

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

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

Resolution

No. 2010-010

A resolution conditionally approving Variance Application No. 2010-057, Kevin Sesler; Applicant, Assessor Parcel Number 006-100-043.

WHEREAS an application for Variance No. 2010-057 was received on May 10, 2010 from Kevin Sesler for a property located at 7424 Henness Ridge Road, Yosemite West, California, also known as Assessor Parcel Number 006-100-043; and

WHEREAS Variance No. 2010-057 proposes to build a residence within 25 feet from the front yard property line of Henness Ridge Road and within 50 feet of the centerline of Henness Ridge Road; 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 July 9, 2010; 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 find that the project is exempt from environmental review; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance Application No. 2010-057; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the amended findings set forth in Exhibit 1, and amended conditions set forth in Exhibit 2.

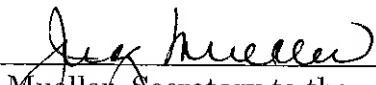
ON MOTION BY Commissioner Ross, seconded by Commissioner Marsden, this resolution is duly passed and adopted this July 9, 2010 by the following vote:

AYES: Ross, Marsden, Francisco, Tucker, Rudzik
NOES: None
EXCUSED: None
ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Variance No. 2010-057

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 parcel has a very steep, up sloping, grade from the edge of the right of way towards the back of the parcel. The fronting access easement of this property is only 50 feet in width, while they are typically 60 feet in width. This means that even though they are able to meet the 25 foot setback from the front property line, they still fall within 5 feet of the 55 foot requirement from the centerline of the road. Building the home five (5) feet further back from the road would require that the rear wall of the structure be below grade, which would make the second floor uninhabitable. To raise the second floor above grade, the garage ceiling level would need to be increased, which would then "...put the Second Finish Floor out of reach of any conventional stairways." Raising the garage would require a driveway that is too steep and most likely inaccessible during snow conditions.

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. Conditions are required to ensure this finding is met. A condition has been required that the 20 foot access easement across the front of the property is staked to ensure that the home is constructed no closer than 5 feet to the edge of the access easement. Another condition will require that the applicant show sufficient parking is available on site and ensure that none of the parking impedes the access easement. Finally, a preliminary grading plan will be required to ensure that the

driveway apron will not impede or prevent the full development of the 20 foot access easement.

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 and the Residential Land Use. The applicant is proposing residential development consistent with the surrounding zone and land use. 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 residence within the front yard setbacks required from the centerline of the road will not adversely affect the General Plan if the Planning Commission finds that the individual site conditions warrant a deviation 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 environmental costs or having to utilize unconventional construction methods. As previously stated, the property rises very steeply from the edge of the right-of-way to the back of the parcel. To move the residence back 5 feet to meet the required front yard setbacks would increase construction costs, require larger retaining walls and other unconventional construction methods. By moving it further back, the ceiling of the garage would have to be raised so that the second floor would be above grade and be habitable, however this would make the second floor unreachable by any conventional stairways. Raising the garage floor, would make the driveway too steep and most likely inaccessible during snow conditions.

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 Special 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 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 circumstance then they could apply for a variance 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. 2010-057

Project Name: Variance for Kevin Sesler File Number: Variance No. 2010-057

Project Approval Date: July 9, 2010

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 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 July 9, 2010. A building permit shall be issued prior to the project expiration date. This approval shall expire on July 9, 2013. A one and a half year (1.5 year) 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 approved variance is for the construction of a residence 25 feet away from the front property line and 50 feet from the centerline of Hennes Ridge Road in substantial compliance with the plans on file with the Mariposa Planning Department dated April 20, 2010 and approved by the Planning Commission on July 9, 2010. No portion of the structure may impede or encroach into the 20 foot access easement that runs across the front of the property.	Mariposa Planning	

<p>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 25 feet from the front property line on Henness Ridge Road. The edges of the 20 foot access easement that runs across the front of the parcel will also be staked and marked prior to the time of the foundation inspection to ensure that no portion of the home is closer than 5 feet from the edge of the access easement.</p>	<p>Mariposa Planning</p>	
<p>5. Prior to issuance of a building permit for any construction or grading, a preliminary grading plan that shows that the entirety of the 20 foot access easement can be fully used and fully improved without obstruction or the impediment of access by the driveway encroachment for the property or any other construction or grading for and related to this project shall be submitted to the Planning Department and approved by the Planning and Building Directors as feasible. To prevent an obstruction, impediment or the inability to fully develop the 20 foot easement in its entirety might require that the project be modified, which may include narrowing the driveway apron or construction of retaining structures. This approval does not imply or grant the applicant any approval to impede, obstruct, or prevent the full development or use of the full 20 foot access easement in any way.</p>	<p>Mariposa Planning</p>	
<p>6. Prior to issuance of a building permit, the applicant shall submit a site plan that shows four on-site parking spaces. The four parking spaces must be developed and constructed (may be a garage) prior to a final and issuance of a Certificate of Occupancy from the Building Department. None of the four parking spaces shall impede the 20 foot access easement across the front of the property, nor may they be located within the access easement. If four on-site parking spaces cannot be developed, the applicant must modify the proposal to one single family residence and show that two onsite parking spaces can be provided. Design of the parking spaces shall be in accordance with County Code.</p>	<p>Mariposa Planning</p>	
<p>7. Approval of this variance does not grant or imply any right to the property owner to impede, obstruct, or prevent the full development and use of the full 20 foot access easement along the front of APN 006-100-043 in any way. This variance does not grant the property owner the ability to encroach into the 20 foot access easement with any structure and the driveway must not impede, obstruct, or prevent the full development or use of the full 20 foot access</p>	<p>Mariposa Planning</p>	

easement in any way.		
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