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AGENDA ITEM NO.: # 5 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:** August 17, 2022

SUBJECT: Variance #2022-04/ Scott

EXECUTIVE SUMMARY

The applicant, Randy Scott, has applied for a variance for a non-conforming accessory building consisting of a garage to encroach 2-feet into the required 5-foot side yard setback. The setback encroachment is the result of a pending lot line adjustment, which cannot be completed without the Variance. The property is zoned one-family residence (R1-10,000), located at 2812 Sierra Vista Way in the community of Bishop. The project is Exempt under the California Environmental Quality Act.

PROJECT INFORMATION.

Supervisory District: 3

Project Applicant: Randy Scott, 2812 Sierra Vista Way, Bishop CA

Property Owner: Randy Scott, 2812 Sierra Vista Way, Bishop CA

**Site Address/
Community:** 2812 Sierra Vista Way, Bishop CA

A.P.N.: 011-330-59

General Plan: Residential Low Density (RL)

Zoning: One-Family Residence (R1) 10,000 square feet minimum

Size of Parcel: 19,980 square feet

Surrounding Land Use:

Location	Use	General Plan Designation	Zone
Site	Previously developed - Single family residence	Residential Low Density (RL)	One-Family Residential (R1) 10,000-sq-ft minimum
North	Single family homes	Residential Low Density (RL)	One-Family Residential (R1) 10,000-sq-ft minimum
East	Single family homes	Residential Low Density (RL)	One-Family Residential (R1) 10,000-sq-ft minimum
South	Single family homes	Residential Low Density (RL)	One-Family Residential (R1) 10,000-sq-ft minimum
West	Single family homes	Residential Low Density (RL)	One-Family Residential (R1) 10,000-sq-ft minimum

Staff Recommended Action: **1.) Approve the Variance.**

Alternatives:

- 1.) Deny the Variance.
- 2.) Approve the Variance with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner: Cynthia Draper

STAFF ANALYSIS

Variance Request & Site Characteristics

The applicant, Randy Scott, owns a 19,980-sq-ft property located at 2812 Sierra Vista Way, in Bishop. The parcel is currently developed with a single-family home and is zoned one-family residence (R1-10,000). In 1992, Randy Scott adjusted the lot line on his property giving the easterly 32-feet to parcel 011-330-60, owned by his father, Harold Scott, to accommodate the construction of a garage. Both parties would like to adjust the lot lines back to their original position however this will result in the garage residing on the applicant’s property and will be shy of the required side-yard setback, thus becoming non-conforming. Randy Scott has requested a variance for the non-conforming garage to encroach 2-feet into the 5-foot required side yard setback on the east side of his property. Once the lot line adjustment is complete, both properties will be over 20,000 sq-feet, meeting the minimum requirement for an R1-10,000 zone and all other setbacks will be met. The application for lot line adjustment cannot be approved without the variance.

The properties within the same block and surrounding the proposed project parcel are zoned R1-10,000 and many of them do not meet setback requirements.

The R1 zone requires the following setbacks:

- Front: 25-feet
- Rear: 5-feet
- Side: 5-feet

Proposed Site Plan



Provision for Variances

The Inyo County Zoning Ordinance states that any variance to the terms of the Zoning Ordinance may be granted if such a variance would “*not be contrary to its general intent or the public interest, where due to special conditions or exceptional characteristics of the property or its location or surroundings, a literal enforcement would result in practical difficulties or unnecessary hardships*” (Section 18.81.040).

Further, the Zoning Ordinance states that the following three Findings must be affirmed in order for any variance to be granted:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.

In addition to the above Findings specified in the Inyo County Zoning Ordinance, California State Government Code requires the following Findings for any variance:

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.
5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.
6. The proposed variance is consistent with the General Plan.
7. The requirements of the California Environmental Quality Act have been met.

Affirmative variance Findings must describe the special circumstances that act to physically differentiate the project site from its neighbors and make it unique, and thus uniquely justified for a variance; alternatively, negative findings must describe how the project’s physical characteristics are not unique or exceptional, and therefore do not justify a variance.

ALL seven of the Findings must be affirmed in order for a variance to be approved.

ENVIRONMENTAL REVIEW

This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 5 exemption, “Minor alterations to land use limitations, such as lot line adjustments, variances, and encroachment permits on land with a slope of less than 20%, which do not result in changes in land use or density.”

NOTICING AND REVIEW

The application for VAR 2022-04/Scott has been reviewed by the appropriate county departments. No issues were reported by County staff.

The hearing for VAR 2022-03/Scott was noticed on August 4, 2022, in the Inyo Register and mailed to property owners within 300-feet of the project location on August 4, 2022, as required by the Inyo County Code. No comments have been received to date.

RECOMMENDATIONS

Findings

Staff has reviewed this application and can find that all seven of the required Findings can be affirmed:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.
(Affirmative – Evidence: Due to the pending lot line adjustment, the applicant has requested the variance for a non-conforming accessory building (garage), to encroach 2- feet into the required 5-foot setback. A previous lot line adjustment had given 32-ft of the easterly portion of the applicant’s property to the adjacent property, owned by his father, for the construction of the garage. Moving the lot lines back to their original position will result in the garage residing on the applicant’s parcel and this will cause the garage to be non-conforming. Moving the lot lines back to their original position will clean up the property lines resulting in both properties having the square footage required to subdivide if desired. Without a variance for the non-conforming garage, the applicant cannot complete the lot line adjustment.
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
(Affirmative – Evidence: This variance request is to encroach into a side yard setback and will not result in allowing for activities that are unusual to the surrounding neighborhood and it would not be detrimental or injurious to either public welfare or other properties in the vicinity as it is a single-family residence in a residentially zoned neighborhood. The shorter side yard will also not create privacy or encroachment issues with the adjoining property as it is about 15-feet from the neighboring house.
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.
(Affirmative – Evidence: The applicant is in the process of applying for a lot line adjustment to move the property lines back to their original position. In doing so, it will cause the existing garage to become non-conforming. Not granting the

variance would result in the owner not being able to move the lot lines back to their original position. Granting a variance to encroach approximately 2-feet into the side yard setback would still allow the general purposes of Title 18.33 (R1 of the Zoning Code to be fulfilled, as the encroachment would not change the residential character, density, or use of the property.

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

(Affirmative – Evidence: The property owner is in the process of applying for a lot line adjustment to put the property lines back to their original position. In doing so, it will cause the existing garage to encroach 2-feet into the required 5-foot setback. There are other homes located in the surrounding neighborhood that also do not meet setback requirements. For this reason, the requested variance to encroach into the side yard setback cannot be said to constitute a grant of special privileges. It would, instead, allow the property owners the ability to use their property in the same manner as the other properties in the vicinity.)

5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

(Affirmative – Evidence: The proposed variance applies to side yard setback requirements. The existing residential use is permitted in the R1 Zone and would not change as a result of this action.)

6. The proposed variance is consistent with the Inyo County General Plan
(Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation of the project site, which is Residential Low Density (RL).

7. The requirements of the California Environmental Quality Act have been met.

(Affirmative – Evidence: The requested variance is not subject to the provisions of CEQA, being categorically exempt under Class 5, which applies to Variances.)

Conditions of Approval

- 1.) Hold Harmless: the applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Variance #2022-04/Scott Failure to comply with conditions of approval could result in the revocation of the Variance.

ATTACHMENTS

- Vicinity map

