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**AGENDA ITEM NO.:** 13 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** January 22, 2020

**SUBJECT:** Variance #2019-02/Lovinger

**EXECUTIVE SUMMARY**

The applicant, Lonnie Lovinger has applied for a variance for a single-family dwelling to encroach 15-feet into the required 25-foot front yard setback for a 180-square-foot storage garage addition on a property zoned One Family Residences, with a 10,000-sq-ft minimum (R1-10,000) that is located at 258 Brook Lane, in the community Aspendell.

**PROJECT INFORMATION.**

**Supervisory District:** 1

**Project Applicant:** Lonnie Lovinger, 258 Brook Lane, Aspendell

**Property Owner:** Lonnie Lovinger, 258 Brook Lane, Aspendell

**Site Address/**

**Community:** 258 Brook Lane, Aspendell

**A.P.N.:** 014-292-06

**General Plan:** Residential Low Density (RL)

**Zoning:** One Family Residential (R1), 10,000-sq-ft minimum

**Size of Parcel:** Approximately 8,479-square-feet

**Surrounding Land Use:**

<b>Location</b>	<b>Use</b>	<b>General Plan Designation</b>	<b>Zone</b>
Site	Developed - Single family residence	Residential Low Density (RL)	One Family Residential (R1), 10,000-sq-ft minimum
North	Developed - Single family residence	Residential Low Density (RL)	One Family Residential (R1), 10,000-sq-ft minimum 2.5)
East	Developed - Single family residence	Residential Low Density (RL)	One Family Residential (R1), 10,000-sq-ft minimum
South	Developed - Single family residence	Residential Low Density (RL)	One Family Residential (R1), 10,000-sq-ft minimum
West	Developed - Single family residence	Residential Low Density (RL)	One Family Residential (R1), 10,000-sq-ft minimum

**Staff Recommended Action:**                    **1.) Approve Variance 2019-02/Lovinger with the Findings and Conditions as provided for in the staff report and certify that it is Exempt under California Environmental Quality Act (CEQA).**

**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:**                                    Cathreen Richards

**STAFF ANALYSIS**

Variance Request & Site Characteristics

The applicant, Lonnie Lovinger, owns an 8,479-sq-ft parcel located at 258 Brook Lane in the community of Aspendell. The available building area of this parcel is constrained and is of sub-standard lot size per the zoning minimum (substandard parcel sizes do not prohibit development as long as setback requirements can be met). The constraints to development on this parcel are due to a 10-foot sewer easement on the front of the property and a 5-foot public access easement to Bishop Creek on the rear. The parcel also slopes from the front facing Brook Lane to Bishop Creek at the rear. The proposed parcel

is currently developed with a single family home and a Variance was approved for a 9-foot encroachment into the front yard setback in 1990. Development surrounding the parcel is made up of single family homes. The owner wishes to build the storage garage adjacent to the existing garage to store snow removal and yard maintenance equipment.

The properties within the same block and surrounding the proposed project parcel are zoned R1-10,000. Thirteen of these 19-parcels do not meet the minimum 10,000 square foot requirement and many also do not meet setback requirements. The R1 zone requires the following setbacks:

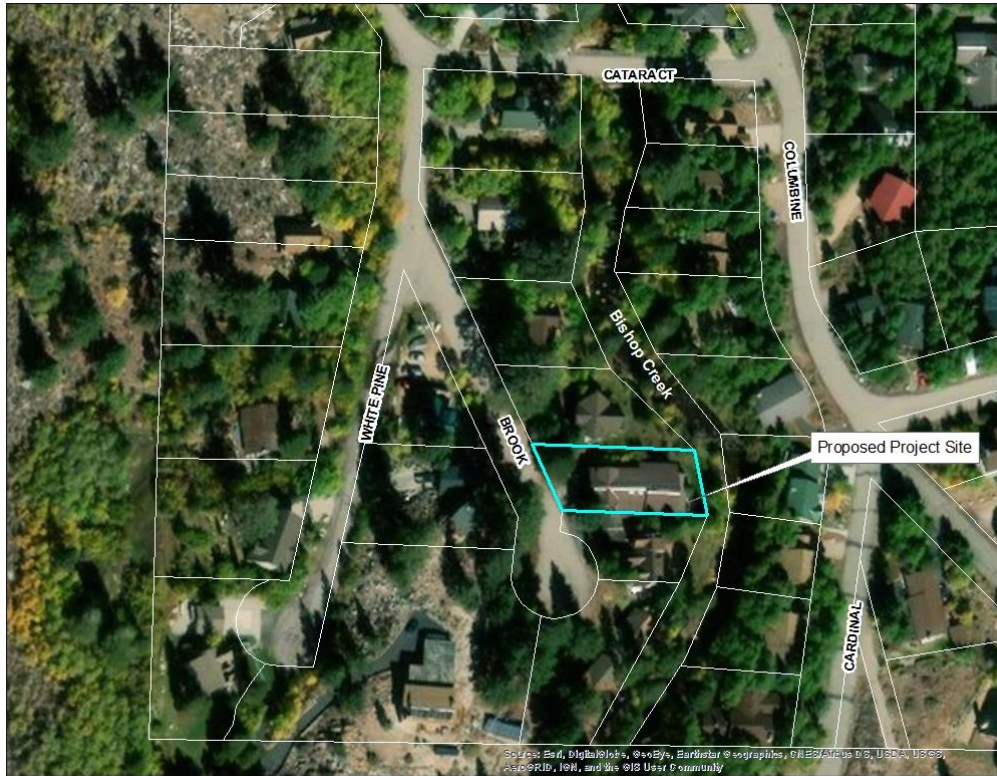
- Front: 25-feet
- Rear: 20-feet
- Side: 5-feet.

In addition, the R1 zoning requires a minimum lot width of 50-feet. The project parcel easily meets the 50-foot requirement with a lot width of 64-feet on the narrowest side. The parcel is already developed and is set lower than the street elevation with the required parking area located at the street level. Due to these factors, the most logical place on the parcel for the applicant's proposed utility room is on the front of the house adjacent to the existing garage. The proposed encroachment into the front yard set back by approx. 15-feet, results in a 10-foot front yard setback.

Picture of property looking south to north



Map of Parcel with aerial photo



Vicinity Map



### Previous Variance History

Variance 1990-5/Lovinger allowed for a 9-foot encroachment into the front yard setback. This request adds 6-feet to the original encroachment for a total of 15-feet.

### 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 Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 3 exemption, 15303 “New Construction or

Conversion of Small Structures (a) One single-family residence, or a second dwelling unit in a residential zone.”

## **NOTICING REQUIREMENTS**

The project was noticed for a Public Hearing in the Inyo Register ten days in advance, on January 10, 2020 and notices were mailed to all property owners within 300-ft of the proposed project. No comments have been received by staff as of the date of this staff report.

## **RECOMMENDATIONS**

Approve Variance 2019-02/Lovinger with the Findings and Conditions as provided for in this staff report and certify that it is Exempt under CEQA.

### 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: The property is zoned One Family Residential (R1), which requires a lot size of 10,000-square-feet; a minimum width of 50-feet; and, a front yard setback of 25-feet, rear yard of 20-feet and side yards of 5-feet. The loss of buildable area on this parcel is due to easements on both the front and rear yards as well as from the general sloping of the land from the front to the rear of the property. This, along with the fact that it is already developed with a single family home under these constraints, has made it difficult for the owner to design the storage garage within the setback requirements. Finding a way to configure the storage garage to fit the parcel and into the current structure and design of the existing single family home has posed exceptional circumstances that made it impossible without an encroachment into the front yard setback.)*

2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.

*(Affirmative – Evidence: Approving this variance will allow for an addition to a single-family dwelling to encroach further into a front yard setback for a total of 15-feet. Currently there is single family home development on both sides (north and south) of the proposed project. This encroachment request will not affect the side yard setbacks; however, and therefore, will not affect the properties located on each side. The front of the property is adjacent to Brook Lane and the rear to Bishop Creek, so there is no potential for impacting neighboring properties to the east or west. The encroachment also will not cause a situation that could be considered detrimental to the public welfare as the proposed development subsequent to the variance approval is a small 180-square-foot storage garage*

*that will be required to follow all building and safety regulations per the State and County codes. The variance request to encroach into the front yard setback is also not allowing for activities that are unusual to the surrounding neighborhood since all existing development in the area is made up of single-family dwellings and appurtenant structures.)*

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 proposed project site area is constrained by easements and topographic limitations causing its buildable area to be limited with regard to additional development. These factors create difficulties/hardships in meeting the required setback requirements for the R1 zone. Granting a variance to encroach 15-feet into the front yard setback would still allow the general purposes of Title 18.30 (R1) of the Zoning Code to be fulfilled, as the encroachment would not change the single-family, 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 project site is non-conforming with respect to its total area and its buildable space is limited by easements and slope. The applicant has designed the storage garage so as not to disrupt the general appearance of the single family home it will be added to. Thirteen of the 19-parcels located in the same block as the proposed variance also do not meet the 10,000-square-foot minimum lot requirement and many of them also do not meet the setback requirements of the R1 zone. For all of these reasons, the requested variance to encroach into the front yard setback cannot be said to constitute a grant of special privileges. It would, instead, allow the property owner the ability to use the 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 front yard setback requirements. The proposed addition to a single family residence is permitted out right in the R1 Zone.)*
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) a single-family landuse designation. Since the storage garage is consistent with single family home uses and the project does not increase the allowed density on the parcel it is consistent with the General Plan.*
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 3 15303(a).)*

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 #2019-02/Lovinger or applicant's failure to comply with conditions of approval.
  
- 2.) The applicant/developer shall conform to all applicable provisions of Inyo County Code including the Building and Safety Code and the Health and Safety Code.

Attachments:

- Site Plan