

# **ATTACHMENT A**

PEDC RESOLUTION 2022-16  
CASE NO. VAR 22-002/ADJ 22-002

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  
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**RESOLUTION NO. PEDC 2022-16**  
**A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND**  
**ECONOMIC DEVELOPMENT COMMISSION**  
**APPROVING VARIANCE 22-002**  
**TO ALLOW FOR A SEVEN-FOOT FRONT SETBACK FOR A**  
**NEW ATTACHED GARAGE**  
**AND ADJUSTMENT 22-002 TO ALLOW FOR A 9.3% BUILDING HEIGHT**  
**INCREASE FOR A NEW 38-FOOT 3-INCH TALL SINGLE-FAMILY**  
**RESIDENCE LOCATED AT 751 MAJESTIC PINES**  
**(APN: 032-120-011-000)**

**WHEREAS**, a request for consideration of a Variance and Adjustment was filed by property owners, John L. and Cheryl C. Gabele, to allow for a seven-foot front setback for a new attached garage and allow a 9.3% building height increase to for a new 38-foot and 3-inch tall single-family residence, in accordance with Chapter 17.72 (Variances) and Chapter 17.76 (Adjustments) of the Town of Mammoth Lakes Municipal Code, for property located at 751 Majestic Pines Drive; 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 six (6) sheets numbered A010, A031, A032, A040, A051 and A052 dated March 18, 2022 and received by the Town of Mammoth Lakes on March 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.**

Staff has determined that the project is 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. The project is categorically exempt pursuant to CEQA Guidelines Section 15303(a), New Construction or Conversion of Small Structures, because the request involves the construction of a new single-family residential home on a residentially zoned parcel, which has been determined by the State to not have a significant effect on the environment pursuant to CEQA Guidelines Section 15303(e), and none of the exceptions set forth in CEQA Guidelines Section 15300.2, which would disqualify the project from using a categorical exemption, are present.

**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 steep topography of the property makes the strict application of the Zoning Code impractical in this situation because the average slope of the site is 27% which approaches the 30% maximum slope permitted for single family lots in Residential Zoning Districts.

The steepness of the lot qualifies as a special circumstance. A standard 20-foot setback would push the structure further back beyond the existing foundation and would require additional grading and site disturbance in the rear of the property, which is adjacent to the Mammoth Creek open space corridor and would not be consistent with the General Plan policies regarding preservation of natural features. Additionally, a shift of the structure back on the property would increase the overall height of the structure since the vertical distance from the street to the ground increases as the slope drops down.

- 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 Variance is necessary to provide the property with land use privileges enjoyed by other properties in the vicinity and under identical zoning classification, because the steep slope of the property makes the building design and engineering for a typical single-family residence impractical within the sloped area of the site. Several other single-family homes built on the same street have reduced front setbacks and properties that feature similar topography. These properties include the four (4) properties directly to the west of the subject site. 763, 779, 797, and 809 Majestic Pines Drive were granted reduced front yard setbacks for garages prior and the reduced setbacks ranged from 5 to 10 feet. Therefore, this approval would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zone.

- 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 the reconstruction of a single-family residence and pursuant to the specified purpose of the Residential Single-Family (RSF) zone in Municipal Code Chapter 17.20 (Residential Zoning Districts), the proposed use is the intended development use and is consistent with uses found elsewhere in the vicinity that are located in the RSF zone.

- 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 would not be detrimental to public health, safety, or welfare because the proposed SFR does not include any hazardous uses or activities and the proposed rebuild of the residence is consistent with what was previously permitted on similar lots. It can be reasonably determined that there would not be detrimental impacts from the project because the original residence, which had the same footprint and appearance as the proposed residence, had been in existence for at least 24 years prior to burning down and there is no record of any issues that were the result of the reduced front-yard setback. Furthermore, impacts to Town snow storage and circulation would not be impacted because Majestic Pines Drive has a standard right-of-way dimension of 60 feet and there is approximately 15 feet of right-of-way between the street edge and the property line that will remain available for Town snow storage. Lastly, the project would be required to comply with all applicable Building Codes and Fire Codes during construction and operation. The conditions of approval for the project that ensure the variance will not be detrimental to the public include: (1) snow restraint devices (snow rails) be installed on the garage above the required parking areas and pedestrian areas (Condition of Approval #18); (2) that all snow removed from the driveway and parking area is stored on the subject property and outside of the right-of-way (Condition of Approval #21); (3) a hold

harmless agreement be recorded indemnifying the Town against damages or losses to property or vehicles within the setback or right-of-way (Condition of Approval #25); and (4) adherence with the parking requirements of the Town regarding parking within the right-of-way, including the winter parking prohibition (Condition of Approval #26).

- 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 Low-Density Residential 2 (LDR-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. 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*).

- 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 variance is consistent with the Town's General Plan, as the land use designation for the subject property is Low-Density Residential 2 (LDR-2). This land use designation allows for single-family detached residential development, and therefore the use is consistent since it is a detached single-family residence.

Additionally, the variance is consistent with the applicable General Plan policies because the project will minimize impacts to the Mammoth Creek open space area that is adjacent to the site and protects the natural resources of the site (Policy C.4.A) and rehabilitates an existing residential site (Policy L.2.C).

There is no specific plan applicable to the property.

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

The requested variance is the minimum departure from the requirements of the Zoning Code necessary to rebuild the residence in a similar manner as it was prior to being destroyed and will allow for the reuse of the existing disturbed area, which will minimize additional grading and site disturbance in the undisturbed natural area adjacent to the Mammoth Creek open space area. The proposed seven-foot setback is consistent with the previously allowed five-foot front setback for steep downsloping lots. The variance asks for reasonable relief from the Zoning Code for reasons that are directly related to

the topography and preservation of the open space area of the lot that connects with the Mammoth Creek open space area.

### **FINDINGS FOR ADJUSTMENT**

(Municipal Code §17.76.040 and §17.36.100.D(5)(a)(vi))

- 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 topography of the subject property is steeply sloped at a 27% downslope and qualifies as a special circumstance, with the steepest portions of the lot being in the front and the rear. Additionally, because of the desire to preserve the rear portion of the property that is adjacent to the Mammoth Creek open space corridor and is undisturbed from the previously built single-family residence, the position of the proposed single-family residence is pushed toward the front of the property where topography is at its steepest. While the design of the single-family residence consists only of two (2) habitable floors, because the topography drops off dramatically from the front of the house to the back of the house, the building depth would need to be significantly shorter than neighboring structures in order to meet the 35-foot maximum building height, thus decreasing the overall habitable square footage that would otherwise be permitted on the property.

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

The adjustment request would not grant special privileges to the subject property, inconsistent with the limitation upon other properties in the vicinity and zone in which such property is situated. The project conforms to all standards other than height and front setback, that apply to other properties in the vicinity and RSF zone. The conditions of approval require that all applicable standards be met prior to issuance of a building permit. In addition, the proposed residence is consistent in size and design with residences in the same vicinity and zone. The proposed single-family residence is 4,042 square feet with a 3-car two habitable floors and an 8-foot storage area at the bottom level. The adjacent properties at 763, 779 and 797 Majestic Pines have between 2 and 3 habitable floors and are similar in height to the proposed residence.

- c. *Granting the adjustment 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.*

This approval would allow for a two-floor residence that is 4,042 square feet. The proposed use of the property (i.e., single-family residence) is consistent with uses found elsewhere in the vicinity and the same zone and are permitted

uses in the Residential Single-Family (RSF) zoning district under MC Section 17.20.020.

- d. *Granting the adjustment 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 adjustment will not be detrimental to the public health, safety, or welfare because the building height and massing would be similar to surrounding structures and would be well below the maximum height from street level. The building height increase would provide a desirable roof pitch and design that would allow for snow shedding and would also be consistent with the General Plan and Town's Design Guidelines. Additionally, the project would be required to comply with all applicable Building Code, Fire Code, and Public Works standards.

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

The General Plan land use designation for the subject property is Low-Density Residential 2 (LDR-2), which is intended to protect existing densities and character and allows for single-family detached residential development at a maximum density of four (4) dwelling units per gross acre. The requested Adjustment will not affect the existing density.

There is no specific plan for this area.

- f. *The adjustment 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 Adjustment is the minimum departure from the requirements of the Zoning Code necessary to grant relief to the applicant since the building heights requested pursuant to this Adjustment range from 27-feet to 36-feet for an average of 38-feet and 3-inches, which results in a height increase that is below the maximum height increase for an adjustment. The building height increase allows for a 4.5:12 roof pitch, which is more functional in snow conditions compared to a lower pitched roof and would provide a desirable roof pitch that is consistent with the General Plan and Town's Design Guidelines. Considering the steep slope and rear portion of the lot that would remain undisturbed, the request is the minimum departure necessary to grant relief.

- g. *The approval of the adjustment 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

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 22-002 and Adjustment 22-002 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:

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Sandra Moberly,  
Community and Economic  
Development Director

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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.

**OWNER/APPLICANT:**

We, John L. and Cheryl C. Gabele, the applicants, do hereby attest that we have read, and understand, the conditions stipulated within this Resolution.

\_\_\_\_\_  
John L. Gabele  
(Notary Required)

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

\_\_\_\_\_  
Cheryl C. Gabele  
(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 2022-16**  
**Case No. VAR 22-002 and ADJ 22-002**

1. This approval authorizes the following: (1) the granting of a Variance to allow a seven-foot front setback for an attached garage and (2) an Adjustment to allow for a 9.3% building height increase.
2. The approved site and building plans consisting of six (6) sheets numbered A010, A031, A032, A040, A051 and A052 dated March 18, 2022 and received by the Town of Mammoth Lakes on March 22, 2022, shall be adhered to and maintained for the duration of the permit.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. A valid building permit is required before any work can begin on-site.
10. All conditions of this Variance and Adjustment approval shall be met or secured prior to final occupancy approval of any new structures.

11. All uses are subject to review and approval by the Building Official of the Town of Mammoth Lakes and must conform to occupancy requirements.
12. 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.
13. The approved site and building plans shall be adhered to and maintained for the duration of the permit.
14. 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.
15. 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.
16. 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.
17. 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 final sign-off of the building permit.
18. 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 and inspected by the Community and Economic Development Department prior to final sign-off of the building permit.
19. 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.
20. The existing asphalt driveway along the west property line must be removed and unusable prior to the issuance of the certificate of occupancy.
21. No snow shall shed or be deposited onto adjacent properties or the Town's right-of-way. This shall include snow that is removed from any portion of the driveway including, but not limited to, the portion of the driveway that is located within the right-of-way. All snow that is removed shall be stored on the subject property. The property owner shall be subject to fines pursuant to Municipal Code §12.16.030 (*Snow Removal – Violation/Penalty*) if found to be in

violation of this condition.

22. The variance is only authorizing an exception to Municipal Code §17.20.030.B(1) and pursuant to Municipal Code §17.20.030.B, the reduced setback area (i.e., area from 5 20 feet from the front property line) shall only be used for a detached garage and parking and shall not be used for conditioned habitable space.
23. Pursuant to Municipal Code §17.64.040, the approval of the variance and the adjustment 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. Since the proposed building height is within two-feet of the maximum building height permitted, a building height certificate completed by a licensed land surveyor will be required prior to 1st floor joist inspection and roof framing inspection.

#### **ENGINEERING DIVISION CONDITIONS**

25. The property owner shall execute a "hold harmless" agreement with the Town, releasing the Town from any liability for damage to vehicles parked in the right of way as a result of snow removal operations or any other construction or maintenance of the ROW. At the time of application for building permit, please provide a copy of the most recent grant deed for the property to assist the Town in preparing the document. The agreement will need to be executed prior to obtaining final inspection/certificate of occupancy.
26. The parking requirements of the Town of Mammoth Lakes for parking within the right-of-way or on Town streets shall be adhered to at all times, including, but not limited to, Municipal Code §10.12.10 (winter parking prohibition) and Municipal Code §10.12.106 (Obstructing snow removal), which prohibits the parking of vehicles within any town right-of-way at any time which will obstruct, hinder, or delay Town snow removal operations or leave vehicles in such a position that they are subject to damage from Town snow removal operations.
27. Drip line trenches are required below all eaves (which do not have roof gutters or downspouts) that receive direct runoff from rooftops. See Storm Drainage Design Manual p 2-24.