

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

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

Resolution

No. 2008-012

**A resolution conditionally approving Variance 2008-059,  
William Russell; Applicant, Assessor Parcel Number 006-080-001.**

WHEREAS an application for Variance 2008-059 was received on March 18, 2008 from William A. Russell for a property located at 7164 Yosemite Park Way, Yosemite West, California, also known as Assessor Parcel Number 006-080-001; and

WHEREAS Variance 2008-059 proposes to build a residence within 10 feet from the front yard property line of Yosemite Park Way; and

WHEREAS Variance 2008-059 also proposes no on-site parking spaces. The applicant proposes parking spaces to be located in the Yosemite Park Way 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 2008-059; 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.

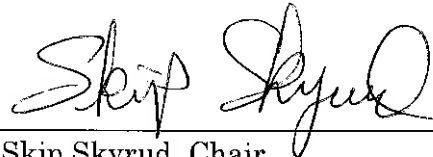
ON MOTION BY Commissioner Rudzik, seconded by Commissioner Ross, this resolution is duly passed and adopted this May 2, 2008 by the following vote:

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

NOES: None

EXCUSED: None

ABSTAIN: None



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Skip Skyrud, Chair  
Mariposa County Planning Commission

Attest:



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Carol Suggs, Secretary to the  
Mariposa County Planning Commission

**EXHIBIT 1**  
**PROJECT FINDINGS**  
**FOR**  
**Variance No. 2008-059**

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:** The subject property might be considered to have exceptional circumstances due to the fact that the parcel has a down slope of 30%. Also, after site preparation for the originally approved building plans that met all setback standards, a six (6) foot drop off and area of non-buildable disturbed soils was created. The big craters left by the removal of the trees, stumps, and root balls were too big for compaction and the contractor did not consider it viable to compact the soils, as the area was too big and the clearing created a major soils disturbance that was too big to overcome. The architect states that soils in Yosemite West are not good to begin with, with only an assumed soils bearing pressure of 1,000 pounds per square foot. The clearing of this area in particular created significant voids, air pockets, and unstable soil profile which greatly reduce the soils bearing pressure in that area and based on this the architect and contractor state that trying to compact the soils and locating the structure in its originally designed location is not viable. The area has soils bearings problems that would not be able to support a structure. The parcel also has a very steep drop off after the right-of-way that necessitates the building of a pedestrian bridge. Locating the home closer to the property line makes it easier to access the home through a shorter bridge. Parking cars on the parcel is impossible as a bridge or large amounts of fill would be required to be able to drive down into the parcel. Public Works has approved an encroachment permit for parking within the right-of-way.

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:** 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 purpose of setbacks is to provide separation between structures on adjacent parcels. The proposed residence is unlikely to cause any detriment to the use of the adjacent structures or future use of the property. Setbacks also serve as a buffer between residences and roads that keep the impacts from traffic, such as noise and dust, low. The proposed residence will only be encroaching fifteen (15) feet into the front yard setback, but will still exceed the fifty-five (55) foot setback from the centerline of the road by six (6) feet, which should keep the increased impacts to neighbors and the residents of the proposed home to a minimum. Setbacks serve the purpose of maintaining safety for traffic using the roads. This project is located at the end of a cul-de-sac, for which the right of way is very large and only a small portion serves as the paved road. The location that has been approved for parking purposes as part of the encroachment permit will not affect traffic.

Open space and community character are also affected by setbacks. The proposed variances are not likely to be materially detrimental to these aspects as the parcels in the area tend to be around a quarter of an acre and many have similar situations. The structure will still be located sixty-one (61) feet from the centerline of Yosemite Park Way, meaning that there will still be a relatively large buffer area between the structure and the road.

Parking within the Yosemite Park Way right-of-way will not cause any material detriment, as the right-of-way is very wide and there is sufficient room to accommodate parking without affecting traffic. Public Works has approved an encroachment permit for parking to be provided within the right-of-way and expressed no concerns.

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 single family residence 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. As previously stated, the property drops very steeply after the property line. The home was originally designed to meet all setback standards and building and grading permits were obtained for the original design. In order to prepare the site for construction, three trees needed to be removed. Upon the removal of the trees a steep drop of six (6) feet and an area of disturbed soils not suitable for the building of a residence were created. The big craters left by the removal of the trees, stumps, and root balls were too big for compaction and the contractor did not consider it viable to compact the soils, as the area was too big and the clearing created a major soils disturbance that was too big to overcome. The architect states that soils in Yosemite West are not good to begin with, with only an assumed soils bearing pressure of 1,000 pounds per square foot. The clearing of this area in particular created significant voids, air pockets, and unstable soil profile which greatly reduce the soils bearing pressure in that area and based on this the architect and contractor state that trying to compact the soils and locating the structure in its originally designed location is not viable. The area has soils bearings problems that would not be able to support a structure. The parcel also has a very steep drop off after the right-of-way that necessitates the building of a pedestrian bridge. The further the home is located from the property line, the bigger the bridge has to be and the greater the impact. Locating the home closer to the property line allows for easier access, because the distance to reach the home is shortened, and this makes it easier to make a bridge to access the home.

Parking on-site is also extremely difficult, since there is a steep drop around the area where the right-of-way meets the property line. In order to access the site by vehicle a bridge or extremely large amounts of fill would be needed.

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. Other homes have been granted variances to provide no onsite parking and instead have obtained encroachment permits to be able to park within the right-of-way.

**EXHIBIT 2**  
**CONDITIONS OF APPROVAL AND MITIGATION MEASURES**  
**FOR**  
**Variance No. 2008-059**

**Project Name: Variance for William A. Russell**

**File Number: Variance No. 2008-059**

**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.

<b>Sign-Off Checklist for Conditions of Approval</b>		
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. Parking in the County right-of-way is valid for the duration of the encroachment permit.	Mariposa Planning	

<p>3. This approved variance is for the construction of a single family residence in substantial compliance with the plans approved by the Planning Commission on May 2, 2008, 10 feet away from the front property line and for construction of a single family residence with no on-site parking.</p>	<p>Mariposa Planning</p>	
<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 10 feet from the front property line on Yosemite Park Way.</p>	<p>Mariposa Planning</p>	
<p>5. The applicant shall provide a minimum of two (2) parking spaces in the adjacent Yosemite Park Way right-of-way for the project. All encroachment permit requirements for the parking shall be met, prior to a Certificate of Occupancy for the residence.</p>	<p>Mariposa Planning</p>	
<p>6. An encroachment permit for portions of the walkway (pedestrian bridge) located within the right-of-way shall be obtained.</p>	<p>Mariposa Planning</p>	
<p>7. No construction related activities shall impact or block Yosemite Park Way without proper notice and approval from the Public Works Department. This shall be done through the encroachment permit process or any other process required by Public Works.</p>	<p>Mariposa Planning</p>	