



## Town of Mammoth Lakes

### Planning & Economic Development Commission Staff Report

Meeting Date: May 11, 2022

**AGENDA TITLE:** Consider approval of Variance 21-001 for a 47.5% reduction of the rear setback to allow for a 10-foot 6-inch setback for a proposed new single-family residence and attached garage at 182 Davison Road. The proposed action includes finding the project categorically exempt from CEQA pursuant to Guidelines Section 15303, New Construction of Small Structures.

Applicant: Elliott Brainard

Property Owner: Dauernheim Family Trust

**REQUESTING DEPARTMENT:**

**Community & Economic Development**

Report Prepared By: Michael Peterka, Assistant Planner

Report Approved By: Sandra Moberly, Community and Economic Development Director

**OBJECTIVE:**

1. Hear Staff presentation
2. Hold Public Hearing
3. Planning & Economic Development Commission (PEDC) discussion
4. PEDC action options:
  - a. Adopt the attached Planning and Economic Development Commission Resolution (the Resolution), making the required Variance findings with conditions as recommended by staff;
  - b. Adopt the Resolution with modifications; or
  - c. Deny the Resolution

**SUMMARY:**

Proposal: The Applicant is requesting a 47.5% reduction in the rear setback to allow for a 10-foot 6-inch setback where a 20-foot setback would otherwise be required for a proposed new single-family residence and an attached garage. The property has an existing 933 square foot single-family residence that will be converted into an accessory dwelling unit (ADU). The minimum rear setback required by the RMF-2 zoning district standards is 20 feet.

Location: 182 Davison Road ([APN: 031-071-002-000](#))

Size of Property: 0.22 acres (9,694 square feet)

Zoning: Residential Multi-Family 2 (RMF-2)

General Plan: High-Density Residential 2 (HDR-2)

Environmental Review: The project qualifies for use of a categorical exemption from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction or Conversion of Small Structures).

**KEY ISSUES:**

- 1. Can the findings be made for approval of a Variance pursuant to Municipal Code (MC) Chapter 17.72?**
- 2. Is the proposed project consistent with the California Environmental Quality Act (CEQA)?**

<b>I. INTRODUCTION AND BACKGROUND</b>
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**BACKGROUND:**

The subject property is located at 182 Davison Road in the Residential Multi-Family 2 (RMF-2) zoning district. The property is currently development with an existing 933 square foot (sf) single-family residence that was constructed in 1964 and there is currently no garage or other enclosed parking area. The existing parking area is unpaved.

In June 2021, the applicant applied for a variance to reduce the rear setback on the property to allow for the construction of a new single-family residence with an attached four car garage, one uncovered paved parking space, and a paved driveway. The property’s existing single-family residence will be converted to an accessory dwelling unit (ADU) in accordance with the Town’s ADU zoning code standards. Due to Davison Road being a substandard street, the Public Works Department requires a 10-foot irrevocable offer of dedication (IOD) on the property, which moves the existing front property line in 10 feet from its current location.

**PROJECT PROPOSAL:**

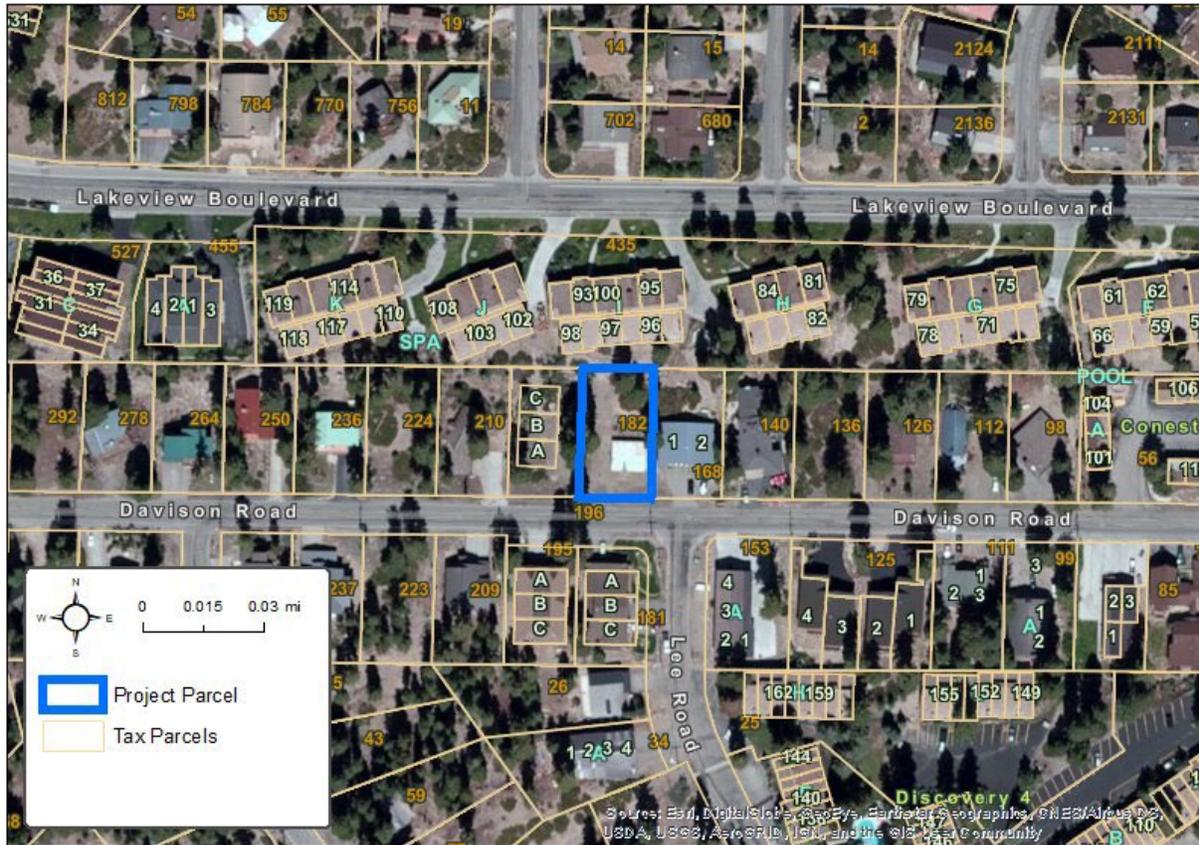
The Applicant is requesting approval of a Variance for a 47.5% reduction in the rear setback to allow for a 10-foot 6-inch setback where 20 feet is the minimum setback otherwise required by the RMF-2 zone district standards. The reduced rear setback will allow for a new single-family residence with an attached four car garage, one uncovered paved parking space, and a paved driveway. The existing single-family residence will be converted to an ADU. **Figures 1** shows the proposed site plan.



**EXISTING CONDITIONS:**

**Site and Surrounding Land Uses**

As shown below in **Figure 2**, the subject property is located near the intersection of Davison Road and Lee Road, within the Residential Multi-Family 2 (RMF-2) zone. The subject property is developed with a single-family residence and surrounding properties are all developed with multi-family residences with the exception of the neighboring vacant lot located to the west. **Table 1** further describes the surrounding land uses and zoning.



**FIGURE 2: PROJECT SITE AND LOCATION MAP**

**TABLE 1: SURROUNDING LAND USES AND ZONING.**

Location	Zoning*	Land Use	Notes / Special Considerations
North	RMF-2	Multi-family - 49 units within 5 buildings (Mountainback)	~2.6 acre site
South	RMF-2	Multi-family Triplex	None
East	RMF-2	Multi-family duplex	None
West	RMF-2	Vacant	Entitled for a triplex, but the project remains unbuilt (Chalet Hestia)

\*RMF-2 = Residential Multi-Family 2

**General Plan**

The General Plan land use designation for the site is High-Density Residential 2 (HDR-2) and “allows both transient visitor lodging and residential multi-unit style developments including townhouses, apartments, and condominiums....” The existing and proposed uses on the site are consistent with this land use designation since it will provide an additional residential unit and despite the property being in a zone that allows transient rentals (i.e., RMF-2 zone), the conversion of the front building into an ADU, rather than changing the use of the property to multi-family, prevents the ADU from being rented nightly since ADUs cannot be rented nightly in any zone.

**Zoning Code**

The proposed project is consistent with the applicable requirements of the Residential Multi-Family 2 (RMF-2) zoning district with the approval of the requested variance. A summary and analysis of the proposal and applicable requirements is detailed below.

**TABLE 2: ZONING CODE CONSISTENCY**

General Information			
General Plan: High-Density Residential 2 (HDR-2)		Specific Plan: N/A	
Zoning: Residential Multi-Family 2 (RMF-2)		Overlay Zone/District/Master Plan: N/A	
Existing Land Use: Single-family residence		Permits Required: VAR	
Development Standards			
Standard	Required	Proposed/Provided	Complies?
Front Setback	25 feet	15 feet	Existing Nonconforming due to 10' IOD <sup>1</sup>
Side Setback	10 feet	10 feet	Yes
Rear Setback	20 feet	10 feet 6 inches	VAR requested
Lot Coverage	60%	43%	Yes
Snow Storage	75%	75%	Yes
Parking Spaces	2 enclosed 1 unenclosed	4 enclosed 1 unenclosed	Yes
Maximum Detached ADU Size	1,200 sq. ft.	933 sq. ft.	Yes <sup>2</sup>

<sup>1</sup> Due to Davison Road be a substandard street, a 10' irrevocable offer of dedication (IOD) will be required on the front property line. As a result, the existing residence/proposed ADU will become existing nonconforming. The IOD will not impact the proposed single-family residence and attached garage. The conversion of nonconforming structures into ADUs is permitted provided that the structure is not enlarged.

<sup>2</sup> Prior to the issuance of a Certificate of Occupancy, the owner shall record a deed restriction that acknowledges the requirements for the ADU.

## II. ANALYSIS OF KEY ISSUES

### **KEY ISSUE #1: Can the findings be made for approval of a variance pursuant to Municipal Code (MC) Chapter 17.72?**

Variances are intended to allow modifications to the development standards of the Zoning Code only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning district. The following represents staff's analysis of the required Variance findings pursuant to MC §17.72.040:

#### **Variance Findings:**

- 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. When the required 10-foot irrevocable offer of dedication is included, the lot size is further reduced. Additionally, the existing residence 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 and conversion of the existing residence to an ADU. The property will then have sufficient parking (4 enclosed spaces, 1 unenclosed space), 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 approved use in the RMF-2 zone. The variance allows the property to comply with Municipal Code parking requirements, which it currently does not meet. Additionally, the proposed rear setback of 10 feet 6 inches is consistent with the rear setback standard on a Residential Single-Family (RSF) zoned lot, which is the zoning designation for properties starting two lots to the west of the project site up to the end of Davison Road near Canyon Lodge, and therefore, would not be a noticeably different rear setback from properties in the vicinity.

- 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 in 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. The ADU will not be permitted to be rented on a transient nightly basis; however, the new single-family residence could be rented nightly.

**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. Additional details are provided under Key Issue #2 below.

**KEY ISSUE #2: Is the proposed project consistent with the California Environmental Quality Act (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 in more detail in the Resolution (Attachment 1).

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.

**AGENCY / PUBLIC COMMENTS**

Staff routed the application to the Mammoth Lakes Fire Protection District (MLFPD) and the Mammoth Community Water District (MCWD) for review, and they had no comments.

The public was notified of the public hearing through the publishing of a public hearing notice in The Sheet newspaper on April 30<sup>th</sup> and May 7<sup>th</sup> and notices were mailed on April 26<sup>th</sup> to all property owners within 300 feet of the subject property. A total of 99 property owners were notified of the public hearing by mail. No public comments have been received as of the writing of this staff report.

<b>III. STAFF FINDINGS AND RECOMMENDATION:</b>
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Staff finds that the proposed project meets the applicable requirements and recommends that the Planning and Economic Development Commission adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and approving Variance 21-001 with conditions as recommended by staff or with modifications.

**Attachments**

Attachment 1: Planning and Economic Development Commission Resolution

Attachment 2: Project Plans