

Recording Requested by and  
When Recorded Mail To:

Town of Mammoth Lakes  
Community & Economic Development Department  
P.O. Box 1609  
Mammoth Lakes, CA 93546

)  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_  
Recordation fee exempt per Government Code §27383  
Space Above for Recorder's Use

**RESOLUTION NO. PEDC 2022-11**  
**A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND**  
**ECONOMIC DEVELOPMENT COMMISSION**  
**APPROVING VARIANCE 21-001**  
**TO ALLOW FOR A TEN-FOOT SIX-INCH REAR SETBACK FOR A**  
**NEW SINGLE-FAMILY RESIDENCE WITH AN ATTACHED GARAGE**  
**LOCATED AT 182 DAVISON ROAD**  
**(APN: 031-071-002-000)**

**WHEREAS**, a request for consideration of a Variance was filed by Elliott Brainard on behalf of the property owner, the Dauernheim Family Trust, to allow for a ten-foot six-inch rear setback for a new single-family residence in accordance with Chapter 17.72 (Variances) of the Town of Mammoth Lakes Municipal Code, for property located at 182 Davison Road; and

**WHEREAS**, the Planning and Economic Development Commission conducted a noticed public hearing on May 11, 2022, at which time all those desiring to be heard were heard; and

**WHEREAS**, the Planning and Economic Development Commission considered, without limitation:

1. The staff report to the Planning and Economic Development Commission with attachments;
2. The General Plan, Municipal Code, and associated Land Use Maps;
3. Oral evidence submitted at the hearing; and
4. Written evidence submitted at the hearing.
5. Project narrative and plans consisting of one sheet numbered VA1 dated April 22, 2022 and eleven sheets numbered A0, A0.1, G1, G2, A1, A2, A3, A4, E1, T24-1, and T24-2 dated September 21, 2021 and received by the Town of Mammoth Lakes on April 22, 2022.

**NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:**

## **SECTION 1. FINDINGS.**

### **1. CEQA.**

The project has been determined to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures) of Title 14 of the California Code of Regulations. CEQA Guidelines Section 15303 applies to projects that consist of one single-family residence, or a second dwelling unit in a residential zone, which the State has determined to be a class of projects that will not have a significant effect on the environment. The project involves the construction of a new single-family residence with an attached garage and the conversion of the existing single-family residence to an accessory dwelling unit (ADU). Additionally, none of the exceptions set forth in CEQA Guidelines Section 15300.2, which would preclude a project from using a categorical exemption, are applicable, as described below:

- a) Projects that meet the criteria for the “Existing Facility” categorical exception are classified as a Class 1 project pursuant to the CEQA Guidelines and are not subject to the special circumstances applicable to projects classified as Classes 3, 4, 5, 6, or 11;
- b) The cumulative impact from successive projects over time will not be significant because the proposed use is consistent with the allowed and previously anticipated uses for the zone;
- c) The proposed activity will not have a significant effect on the environment due to unusual circumstances because the site has been previously developed;
- d) The project site is not located adjacent to a scenic highway, and therefore, no impacts to scenic resources within a highway designated as a state scenic highway could occur;
- e) The project site is not located on a hazardous waste site pursuant to the list of Hazardous Waste and Substances maintained by the Town; and
- f) The site has previously been disturbed, and therefore, there will not be a substantial adverse change in the significance of an established historical resource as a result of the project.

Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(2) since the project meets the criteria for use of the ‘New Construction or Conversion of Small Structures’ categorical exemption and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

## 2. MUNICIPAL CODE FINDINGS.

### FINDINGS FOR VARIANCE (Municipal Code §17.72.040)

- a. *There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Zoning Code deprives the property of privileges enjoyed by other property in the vicinity and under the identical zoning district.*

The proposed project requires a variance from the requirements of the Zoning Code to allow for a reduced rear setback (*10-foot 6-inch rear setback where 20 feet is required*) for the construction of a new single-family residence with an attached garage due to the substandard size of the lot. The lot is 9,696 square feet, and the standard lot size in the RMF-2 zone is 40,000 square feet. Additionally, a 10-foot irrevocable offer of dedication is required by the Town due to the substandard width of Davison Road, which further reduces the lot size and buildable area, and the existing residence that will become an ADU is located in a way that makes additional development on the parcel very difficult when the zoning code is strictly applied. The variance will allow for the construction of a new single-family residence that will have sufficient parking (4 enclosed, 1 unenclosed), including parking for the ADU.

- b. *The approval of the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zone.*

The proposed project does not constitute a grant of special privileges because single-family residences with ADUs are an allowed use in the RMF-2 zone. The variance allows the property to comply with Municipal Code parking requirements, which it currently does not meet.

- c. *Granting the variance would not authorize a use or activity which is not otherwise expressly authorized by the zone governing the property for which the application is made.*

The construction activity authorized by this variance consists of a new single-family residence with an attached garage located on a property with an existing single-family residence that will be converted to an ADU. The proposed use is consistent with uses found elsewhere in the vicinity and the same zone and are permitted uses in the Residential Multi-Family 2 (RMF-2) zoning district.

- d. *Granting the variance would not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.*

Granting the requested variance will not create a hazard to public safety because the proposed new single-family residence with an attached garage does not

include any hazardous uses or activities, and the project is consistent with what would be permitted on similar lots. The project will be required to comply with all applicable Building Code and Fire Codes during construction and operation. To ensure that there is not a safety hazard created from snow shed, a condition of approval for the project requires snow restraint devices (snow rails) be installed on roof eaves that encroach into the standard 20-foot rear setback area. Additionally, staff reviewed the title report and other relevant title and map documents to ensure that there are no drainage easements or other utility easements in the rear of the property within the area proposed for development that would adversely affect nearby properties.

- e. *The variance is consistent with the General Plan and any applicable specific plan.*

The variance is consistent with the Town's General Plan as the land use designation for the subject property is High-Density Residential 2 (HDR-2). This land use designation allows for single-family detached residential development, and therefore the use will remain consistent since the property will continue to be used as a detached single-family residence with an ADU. Additionally, the variance is consistent with the General Plan because the project will minimize the risk of injury or property damage through the addition of covered parking where it does not currently exist (Goal S.3) and will promote construction of an adequate supply of housing to meet the needs of all sectors of the community, including the conservation and improvement of existing housing supplies (Goal H.2) through the creation of an ADU.

- f. *The variance is the minimum departure from the requirements of this Zoning Code necessary to grant relief to the applicant, consistent with Subsections A and B, above.*

The requested variance qualifies as a minimum departure from the requirements of the Zoning Code to grant relief to the applicant and is consistent with subsections A and B above. The proposed building footprint cannot be located further forward on the lot because there would not be adequate turnaround space for vehicles backing out of the garage.

- g. *The approval of the variance is in compliance with the requirements of the California Environmental Quality Act.*

The project complies with the requirements of the California Environmental Quality Act because the project was determined to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures.

**SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS.** The Planning and Economic Development Commission hereby takes the following actions:

1. Finds that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303, New Construction or Conversion of Small Structures, of the CEQA Guidelines; and
2. Approves Variance 21-001 subject to the following conditions:  
(SEE EXHIBIT “A”); and
3. Directs staff to file a Notice of Exemption.

**PASSED AND ADOPTED** this 11<sup>th</sup> day of May 2022, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

---

Sandra Moberly,  
Community and Economic  
Development Director

---

Michael Vanderhurst,  
Chair of the Mammoth Lakes Planning  
and Economic Development  
Commission

**NOTE:** This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

**APPLICANT:**

I, Elliott Brainard, the applicant, do hereby attest that I have read, and understand, the conditions stipulated within this Resolution.

\_\_\_\_\_  
Elliott Brainard  
(Notary Required)

Date: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Mono }

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the persons whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity (ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**WITNESS my hand and official seal.**

\_\_\_\_\_  
Signature of Notary

OWNERS:

I, Kirk Dauernheim, authorized signatory for the property owner, Dauernheim Family Trust, do hereby attest that we have read, and agree to, the conditions stipulated within this Resolution.

\_\_\_\_\_  
Kirk Dauernheim  
(Notary Required)

Date: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Mono }

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the persons whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity (ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**WITNESS my hand and official seal.**

\_\_\_\_\_  
Signature of Notary

**EXHIBIT “A”**  
**Resolution No. PEDC 2022-11**  
**Case No. VAR 21-001**

1. This approval authorizes the granting of a Variance to allow a 10-foot 6-inch rear setback for a single-family residence with an attached garage. This variance from the Town of Mammoth Lakes development standards is hereby approved as shown on project plans consisting of one sheet numbered VA1 dated April 22, 2022 and eleven sheets numbered A0, A0.1, G1, G2, A1, A2, A3, A4, E1, T24-1, and T24-2 dated September 21, 2021 and received by the Town of Mammoth Lakes on April 22, 2022.
2. All new improvements constructed on the site shall be in compliance with all Town of Mammoth Lakes, County of Mono, Mammoth Community Water District, the Mammoth Lakes Fire Protection District, the CRWQCB Lahontan District, Great Basin Air Pollution Control District, OSHA, State of California and United States of America laws, statutes, ordinances, regulations, directives, orders, and the like applicable thereto and in force at the time thereof Any violation of the above may constitute grounds for revocation under Chapter 17.128 of the Mammoth Lakes Municipal Code.
3. This resolution of approval, as conditioned herein, shall be recorded for the subject property by the Mono County Recorder’s Office prior to the issuance of any Building Permits for new or remodeled structures.
4. This action may be appealed to the Town Council within fifteen (15) calendar days from the date of Planning and Economic Development Commission approval in accordance with Municipal Code Chapter 17.104.
5. The site shall be maintained in a neat, clean and orderly manner. All improvements shall be maintained in a condition of good repair and appearance. Outdoor storage of equipment and other materials, except for firewood, is prohibited. Non-operating vehicles, equipment and materials inappropriate to the site and its use shall not be stored within outdoor areas on the site.
6. The applicant shall defend, indemnify, and hold harmless the local agency and its agents, officers, and employees from any claim, action, or proceeding against the local agency and its agents, officers, or employees to attack, set aside, void, or annul, an approval of the local agency, advisory agency, appeal board, or legislative body concerning this approval. The Town shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense.
7. Storage of construction materials and equipment off-site shall not be permitted without a permit issued by the Community and Economic Development Department. Any public or private property altered, damaged, or destroyed by site preparation, grading, construction, or use shall be restored to its pre-existing condition by the permittee.
8. A valid building permit is required before any work can begin on-site.
9. All conditions of this Variance approval shall be met or secured prior to final occupancy approval of any new structures.
10. All uses are subject to review and approval by the Building Official of the Town of Mammoth Lakes and must conform to occupancy requirements.



11. Town staff shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business hours and shall, upon request make records and documents available to Town staff as necessary to evidence compliance with the terms and conditions of this permit.
12. The approved site and building plans shall be adhered to and maintained for the duration of the permit.
13. Where compliance with the conditions of approval or applicant-initiated changes to the plans require additional staff review, that review time shall be billed at the Town's established billing rates. Prior to the issuance of a building or grading permit, the applicant shall pay all outstanding costs for the processing of this application.
14. Construction operations shall conform to the Town's adopted Construction Site Regulations (Municipal Code Chapter 15.08). All site work is to be completed and/or winterized prior to October 15th of each year. Any work after this date requires the approval of the Town Engineering Division.
15. Nothing in this approval of this project shall be construed to allow for the deviations, adjustment, variance, or non-conformance of any Municipal Code or ordinance, or of any local, State, or federal standard, policy, regulation or law, unless specifically provided for herein.
16. All exterior lighting fixtures shall conform to the Section 17.36.030 of the Town of Mammoth Lakes Municipal Code, Exterior Lighting. Exterior light fixtures in excess of a total of 400 lumens but less than 1,000 lumens with a semi-translucent barrier, shall be equipped with shields to completely obscure the light source and to direct the light downward onto the structure or immediately surrounding grounds to the satisfaction of the Community Development Director. This shall be verified prior to issuance of the certificate of occupancy.
17. Roof forms that shed snow directly onto active pedestrian areas shall be protected with snow restraint devices. Snow restraint devices shall be shown on building permit plans. Installation of the snow restraint devices shall be verified prior to issuance of the certificate of occupancy.
18. Pursuant to Section 17.36.04 of the Town of Mammoth Lakes Municipal Code, all retaining walls visible from off-site shall be made of split face block, faced with rock, or similarly treated to be attractive.
19. The Building Division will require that a string line be run between the property monuments at the time of foundation inspection for the following components of the project:
  - a. on the west side of the property to verify the actual field distance from the structure to the west side property line and setback line; and
  - b. on the north side of the property to verify the actual field distance from the structure to the rear property line.
20. No snow shall shed or be deposited onto adjacent properties or the Town's right-of-way. Pursuant to Municipal Code Section 15.24.040.D.2, the roof eaves encroaching into the setback areas (i.e., snowshed impact zone) shall be protected with an engineered snowslide restraint devices. This shall be verified prior to issuance of the Certificate of Occupancy.

21. A drywell (or other stormwater management structure) is required per TOML Municipal Code Section 12.08.090, which shall be sized at minimum to accommodate one-inch/hour runoff from all impervious surfaces associated with the new construction. Drywell shall be located to intercept runoff prior to leaving site. See TOML Standard plan 302 and Storm Drainage Design Manual pages 2-14, 2-16, 2-24 and 2-26. Drywell shall be inspected prior to backfill.”
22. Prior to the issuance of a Certificate of Occupancy for the new single-family residence, the owner(s) shall record a deed restriction or covenant for the accessory dwelling unit acknowledging the requirements contained in Zoning Code Sections 17.52.055.B and C. (General requirements for Accessory Dwelling Units).
23. Pursuant to Municipal Code §17.64.040, the approval of the variance shall run with the land through any change or ownership of the subject site, from the effective date of the permit. All applicable conditions of approval, as specified in this resolution of approval, shall continue to apply after a change in property ownership.
24. An application for address assignment for the new single-family residence and the converted ADU shall be completed and filed with Mono County prior to issuance of the building permit.