



## Legislation Details (With Text)

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**File created:** 9/7/2022      **In control:** Zoning Administrator

**On agenda:** 9/28/2022      **Final action:** 12/31/2023

**Title:** Reza Namini / Headlands Drive / Variance Application #P22-00226-VAR

CEQA Status: Consideration and possible adoption of a Categorical Exemption, Section 15303, Class 3: New Construction or Conversion of Small Structures, from the provisions of CEQA. The project site is not included on a list of hazardous materials compiled pursuant to Government Code Section 65962.5.

Request: Approval of a variance application to allow the continued construction of a single-family home to encroach approximately one (1) to six (6) feet into the required front yard setback whereas 10 feet is required. The southeastern corner of the structure is the closest at three (3) feet from the property line. The project is located on a 0.39-acre parcel within the Rural Residential (RR) General Plan and the Planned Development (PD) Zoning District. 1037 Headlands Drive, Napa, CA 94558. APN: 019-482-003-000

Staff Recommendations: Find the project categorically exempt and approve the variance application, as conditioned.

Staff Contact: Kelli Cahill, Planner III, (707) 265-2325, or [kelli.cahill@countyofnapa.org](mailto:kelli.cahill@countyofnapa.org)

Applicant Contact: Reza Namini, (650) 464-1390, or [rnamini@outlook.com](mailto:rnamini@outlook.com)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment A - Findings and Recommendations, 2. Attachment B - Recommended Conditions of Approval, 3. Attachment C - Categorical Exemption Memorandum, 4. Attachment D - Application and Parity Analysis, 5. Attachment E - Graphics, 6. ZA Hearing Namini Comments.pdf

Date	Ver.	Action By	Action	Result
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**TO:** NAPA COUNTY ZONING ADMINISTRATOR

**FROM:** Charlene Gallina for David Morrison - Director

**REPORT BY:** Kelli Cahill, Planner III

**SUBJECT:** Namini Variance P22-00226-VAR

### RECOMMENDATION

Reza Namini / Headlands Drive / Variance Application #P22-00226-VAR

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## **EXECUTIVE SUMMARY**

Proposed Actions:

That the Zoning Administrator:

1. Find the project Categorically Exempt from CEQA based on Findings 1 through 3 of Attachment A; and
2. Approve the Variance Application (P22-00246-VAR) based on Findings 4 through 8 of Attachment A and subject to the conditions of approval in Attachment B.

Discussion:

The project consists of a request to approve a Variance application to allow the continued construction of a single-family residence issued Building Permit BR20-02262-NEW (issued on September 17, 2021) that was constructed within the front yard setback by approximately nine (9) to three (3) feet six (6) inches from the property line. Pursuant to Chapter 18.104.010(E) of the Napa County Code, the zoning of this property requires a 10-foot front yard setback from the front property line. During construction, staff noted the structure encroached within the front yard setback, and required submittal of a Variance Application. Due to the issuance

of the Building permit and the partial construction at the time of Variance application, staff recommends that the required variance findings be made and the application be approved.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Consideration of a Categorical Exemption, Section 15303, Class 3: New Construction or Conversion of Small Structures, from the provisions of CEQA. The project site is not a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

### **BACKGROUND AND DISCUSSION**

Owner/Applicant: Reza Namini, (650) 464-1390, or rnamini@outlook.com

Representative: Stephen M. Samuel, P.E., (408) 781-3955, steves@deisngviz.com

Zoning: Planned Development (PD)

General Plan Designation: Rural Residential (RR)

Filed: June 28, 2022; Resubmittal Received: August 29, 2022; Deemed Complete: September 12, 2022

Date New Project Submittal Courtesy Notice Sent: August 5, 2022

Code Compliance History: The building permit (BR20-02262-New) for construction of a single-family residence was issued on September 17, 2021. Construction commenced shortly thereafter through framing, tresses, plumbing and electrical. The encroachment was identified by the PBES Inspection Division, and construction activities were ordered to ceased pending resolution of the encroachment either through granting of a setback variance or demolition and construction of the structure to comply with County setbacks. On June 28, 2022, the applicant submitted the variance application for processing.

Existing Development: The site is currently partially developed with the new single-family residence issued Building Permit BR20-02262-NEW.

Setbacks:

Required Setbacks- The Zoning Ordinance requires the following setback requirements for the PD zoning District:

Front and Rear Yard: Berryessa Highlands Subdivision requires a 10 foot front yard setback measured from the property line. 20 feet rear yard setback.

Side Yard: Six feet plus three additional feet added to each side yard for each story above the first story of any building.

Proposed Setbacks - The construction of the single-family residence consists of an upper level floor and a lower level floor. The applicant has requested the variance in order to reduce the required front yard setback to three (3) feet at the southeast corner. Thus, the variance request is to allow for a six (6) foot exception at the southeast elevation.

**Adjacent Properties:**

A pocket of single-family residence from Steele Canyon Road to 1077 Headlands Drive were spared from the LNU complex fires, while the majority of remaining homes on Headlands Drive, Westgate Drive to the west and Eastridge to the east were burned in the 2020 LNU complex fires.

**Discussion Points:**

Setting - The 0.39 acre residential parcel is located on a relatively steep parcel in the Berryessa Highlands with the average slope of the property from the street level to rear yard being 19 percent. As illustrated in Figure-1 of the Findings Justification provided by the applicant, immediate adjacent parcels to the north do not possess the same development limitations as the street frontage slopes is flatter, while the parcel to the south is similar to the subject parcel with does which is undeveloped. The street frontage is lower-grade than at the rear of the property. Relocating the residence to the rear yard would require further engineering, and the removal of the existing six feet of structure would both be cost prohibitive since the construction presently consists of foundation, framing, trusses, windows, plumbing and electrical.

Building Design - The architectural design of the structure is comparable to neighboring structures. The building permit was issued on September 17, 2021, with construction commenced shortly thereafter. At the point in which the encroachment was identified, construction commenced through framing, trusses, plumbing and electrical.

Access - The site is proposed to continue development of a single-family home and access driveway with off street carport. The parcel is located in the Berryessa Highlands with access off Headlands Drive, which is accessed off of State Highway 128 and Steel Canyon Road. This request has been reviewed and deemed compliant by Napa County Fire Department, Public Works Department, and the Engineering Division for compliance with the Napa County Road and Street Standards.

Variance - A Variance application is requested to allow the continued construction of a single-family home to encroach into the required front yard setback. The Planned Development Zoning District requires a 10 foot from property line front yard setback. Approval of the variance application would allow the applicant to continue construction of the single-family home between three (3)-nine (9) feet from the front yard property line.

Variations must satisfy the criteria in Government Code Section 65906 and County Code Section 18.128.060. Generally,

the findings for a variance must meet each prong of a three-prong test to satisfy the statutory requirements together with additional local findings contained in the County Code. An application must demonstrate that: 1) they will suffer practical difficulties and unnecessary hardships in the absence of the variance; 2) these hardships result from special circumstances relating to the property that are not shared by other properties in the area; and 3) the variance is necessary to bring the application into parity with other property owners in the same zone and vicinity. In addition, an application must show that the proposed variance will not be contrary to public interest, safety, health, and welfare. To approve a variance, the Zoning Administrator must make all five of the required findings listed below. As discussed below, Staff believes the project site can meet all the required findings, and thus, supports granting the variance.

Required Findings pursuant to Section 18.128.060:

1) That the procedural requirements set forth in this chapter have been met.

Staff Comment: An application and required processing fees have been submitted for a variance accompanied with a statement from the applicant outlining the reasons for the request. Site plans depicting the location of the project and elevation drawings showing the appearance of the residential structure and driveway have also been submitted. Noticing and public hearing requirements have been met. The hearing notice was posted on September 17, 2022, and copies were forwarded to property owners within 1,000 feet of the subject parcel and all other interested parties. The public comment period ran from September 17, 2022 to September 27, 2022.

2) Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Staff Comment: The 0.39-acre parcel has an environmental constraint similar to neighboring parcels that have had to developed near the front yard setback. The average slope of the property from the rear to street level is approximately 24 percent with the flattest area nearest the street. In 2020, much of the Berryessa Highlands was burned during the LNU complex fires, including the rear portion of the subject property. The remaining live oak trees that were spared from the fire are located less than 60 feet from the front of the property, requiring care and preservation considering the overall loss of major oak savannah.

Additionally, although not mapped as a landslide feature there is evidence of slope failure on the property and neighboring parcel to the south that would add considerable cost requiring geotechnical engineering to evaluate and propose stabilization of the slope including but not limited to slope repair, or construction of retaining walls that would remove soil and living oak trees. The granting of this variance would not confer a special privilege as the subject parcel contains a combination of constraints.

3) Grant of the variance is necessary for the preservation and enjoyment of substantial property right.

Staff Comment: This finding requires the applicant to demonstrate that grant of the variance is necessary for the preservation and enjoyment of substantial property rights generally enjoyed by other properties in the same zone and vicinity but would be denied to the applicant's parcel due to special circumstances of the property and unnecessary hardship. This is generally referred to as the parity prong. The property is located within the Planned Development (PD) Zoning District. Denial of a variance would deprive the applicant of the ability to reasonably develop the single-family parcel without excessive costs for the relocation or demolition and reconstruction of the foundation (i.e., concrete piers and retaining walls) and the existing framing, tresses, windows, plumbing and electrical. Approval of the variance would allow the subject property owner to continue constructing the single-family home comparable to the adjacent properties on Headlands Drive, consistent with the site's zoning and General Plan land use designation. Further, the variance to the front-yard setback would allow the applicant to achieve a degree of parity with other properties in the vicinity within the same zoning district that are not constrained by the pre-existing conditions described above. Strict application of the setbacks would result in both practical and financial hardships, which would restrict the ability to develop the property. Granting of the variance would bring the parcel into parity with other properties in the PD zoning district that have been granted development approval.

Constricting the development to the ten-foot setback would create a substantial hardship in that the alternative option for relocation or removal/dismantle would be too costly. The estimated cost to demolish the portion of the house located within the setback would be approximately \$115,000 or 40% of the construction valuation. No estimates were provided for relocation of the residence as it would exceed the overall cost of construction, both that spent to-date and the costs not yet incurred. A comparison table of the costs of constructing the single-family residence in the required setback versus in the requested (3) feet (6) inch setback was prepared by the project applicant and is included as he Financial Hardship Analysis with the Variance Application. As shown, the costs of removal/dismantle of the portion of residence located within the requested setback without benefit of the approved variance would costs approximately \$115,000 when compared to the proposed variance for (3) feet (6) inches.

4) Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

Staff Comment: The health, safety or welfare of the County is not adversely affected. The project is subject to County Codes and regulations including but not limited to the California Building Code, Napa County Fire Department requirements, Environmental Health Division standards for water and wastewater requirements, and Engineering Division requirements all with recommended conditions that would be incorporated into the project to assure protection of public health, safety and welfare.

Public Comments: No public comments have been received following issuance of the courtesy notice or prior to release of this staff report.

## **SUPPORTING DOCUMENTS**

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Categorical Exemption Memorandum

D. Variance Application

E. Graphics