEREAS, the variance proposes to reduce the front property line set back from the required fifty five (55) feet to forty-eight (48) feet from the center line of the Yosemite Park Way 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 24th day of September 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, Draft Resolution, public comment 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. 2021-055.

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 Smith, this resolution is duly passed and adopted this 24th day of September 2021 by the following vote:

AYES: HERMAN, McCAMMAN, SMITH, WALLS, WILMETH

NOES: NONE

EXCUSED: NONE

ABSTAIN: NONE



Ed Walls, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS FOR
Variance Application No. 2021-055

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:

Residential structures (excluding the garage) are required to be 55 feet from the center line of the ROW (Yosemite Park Way). Unlike other properties in the Yosemite West subdivision, the right-of-way (ROW) fronting the project site is 50 feet wide and the physical improvements of the Yosemite Parkway roadway are located on the project site, which together reduces the distance to achieve the 55-foot ROW centerline setback. The conditions are exceptional to the project site as compared to other lots in the vicinity where there are no roadway improvements on the lots and where there are greater ROWs, such as 60 feet, which provide greater distances for residential improvements to meet the 55-foot ROW centerline setbacks without a variance.

There is a culvert underneath Yosemite Park Way that drains onto the neighboring property and then onto the subject lot. The further the residential structure is located away from the front property line, and by extension the center line of the ROW, the greater the potential for flooding, rapid runoff, and sedimentation into the nearby tributary of Indian Creek located to the west of the subject property. The variance has the potential to reduce flooding, rapid runoff, and sedimentation of a nearby creek (Indian Creek), thereby allowing the property owner to help protect the environment in a manner enjoyed by other property owners in the area. This is a special circumstance applicable to this property.

These are exceptional circumstances applicable to this property. The applicant is requesting a 48-foot setback from the center line of Yosemite Park Way for the residence. The reduction of 7 feet from 55 feet to allow for 48 feet from the centerline, while maintaining 25 feet from the front property line, will allow the residential structures to be located on the upper portion of the lot closer to the roadway centerline while maintaining area for on-site parking.

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. Granting of the variance has the potential to protect the privacy and view of neighboring properties. While there is a 7-foot reduction from the ROW centerline setback from 55 feet to 48 feet, the front property line setback is still maintained at 25-feet, providing sufficient distance for encroachment site distance and to allow uniformity in housing placement to those in the vicinity.

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 classified and zoned for residential purposes.

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 residence is required to be 55 feet from the center line of the right-of-way (Yosemite Park Way). Due to the tangent curvatures and segments of Yosemite Park Way, a 50-foot right-of-way fronting the lot and the actual Yosemite Park Way road pavement located on the lot, the circumstances of the lot differ from those in the vicinity where the physical pavement improvements of frontage access roadways are not located on the lots and where there are greater width ROW's such as 60-foot and more. This is a special circumstance applicable to this property.

There is a culvert underneath Yosemite Park Way that drains onto the neighboring property and then onto the subject lot. The further the residential structure is located away from the front property line (and by extension the center line of the ROW), the more grade differential there is in the residential building envelope due to the lot steepness the greater the potential for flooding, rapid runoff and sedimentation into the nearby tributary of Indian Creek located nearby the subject property. The variance has the potential to reduce flooding, rapid runoff and sedimentation of a nearby creek, thereby allowing the property owner to help protect the environment in a manner enjoyed by other property owners in the area. This is a special circumstance applicable to this property.

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, including proximity to the centerline of public rights of way. Many homes do not meet the required setback standards and homes have been granted variances for a variety of 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 meets 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 residence 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 permitted single-family residence in a residential zone in a location on the lot desired by the property owner.

Project Conditions for Variance Application No. 2021-055

Project Name: Bless Hope Wolf; Variance Application No. 2021-055

The following conditions were approved for this project 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 September 24, 2021. A building permit shall be issued prior to the project expiration date. This approval shall expire on September 24, 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 48 feet from the centerline of the Yosemite Park Way right-of-way. A Building Permit Site Plan shall be submitted showing the residence complies with this reduced 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 48 feet from the centerline of the Yosemite Park Way 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	