

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

Resolution

No. 2020-005

A resolution conditionally approving Variance Application No. 2019-167, Jon and Craig Finster, Applicants; Assessor Parcel Number 010-190-0550.

WHEREAS, an application for Variance No. 2019-167 was received on October 21st, 2019 from Jon and Craig Finster for a property located at 8055 Cedar Lane, Wawona, California, also known as Assessor Parcel Number 010-190-0550; and

WHEREAS, the variance proposes to reduce the front property line set back from the required twenty (20) feet to three (3) feet from the front 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 Wawona Town Planning Advisory Committee meeting of December 13th, 2019; 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 Wawona Town Planning Advisory Committee 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 Wawona Town Plan; and

WHEREAS, the Wawona Town Planning Advisory Committee recommended that the Planning Commission approve the Variance on the subject property; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for January 24th, 2020; 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.

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. 2019-167.

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 Herman, seconded by Commissioner McCamman, this resolution is duly passed and adopted this January 24th, 2020 by the following vote:

AYES: Walls, Sweeney, Herman, Harris, McCamman

NOES: None

EXCUSED: None

ABSTAIN: None



Larry Harris, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS for Variance No. 2019-167

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 need for repairs to the front deck which encroaches onto the adjacent parcel. If the variance is granted, the deck will be equal in setback distance to that of the residence. The parcel is already developed with a house and deck with stairs which serve as the main entrance to the house. The proposed replacement will improve the situation by placing the improvements entirely on the correct parcel and providing a minimum 3 foot setback. Furthermore, the original house was built in 1960, which predates the adoption of Wawona Town Planning Area Specific Plan by approximately 27 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 3 feet front yard setback would still result in the proposed deck being the same setback as the residential structure that the deck will be attached to and will remove existing improvements which are currently located on the adjacent parcel.

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 Wawona Town Planning Area Specific Plan, and will not adversely affect the Mariposa County comprehensive General Plan. Under the Wawona TPA Specific Plan, the property is zoned for single-family residential use. The granting of this variance will not adversely affect the Wawona Town Planning Specific Plan, as the proposed residence will still comply with lot coverage standards, and the Plan makes provisions for variances of this nature.

The purpose of the proposed variance is to allow the replacement of an existing encroaching deck to be replaced with a deck entirely on-site that is consistent with building code requirements and the uses designated in the Mountain Residential 2 District of the Wawona Specific Plan.

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: The existing residential structure predates the adoption of the Wawona Town Planning Area Specific Plan and does not meet current front yard setback standards. The existing deck encroaches on the neighboring parcel and is in need of repair. The granting of the variance would allow the property owner to make the necessary repairs while remedying the encroachment, 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: 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 Wawona. 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 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 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 (Conditions):** The planning commission shall impose any conditions and/or requirements it finds necessary to guarantee compliance with the findings by this Section. (§17.120.050.F, Mariposa County Zoning Code)

EVIDENCE: A conditional use is a use that is permitted subject to compliance with a set of conditions or requirements set forth in the zoning ordinance. The conditions are designed to ensure that the use is in harmony with both the purposes section of the zoning ordinance and the specific requirements for that use detailed in the zoning ordinance, and that it will not adversely affect the neighborhood if such requirements or conditions are met.

EXHIBIT 2
PROJECT CONDITIONS for Variance No. 2019-167

Project Name: Jon and Craig Finster

File Number: Variance No. 2019-167

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 and permitting requirements.	Building Department	
2. Project approval is valid for a period of three years from January 24 th , 2020. A building permit shall be issued prior to the project expiration date. This approval shall expire on January 24 th , 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 deck located no closer than 3 feet from the front property line in substantial compliance with the plans on file with the Mariposa Planning Department dated October 4 th , 2019 and approved by the Planning Commission on January 24 th , 2020. Prior to construction, a licensed land surveyor will post the property corners and lines in the area of construction. No portion of the structure may be closer than 3 feet from the front property line, to be verified by the Building Department or Planning Department.	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 insure that the front of the garage is no closer than 3 feet from the front property line.	Mariposa Planning	