



WASHOE COUNTY

Integrity Communication Service
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CM/ACM _____
Finance _____
DA _____
Risk Mgt N/A
HR N/A
Other _____

STAFF REPORT BOARD MEETING DATE: July 25, 2017

DATE: July 12, 2017
TO: Board of County Commissioners
FROM: Roger Pelham, Senior Planner, Community Services Department, Planning and Building Division, 328-3622, rpelham@washoecounty.us
THROUGH: Mojra Hauenstein, Arch., Planner, Division Director, Planning and Building, Community Services Department, 328-3619, mhauenstein@washoecounty.us
SUBJECT: Public Hearing: For possible action on the appeal of the Washoe County Board of Adjustment’s denial of Variance Case Number WVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction) which sought approval of variances: to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback included a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also included a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a “decorative truss” at the front of the garage.

The Board may affirm, reverse, or modify the decision of the Board of Adjustment. In doing so, the Board may remand the matter back to the Board of Adjustment with instructions, or may directly grant all or part of the variance requested.

The property is located at 567 Alden Lane, approximately 150 feet northeast of its intersection with Tyner Way in Incline Village and within Section 17, Township 16 North, Range 18 East, MDM. The property owners and appellants are Michael Fisher and Susanna Kintz, 567 Alden Lane, Incline Village, NV 89451. The Assessors Parcel Number is 122-133-02. The parcel is ±0.39 acres (±16,988 square feet) in size. The Master Plan Category is Suburban Residential and the regulatory zone is Medium Density Suburban (MDS). (Commission District 1.)

SUMMARY

The appellant applied for a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback includes a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The Board of Adjustment denied the variance request at their meeting on June 1, 2017. The matter was appealed by the applicant to the Washoe County Board of County Commissioners (Board) on June 12, 2017.

The standard front yard building setback for the Medium Density Suburban regulatory zone is 20 feet. The applicant sought a variance to allow portions of a covered entry and a decorative truss to be located less than 20 feet from the front property line adjacent to Alden Lane.

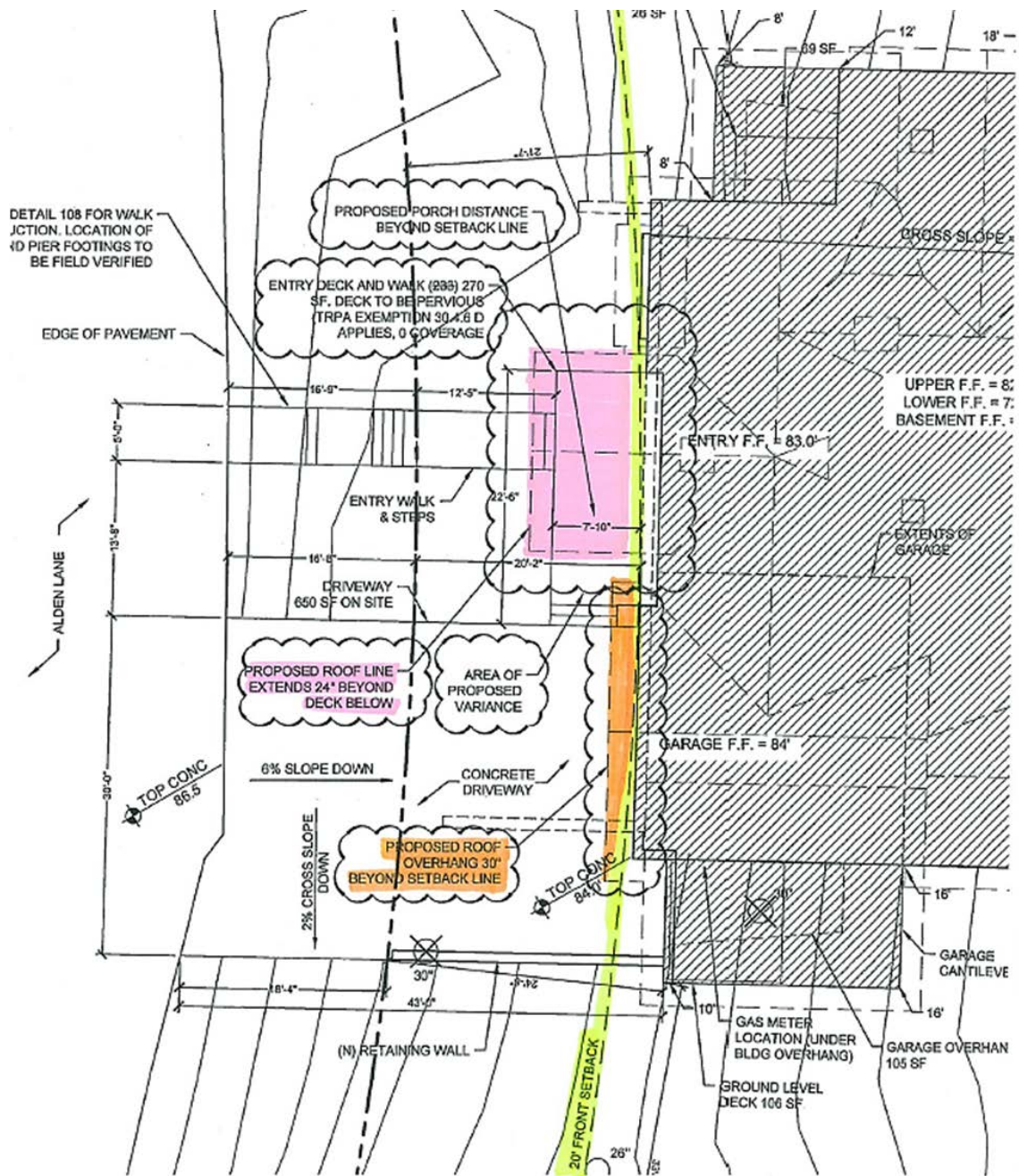
Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

On June 1, 2017 the Washoe County Board of Adjustment [BOA] held a duly noticed public hearing on Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction). The Board of Adjustment denied that Variance, being unable to make the findings of fact required by Washoe County Code (WCC) Section 110.804.25.

BACKGROUND

The applicant requested to reduce the required front yard setback to facilitate expansion of a dwelling that is currently permitted and under construction. The expansion was proposed to consist of encroachment into the front yard setback including a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also includes a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a “decorative truss” at the front of the garage.



Detail Site Plan

Approval of any variance is jurisdictional, that is to say, Nevada Revised Statutes (NRS) limits the power of the Board of Adjustment to grant variances only under specific circumstances. Among those circumstances are: 1) exceptional narrowness, shallowness, or shape of a specific piece of property; or 2) by reason of exceptional topographic conditions; or 3) other extraordinary and exceptional situation or condition of the piece of property. If the BOA determines that one or more of these circumstances (i.e. a finding of fact) can be made, then the BOA must also show that the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property.

Staff provided an analysis of all of the required findings of fact for the BOA as part of the staff report. That analysis, and the BOA's actions for each finding, is provided below.

1) Special Circumstances:

Exceptional Narrowness: The parcel is located within the Medium Density Suburban (MDS) regulatory zone. The minimum lot size required in that zone is 12,000 square feet. The subject parcel is approximately 16,988 square feet in size. The minimum lot width in that zone is 80 feet. The subject parcel is approximately 140 feet in width at the midpoint of the property.

The BOA did not find that subject parcel is exceptionally narrow.

Exceptional Shallowness: The depth of the property from Alden Lane to the Dale Drive is approximately 120 feet.

The BOA did not find that the subject parcel is exceptionally shallow.

Exceptional Topographic Conditions: The subject parcel is sloped. The elevation at Alden Lane is approximately 6718 feet above sea level and the elevation at Dale Drive is approximately 6680 feet above sea level. This equates to a drop of approximately 38 feet over a distance of approximately 120 feet or a slope of about 31%. Such a slope might create a challenge to development if the dwelling were being remodeled or if there were other constraints in addition to the slope. Sloped lots, however, are commonplace in the Tahoe Area Plan, and by themselves are not exceptional. In this case, a dwelling that was previously located on the parcel was completely removed. There were no constraints prohibiting the applicant from designing a covered entry way within the required setbacks. There is a substantial amount of area on the subject parcel which might have allowed the design of the dwelling to include the entryway that the variance sought to allow.

The BOA did not find that the topography of the subject parcel is exceptional.

Other Extraordinary and Exceptional Situation or Condition of the Piece of Property: The application asserts that the applicant, "...tried many different design ideas none of which made practical or aesthetic sense given the height and other TRPA restrictions we had to comply with." The height restrictions imposed by the Tahoe Regional Planning Agency (TRPA) are consistent throughout the Tahoe Basin and are, therefore neither extraordinary nor exceptional. "Aesthetic sense" is not a condition of the parcel of land and, therefore, does not create an Extraordinary and Exceptional Situation or Condition. Finally, the "practicality" of the plan requiring a variance is called into question when one considers that the applicant has approved construction plans for a dwelling on the parcel, that conforms with all required setbacks.

The BOA did not identify any characteristic of the property that creates an extraordinary or exceptional situation or condition.

2) No Deriment:

As the BOA did not find any identifiable special circumstances, granting the relief (variance) will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements

3) No Special Privileges:

As the BOA did not find any identifiable special circumstances, granting the variance will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements.

4) Use Authorized:

Granting the relief will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property. Expansion of the dwelling is allowed within the limitations of the required setbacks.

5) Effect on a Military Installation:

There is no military installation within the area required to be noticed for this variance request.

The appeal application and explanation are included at Attachment C to this report. The Appellant asserts that the variance should be granted because the BOA did not consider the topography of the parcel to be a hardship and that the evaluation of the staff planner was false.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners affirm the decision of the Board of Adjustment and uphold the denial of Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction).

POSSIBLE MOTIONS

Should the Board agree with the Board of Adjustment's denial of Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction) staff offers the following motion:

Move to affirm the denial of Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction) which sought a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, was proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback included a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also included a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a "decorative truss" at the front of the garage. The denial is based upon the inability to make the findings required by WCC Section 110.804.25, Variances

Should the Board disagree with the Board of Adjustment's denial of Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction) staff offers the following motion:

“Move to reverse the denial decision of the Board of Adjustment and approve Variance Case Number WPVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction), with the conditions of approval included at Attachment E to the staff report. The approval is based upon the following findings as required by WCC Section 110.804.25, Variances:

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated; and
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of a military installation.”

Attachments:

Attachment A: Board of Adjustment Staff Report dated May 18, 2017

Attachment B: Board of Adjustment Draft Meeting Minutes of June 1, 2017

Attachment C: Board of Adjustment Action Order dated

Attachment D: Appeal Application dated June 12, 2017

Attachment E: Possible Conditions of Approval

Appellant / Property Owner:

Michael Fisher and Susanna Kintz, 567 Alden Lane, Incline Village, NV 89451



Board of Adjustment Staff Report

Meeting Date: June 1, 2017

Subject: Variance Case Number: WPVAR17-0002

Applicants: Michael Fisher and Susanna Kintz

Agenda Item Number: 9E

Project Summary: Reduction of the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling

Recommendation: Denial

Prepared by: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Division of Planning and Development

Phone: 775.328.3622

E-Mail: rpelham@washoecounty.us

Description

Variance Case Number WVAR17-0002 (Fisher/Kintz Front Yard Setback Reduction) – For possible action, hearing, and discussion to approve a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback includes a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also includes a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a “decorative truss” at the front of the garage.

- Applicant/Property Owner: Michael Fisher and Susanna Kintz
567 Alden Lane
Incline Village, NV 89451
- Location: 567 Alden Lane, approximately 150 feet
northeast of its intersection with Tyner Way
- Assessor's Parcel Number: 122-133-02
- Parcel Size: ±0.39 acres (±16,988 square feet)
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 17, Township 16 N, Range 18 E, MDM
Washoe County, NV

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Public Notice Map..... Exhibit B
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Variance Definition

The purpose of a Variance is to provide a means of altering the requirements in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved; and to provide for a procedure whereby such alterations might be permitted by further restricting or conditioning the project so as to mitigate or eliminate possible adverse impacts.

NRS 278.300 (1) (c) limits the power of the Board of Adjustment to grant variances only under the following circumstances:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, the Board of Adjustment has the power to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

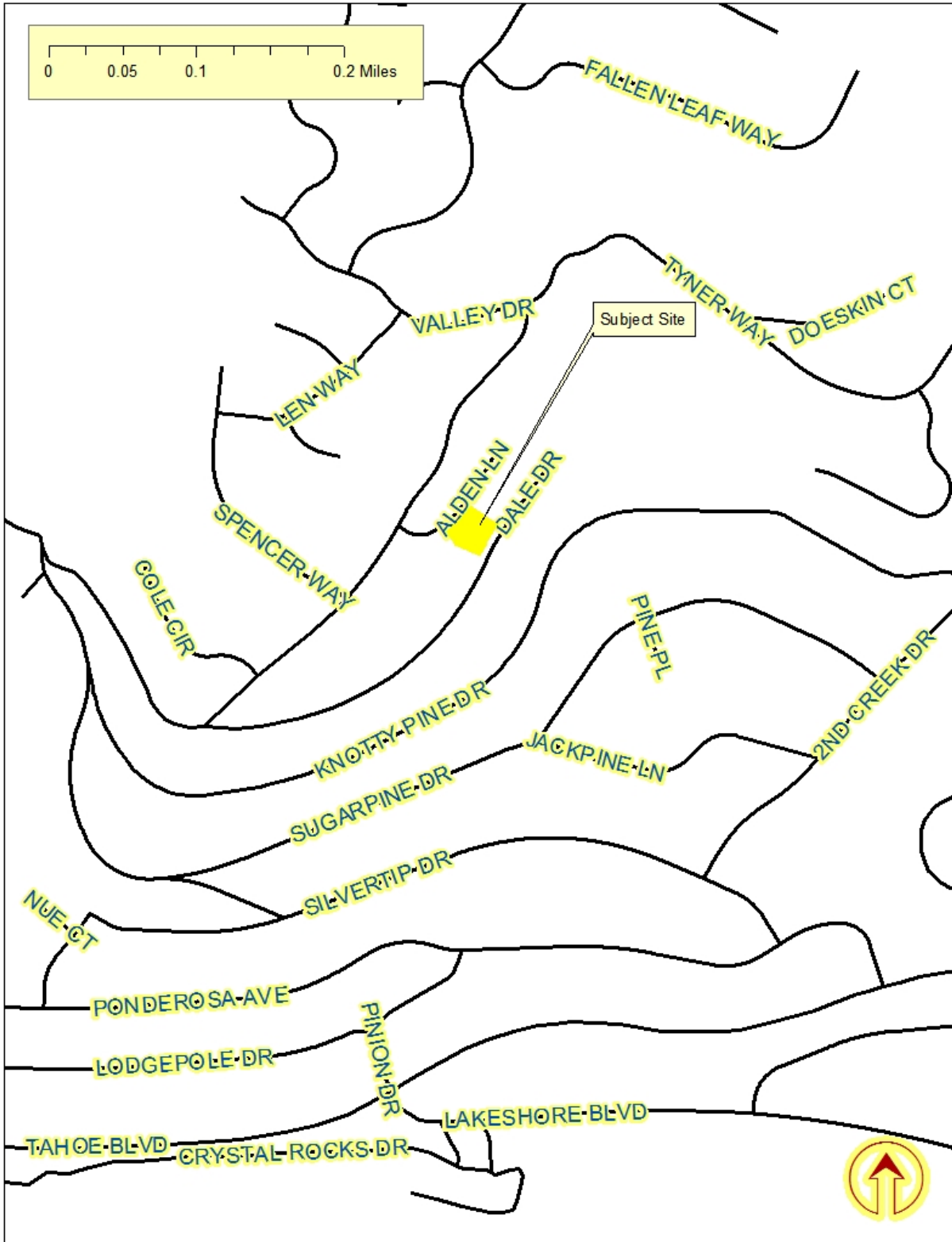
The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under Washoe County Code Section 110.804.25, Variance, the Board must make four findings which are discussed below.

If the Board of Adjustment grants an approval of the Variance, that approval may be subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

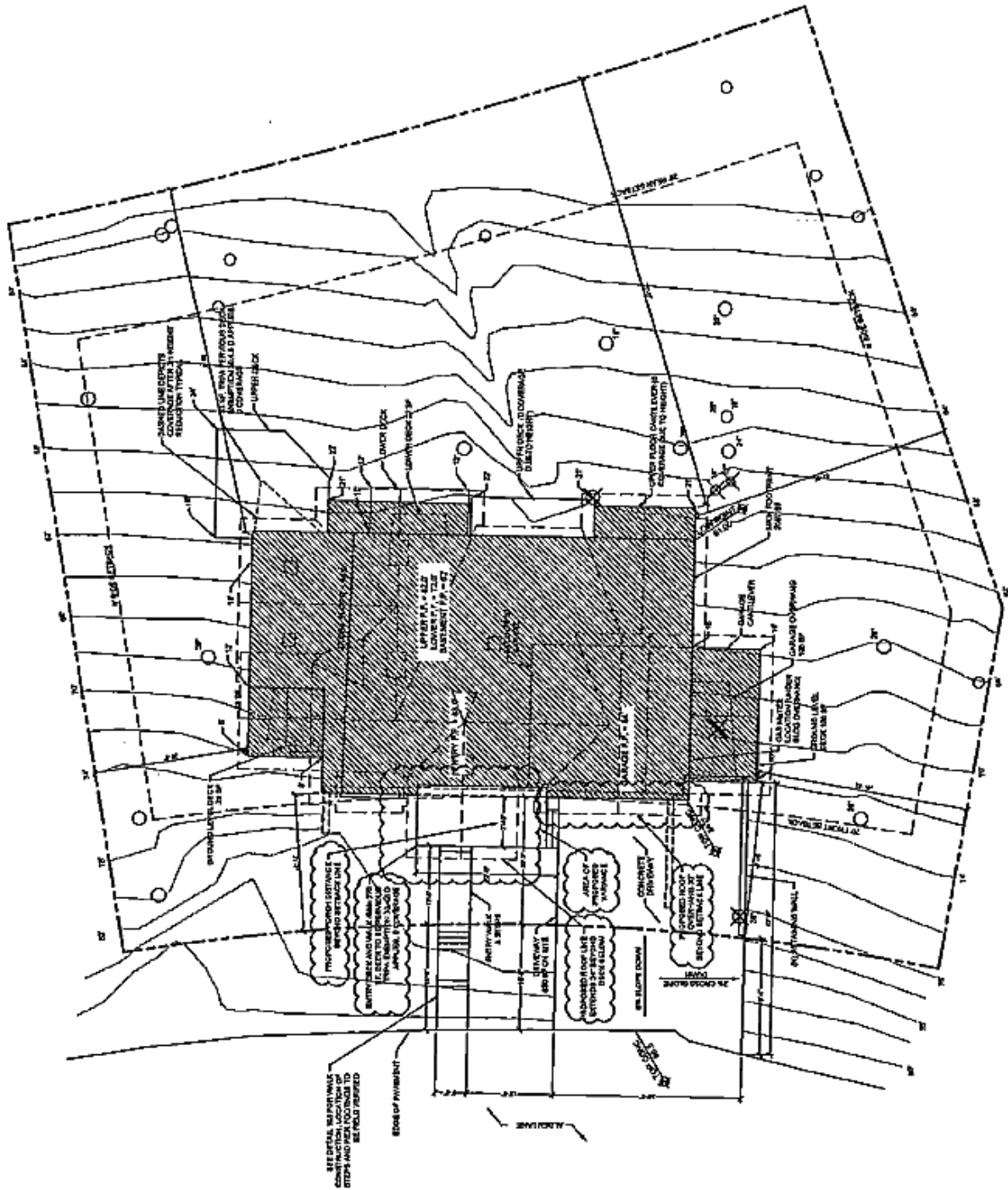
- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as "Operational Conditions." These conditions must be continually complied with for the life of the business or project.

Since a recommendation of denial has been made, there are no Conditions of Approval attached to this report. Should the Board find that special circumstances exist and approve the requested variance staff will provide proposed Conditions of Approval at the public hearing.

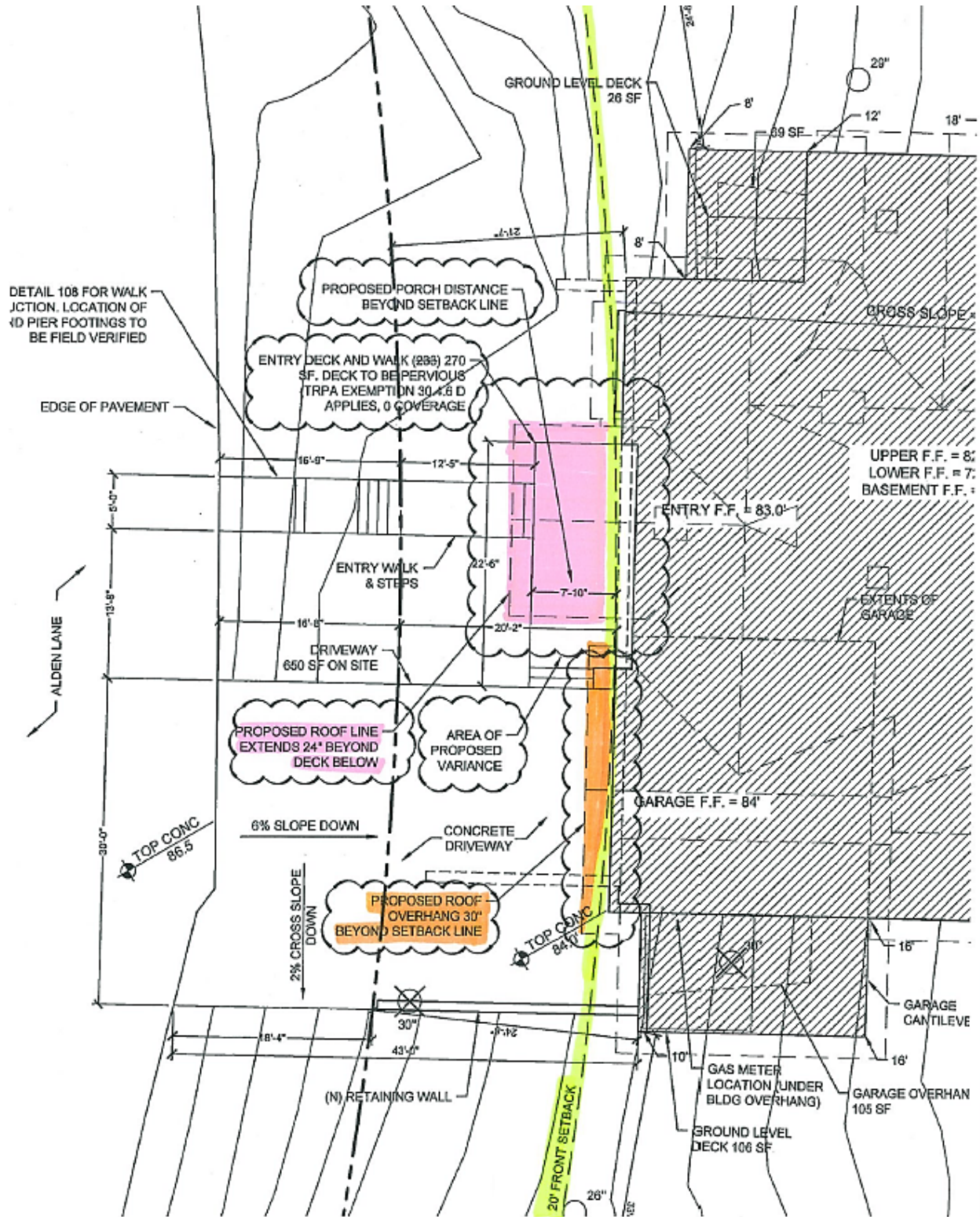
The subject property is designated Medium Density Suburban (MDS). The proposed reduction of the front yard setback from 20 feet to 10 feet 2 inches may be permitted in the MDS zone if a Variance per WCC 110.804 is approved. Therefore the applicant is seeking approval of this variance from the Board of Adjustment.



Vicinity Map



Site Plan



Site Plan Detail



Left Elevation, showing setback and proposed Covered Entry



Front Elevation

Project Evaluation

The applicant is requesting to reduce the required front yard setback to facilitate expansion of a dwelling that is currently under construction. The expansion is proposed to consist of additional covered area at the entry to the dwelling and a “decorative truss” at the front of the garage. The total encroachment into the required 20-foot front yard setback is 9 feet, 10 inches.

It is important to recognize that the approval of any variance is jurisdictional, that is to say that Nevada Revised Statutes limits the power of the Board of Adjustment to grant variances only under particular circumstances. Among those circumstances are: 1) exceptional narrowness, shallowness, or shape of a specific piece of property; or 2) by reason of exceptional topographic conditions; or 3) other extraordinary and exceptional situation or condition of the piece of property. If such a finding of fact can first be made, then the Board must also show that the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property.

A 3-story, 4-bedroom, 3-bath dwelling of 4,795 square feet, with a 3-car garage, is currently under construction on the subject parcel. The plans approved for that dwelling show compliance with all required yard setbacks.

Evaluation of the request to vary standards will follow the criteria as required above.

Exceptional Narrowness: The parcel is located within the Medium Density Suburban (MDS) regulatory zone. The minimum lot size required in that zone is 12,000 square feet. The subject parcel is approximately 16,988 square feet in size. The minimum lot width in that zone is 80 feet. The subject parcel is approximately 140 feet in width at the midpoint of the property.

The subject parcel is not exceptionally narrow.

Exceptional Shallowness: The depth of the property from Alden Lane to the Dale Drive is approximately 120 feet.

The subject parcel is not exceptionally shallow.

Exceptional Topographic Conditions: The subject parcel is sloped. The elevation at Alden Lane is approximately 6718 feet above sea level and the elevation at Dale Drive is approximately 6680 feet above sea level. This equates to a drop of approximately 38 feet over a distance of approximately 120 feet or a slope of about 31%. Such a slope might create a challenge to development if the dwelling were being remodeled or if there were other constraints in addition to the slope. Sloped lots, however, are commonplace in the Tahoe Area Plan, and by themselves are not exceptional. In this case, a dwelling that was previously located on the parcel was completely removed. There were no constraints prohibiting the applicant from designing a covered entry way within the required setbacks. There is a substantial amount of area on the subject parcel which might have allowed the design of the dwelling to include the entryway that the variance is seeking to allow. It is clear that the topography, by itself, does not create a hardship to development of the parcel of land, as a new dwelling was approved to be constructed within the required setbacks. It is noted within the variance application that, “If the variance is not granted, we simply will not have a covered entrance.”

The topography of the subject parcel is not exceptional.

Other Extraordinary and Exceptional Situation or Condition of the Piece of Property: Staff has not been able to identify any characteristic of the property that creates an extraordinary or exceptional situation or condition. The application asserts that the applicant, "...tried many different design ideas none of which made practical or aesthetic sense given the height and other TRPA restrictions we had to comply with." The height restriction imposed by the Tahoe Regional Planning Agency are consistent throughout the Tahoe Basin and are, therefore neither extraordinary or exceptional. "Aesthetic sense" is not a condition of the parcel of land and, therefore, does not create an Extraordinary and Exceptional Situation or Condition. Finally, the "practicality" of the plan requiring a variance is called into question when one considers that the applicant has approved construction plans for a dwelling on the parcel, that conforms with all required setbacks.

There is no extraordinary and exceptional situation or condition on this piece of property.

The applicant included photos of several other dwellings in the area that are located within front yard setbacks. Each variance is evaluated on its own merits and other past approvals on other parcels, each with a unique set of circumstances, do not create a precedent for approval of any future variance request.

Staff recommends denial of the variances requested, being unable to make the necessary findings of fact as required by both Nevada Revised Statutes and the Washoe County Development Code. The lack of peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property is demonstrated by the current approval of a building permit for a 3-story, 4-bedroom, 3-bath dwelling of 4,795 square feet, with a 3-car garage within the required setbacks on the subject site.

Citizen Advisory Board

The Incline Village Citizen Advisory Board did not meet during the review period for this variance. The variance application was provided to all CAB members individually and comments were requested. No CAB members provided comments to staff.

Reviewing Agencies

The following agencies received a copy of the project application for review and evaluation:

- Washoe County Community Services Department
 - Planning and Development Division
 - Engineering and Capital Projects Division
 - Utilities/Water Rights
 - Parks and Open Spaces
- Washoe County Health District
 - Air Quality Management Division
 - Vector-Borne Diseases Program
 - Environmental Health Services Division
- North Lake Tahoe Fire Protection District
- Regional Transportation Commission
- Washoe – Storey Conservation District
- Incline Village General Improvement District

- Nevada State Lands
- Tahoe Regional Planning Agency
- Tahoe Transportation District

Five out of the ten above listed agencies/departments provided comments and/or letters in response to their evaluation of the project application. The Washoe County Traffic Engineer, Incline Village GID and Washoe County Health District indicated that they had no comment. A **summary** of the two agency's comments that provided substantive comments, and their contact information, is provided. There are no Conditions of Approval attached to this staff report as the variance has been recommended for denial.

- *Washoe County Planning and Development Division evaluated the request and has recommended that the variance be denied as there are no special circumstances that necessitate the variance requested.*

Contact: Roger Pelham, 775.328.3622, rpelham@washoecounty.us

- *Washoe County Public Works and Engineering responded that a hold-harmless agreement is needed, if a variance is approved.*

Contact: Leo Vesely, 775.328-2040 lvesely@washoecounty.us

Staff Comment on Required Findings

WCC Section 110.804.25 requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the abandonment request. Staff has completed an analysis of the application and has determined that the proposal cannot meet required findings 1, 2 and 3 as follows.

1. **Special Circumstances.** Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property.

Staff Comment: As noted in the Project Evaluation portion of this staff report there are no peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property. This is demonstrated by the current approval of a building permit for a dwelling, within the required setbacks, on the subject site. Therefore, this finding cannot be made to support approval of the variance request.

2. **No Detriment.** The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted.

Staff Comment: Because there no identifiable special circumstances applicable to the piece of property, granting the relief will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.

3. **No Special Privileges.** The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.

Staff Comment: Because there are no identifiable special circumstances, granting the relief will constitute a grant of special privileges inconsistent with the limitations upon

other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.

4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

Staff Comment: Granting the relief will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Staff Comment: There is no military installation within the area required to be noticed for this variance request.

Recommendation

Staff has been unable to identify any special circumstances applicable to the piece of property that would allow support of approval of the variance request. Therefore, after a thorough analysis and review, Variance Case Number WPVAR17-0002 is being recommended for denial. Staff offers the following motion for the Board's consideration. **Motion**

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny Variance Case Number WPVAR17-0002 for Michael Fisher and Susanna Kintz, being unable to make findings 1, 2 and 3 in accordance with Washoe County Development Code Section 110.804.25:

1. Special Circumstances. There are no special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; and the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property. Therefore, this finding cannot be made to support approval of the variance request.
2. No Detriment. Because there are no identifiable special circumstances applicable to the piece of property, granting the relief will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
3. No Special Privileges. Because there are no identifiable special circumstances, granting the relief will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the original applicant, unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Development Division within 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

Property Owner: Michael Fisher and Susanna Kintz
567 Alden Lane
Incline Village, NV 89451

Professional Consultant: Structural Design and Engineering
Attn: Brian Harrison
2958 Glenview Drive
Reno, NV 89503

Others to be Contacted: Mike Rehberger
688 Bridger Ct.
Incline Village, NV 89451



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

May 1, 2017

FR: Chrono/PL 183-17

Mr. Roger Pelham, Senior Planner
Community Services Department
Washoe County
PO Box 11130
Reno, NV 89520

RE: WADMIN17-0004 (Classical Tahoe)
WPVAR17-0002 (Fisher/Kintz Front Yard Setback Reduction)
WSUP17-0008 (Quilici Group Care)
WSUP17-0009 (Truckee Meadows Water Authority)
WTPM17-0006 (Smith)
WTPM17-0007 (Kauffmann)

Dear Mr. Pelham,

We have reviewed the above application and have no comments at this time.

Thank you for the opportunity to comment on this application. Please feel free to contact me at 775-332-0174 or email me at rkapuler@rcwashoe.com if you have any questions or comments.

Sincerely,

Rebecca Kapuler
Planner

RK/jm

Copies: Mojra Hauenstein, Washoe County Community Services
Chad Giesinger, Washoe County Community Services
Kelly Mullin, Washoe County Community Services
Jae Pullen, Nevada Department of Transportation, District II
Daniel Doenges, Regional Transportation Commission
Tina Wu, Regional Transportation Commission
Julie Masterpool, Regional Transportation Commission
David Jickling, Regional Transportation Commission

/Washoe County no comment: 05052017

RTC Board: Ron Smith (Chair) • Bob Lucey (Vice Chair) • Paul McKenzie • Marsha Berkbigler • Neoma Jardon
PO Box 30002, Reno, NV 89520 • 1105 Terminal Way, Reno, NV 89502 • 775-348-0400 • rcwashoe.com

WPVAR17-0002
EXHIBIT A



WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
Engineering and Capital Projects Division

"Dedicated to Excellence in Public Service"

1001 East 9th Street PO Box 11130 Reno, Nevada 89520 Telephone: (775) 328-2040 Fax: (775) 328-3699

INTEROFFICE MEMORANDUM

DATE: May 03, 2017
TO: Roger Pelham, Planning and Development Division
FROM: Leo R. Vesely, P.E., Engineering and Capitol Projects Division
SUBJECT: **WPVAR17-0002**
APN 122-133-02
FISHER/KINTZ SETBACK

I have reviewed the referenced variance case and recommend the following condition:

1. Provide a hold-harmless agreement to the satisfaction of the District Attorney and the Engineering Division.

LRV/lrv

**WASHOE COUNTY
HEALTH DISTRICT**
ENHANCING QUALITY OF LIFE

May 2, 2017

Roger Pelham, MPA, Senior Planner
Washoe County Community Services
Planning and Development Division
PO Box 11130
Reno, NV 89520-0027

RE: Fisher/Kintz; APN 122-133-02
Variance; WPVAR17-0002

Dear Mr. Pelham:

The Washoe County Health District, Environmental Health Services Division (WCHD) has reviewed the above referenced project. Approval by the WCHD is subject to the following conditions:

1. The WCHD has no objections to the approval of the variance as proposed.

If you have any questions or would like clarification regarding the foregoing, please contact Wes Rubio, Senior Environmental Health Specialist at wrubio@washoecounty.us regarding all Health District comments.

Sincerely,



James English, REHS, CP-FS
EHS Supervisor
Waste Management/Land Development Programs

JE:wr

Cc: File - Washoe County Health District

ENVIRONMENTAL HEALTH SERVICES
1001 East Ninth Street | P.O. Box 11130 | Reno, Nevada 89520
775-328-2434 | Fax: 775-328-6176 | washoecounty.us/health
Serving Reno, Sparks and all of Washoe County, Nevada | Washoe County is an Equal Opportunity Employer



**WPVAR17-0002
EXHIBIT A**



Development Review Status Sheet

Date: 4-24-17

Attention: rpelham@washoecounty.us

RE: WPMAR17-0002
APN: 122-133-02
Service Address: 567 Alden
Owner: Michael Fisher

Phone: Fax: Email:

Mailing Address: N/A

Variance Case Number WPMAR17-0002 (Fisher/Kintz Front Yard Setback Reduction) - For possible action, hearing, and discussion to approve a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction.

- Applicant/Property Owner: Michael Fisher and Susanna Kintz
Location: 567 Alden Lane, approximately 150 feet northeast of its intersection with Tyner Way
Assessor's Parcel Number: 122-133-02
Parcel Size: +/-0.39 acres (+/-16,988 square feet)
Master Plan Category: Suburban Residential (SR)
Regulatory Zone: Medium Density Suburban (MDS)
Area Plan: Tahoe
Citizen Advisory Board: Incline Village/Crystal Bay
Development Code: Authorized in Article 804, Variances
Commission District: 1 - Commissioner Berkgigler
Section/Township/Range: Section 17, Township 16 N, Range 18 E, MDM, Washoe County, NV
Staff: Roger Pelham MPA, Senior Planner
Phone: 775-328-3622
E-mail: rpelham@washoecounty.us

Comments and Conditions: No impact to the Incline Village General Improvement District

Completed by: Tim Buxton, Chief Inspector
Phone: (775) 832-1246 Fax: (775) 832-1260
Incline Village General Improvement District, 1220 Sweetwater Road, Incline Village NV 89451

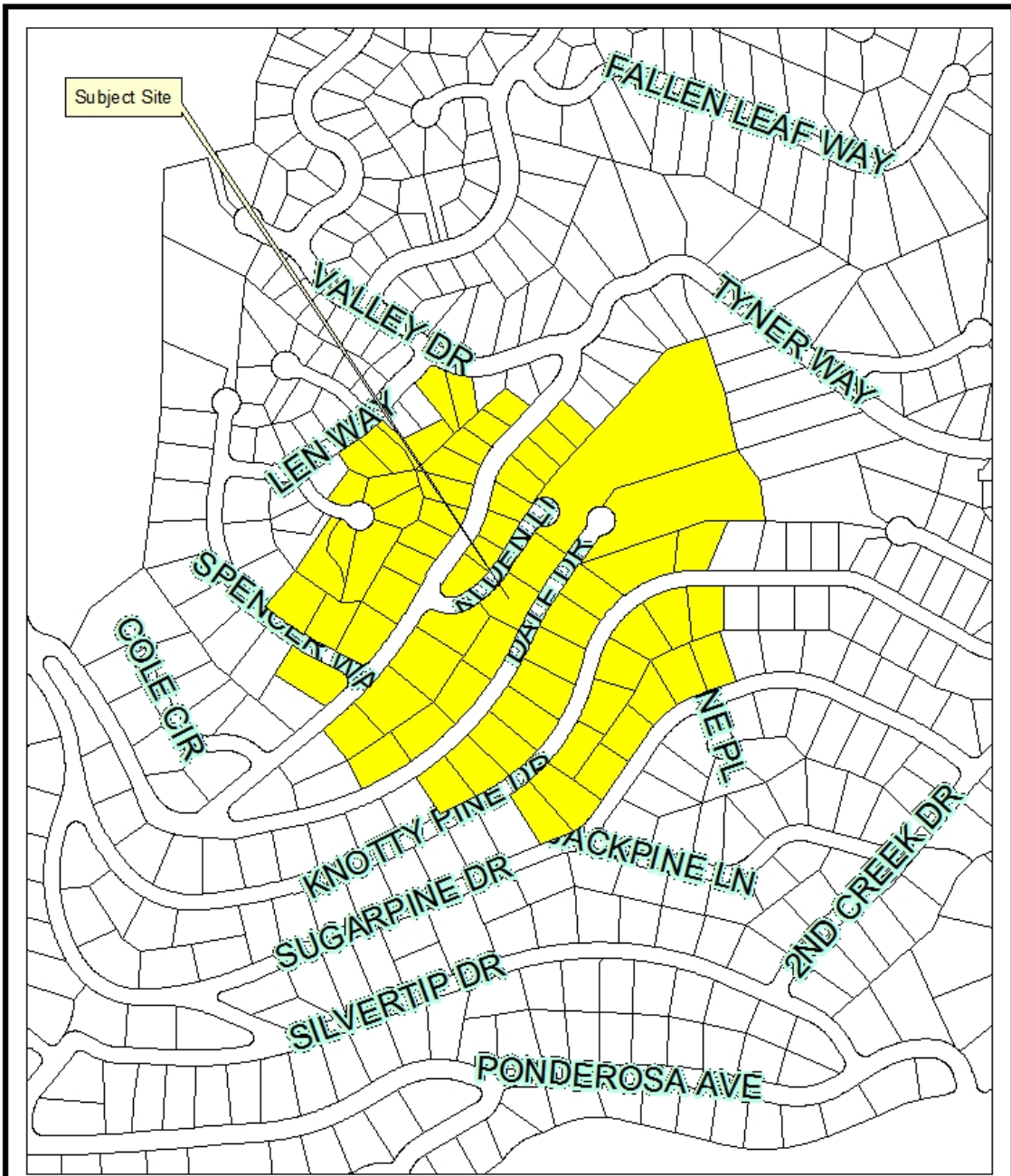
The contents of this transmission are intended only for the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law.

Note: Send information to the case planner as prescribed on the memo from Dawn or the Washoe County Development. TLB

From: Lawson, Clara
Sent: Monday, April 24, 2017 9:30 AM
To: Pelham, Roger
Subject: 567 Alden Ln AR17-0002 Variance

I don't have any objection to the proposed set back variances.

Clara Lawson, PE, PTOE, Licensed Engineer
89520 Washoe County | Community Services Dept | Engineering Division 1001 E. Ninth St., Reno NV
clawson@washoecounty.us | o 775-328-3603 | fax 775-328-3699
Connect with us: cMail | Twitter | Facebook | www.washoecounty.us



Mailing Label Map
Variance Case Number WPMAR17-0002
(Fisher / Kitner Front Yard Setback Reduction)

67 Parcels selected at 500 feet.

Source: Planning and Development Division



Date: April 2017

Community Services
 Department
 Planning and
 Development Division
WASHOE COUNTY
NE VADA
 Post Office Box 11120
 Reno, Nevada 89520
 (775) 328-2800

Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Development staff at 775.328.3600.

Project Information		Staff Assigned Case No.: _____	
Project Name: Fisher/Kintz Residence			
Project Description: Construction of Personal Residence/Request for Setback Variance			
Project Address: 567 Alden Lane, Incline Village, NV 89451			
Project Area (acres or square feet): .39 Acres			
Project Location (with point of reference to major cross streets AND area locator): Alden Lane and Tyner Way			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No.(s):	Parcel Acreage:
122-133-02	.39		
Section(s)/Township/Range:			
Indicate any previous Washoe County approvals associated with this application: Case No.(s). Permit #: 16-2272 (Construction 3 story home)			
Applicant Information (attach additional sheets if necessary)			
Property Owner:		Professional Consultant:	
Name: Michael Fisher & Susanna Kintz		Name: Structual Desing & Engineering	
Address: 567 Alden Lane, Incline Village		Address: 2958 Glenview Drive, Reno	
Zip: 89451		Zip: 89503	
Phone: 775-742-7210	Fax:	Phone: 775-657-1951	Fax:
Email: skintz@rkglawyers.com		Email: brian@sdesignengineering	
Cell: 775-742-7210	Other:	Cell: 775-657-1951	Other:
Contact Person: Susanna Kintz		Contact Person: Brian Harrison	
Applicant/Developer:		Other Persons to be Contacted:	
Name: Owner Builder		Name: Mike Rehberger	
Address: 567 Alden Lane, Incline Village		Address: 688 Bridger Ct., Incline Village	
Zip: 89451		Zip: 89451	
Phone: 775-742-7210	Fax:	Phone: 775-831-7765	Fax:
Email: skintz@rkglawyers.com		Email: mikepwc@sbcglobal.net	
Cell: 775-742-7210	Other:	Cell: 775-846-9676	Other:
Contact Person: Susanna Kintz		Contact Person: Mike Rehberger	
For Office Use Only			
Date Received:	Initial:	Planning Area:	
County Commission District:		Master Plan Designation(s):	
CAB(s):		Regulatory Zoning(s):	

Property Owner Affidavit

Applicant Name: Michael Fisher & Susanna Kintz

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
)
COUNTY OF WASHOE)

I, _____
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true, and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 122-133-02

Printed Name Michael A. Fisher JR.

Signed Michael A. Fisher JR.

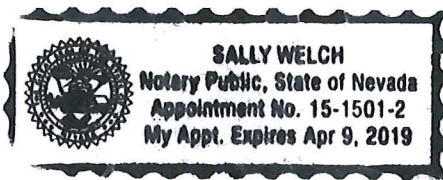
Address 567 Alden Lane Incline Village NV 89451

Subscribed and sworn to before me this
17 day of April, 2017.

(Notary Stamp)

Sally Welch
Notary/Public in and for said county and state

My commission expires: 4/9/19



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of record document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: Michael Fisher & Susanna Kintz

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
)
COUNTY OF WASHOE)

I, _____,
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true, and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 122-133-02

Printed Name Susanna Truax Kintz

Signed _____
[Handwritten Signature]

Address 567 Alden Lane, Indian Village
NV 89451

Subscribed and sworn to before me this
17 day of April, 2017.

(Notary Stamp)

Sally Welch
Notary Public in and for said county and state

My commission expires: 4/9/19



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of record document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Variance Application Supplemental Information

(All required information may be separately attached)

Chapter 110 of the Washoe County Code is commonly known as the Development Code. Specific references to variances may be found in Article 804, Variances.

1. What provisions of the Development Code (e.g. front yard setback, height, etc.) must be waived or varied to permit your request?

Section 110.406.05. A new residence is currently under construction on this site. (Permit # 16-2272). The permitted plans allow for roof over 1 ½' of the front entry porch. We are requesting a variance to permit the extension of the roof over the entire front porch. If granted, the roof will cover 7'8" of porch within the 20' setback (not including a 2' roof eave). This is the minimum amount of space necessary to both allow access to the driveway, and sufficient snow storage between the house and the driveway walkway. Alden Lane is approximately 10' from the property line, thus the structure will be more than 20' from the road, which is farther from the road than most of the homes in the neighborhood that sit on similar downhill grades. (See Exhibit 13 photos of neighboring homes). The Exhibit 14.a and 14.b photos of the residence show the length of the ridge beams if the variance is granted. We are also requesting a variance of 6" for the garage eave to permit a decorative truss. A portion of the Garage sits behind the 20' setback thus that portion will fall within the set back.

You must answer the following questions in detail. Failure to provide complete and accurate information will result in denial of the application.

2. What are the topographic conditions, extraordinary or exceptional circumstances, shape of the property or location of surroundings that are unique to your property and, therefore, prevent you from complying with the Development Code requirements?

The lot has steep 30% downward grade, thus the farther the structure is placed from the street, the higher above grade level the structure must be suspended. (See Exhibit 14.c. and 14.d. showing the slope of the lot). Thus, for safety and aesthetic reasons, it is preferable to situate the residence as close to the street as possible. The structure that was torn down had a substantial 40' long retaining wall that sits on the 20' setback line. It was both practical and the best option safety-wise given the lot's steep grade, to situate the new structure directly on this existing retaining wall.

By situating the new structure on the existing retaining wall, we were unable to accommodate a covered front entry within the setback. We tried many different design ideas none of which made practical or aesthetic sense given the height and other TRPA restrictions we had to comply with. We went forward with construction without first obtaining a variance with the knowledge and understanding that there was a risk we would not be granted a variance, because we did not see any other option. If the variance is not granted, we simply will not have a covered entrance.

The home has an elevation of approximate 6700' above sea level and can get a significant amount of snow, thus there is a need for a covered entry to the home.

3. What steps will be taken to prevent substantial negative impacts (e.g. blocking views, reducing privacy, decreasing pedestrian or traffic safety, etc.) to other properties or uses in the area?

The covered entry was designed so that it will not impede neighbor views, impact neighbor privacy, or have any other negative impact on the neighborhood, and is consistent with the existing neighborhood set backs. (See Exhibit 14.a.and 14.b.). The owners of the three homes that are impacted by the variance all support the variance and have signed letters expressing their support. (See Exhibit 12). Further, the design achieves the smallest possible encroachment while allowing access to the home from the driveway and permitting sufficient snow storage along the side of the house.

4. How will this variance enhance the scenic or environmental character of the neighborhood (e.g. eliminate encroachment onto slopes or wetlands, provide enclosed parking, eliminate clutter in view of neighbors, etc.)?

The covered entry enhances the aesthetic appeal of the home, which serves to increase the values of the surrounding homes. The majority of the homes in the neighborhood sit within the 20' setback line and thus the variance lends itself to the existing character of the neighborhood. (See Exhibit 13 photos)

The existing deck is permitted to 7.8" into the setback. We are requesting a variance that would permit us to cover the deck with a standard 2' eave. There should be little to no negative impact on the environment, because the covered roof would be approximately 11 1/2' above grade at its lowest point and the deck below will be permeable. The deck size allows sufficient room to store snow shedding off the roof between the garage walkway and the home. In the event the variance is granted we will amend our permit accordingly. We reserved coverage for this purpose.

The proposed extension of the garage roof eave only partially infringes the setback. The extension permits the addition of a truss that will enhance the design of the home.

5. What enjoyment or use of your property would you be denied that is common to other properties in your neighborhood?

The majority of the surrounding homes are built within the 20' setback and are closer to the street than our residence even with the variance. The majority of these homes have covered entries. Given the amount of snow and inclement weather the home is exposed to, the covered entry would significantly improve the enjoyment of the home.

6. Are there any restrictive covenants, recorded conditions or deed restrictions (CC&Rs) that apply to the area subject to the variance request?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	If yes, please attach a copy.
------------------------------	--	-------------------------------

7. What is your type of water service provided?

Community Water Service

8. What is your type of sewer service provided?

Community sewer service

Click

More

Gmail

COMPOSE

Property tax printout for 567 Alden Lane

Inbox x

Inbox (142)

Important

Sent Mail

Drafts (5)

All Mail

Trash

[Imap]/Sent

Cancelled Reservations

Italy

MCLE (5)

Notes

Personal

Travel

More labels

Riordan, Catherine <CRiordan@washoecounty.us>

to me

Please see the attachment for your information.

Cathy

Catherine Riordan
 Account Clerk | Washoe County Treasurer
criordan@washoecounty.us | O 775.328.2510 | F 775-328-2500 | 1001 E 9th St Bldg C
 Pay Online: | www.washoecounty.us/treas
 Mail : | PO Box 30039 Reno, NV 89520-3039



Property Tax Reminder Notice		Page 1	
WASHOE COUNTY PO BOX 30039 RENO NV 89520-3039	PAY TO: WASHOE PAY TO: WASHOE	Account Due Amount: \$0.00 Amount Due: \$0.00 Total Due: \$0.00	Balance Due: \$0.00
ADD: 2841 E RICHARD L DR & SUSANNA FIRM DR ST AUGUSTINE RENO NV 89520-3039		Group:	
SUE W. ALDEN TOL			

Property Tax Reminder Notice

WASHOE COUNTY
 PO BOX 30039
 RENO, NV 89520-3039
 775-328-2510

PIN: 12213302
 AIN:

Balance Good Through:	03/08/2017
Current Year Balance:	\$0.00
Prior Year(s) Balance: (see below for details)	\$0.00
Total Due:	\$0.00

AUTO
 :894513:

MICHAEL A JR & SUSANNA FISHER
 567 ALDEN LN
 INCLINE VILLAGE NV 89451

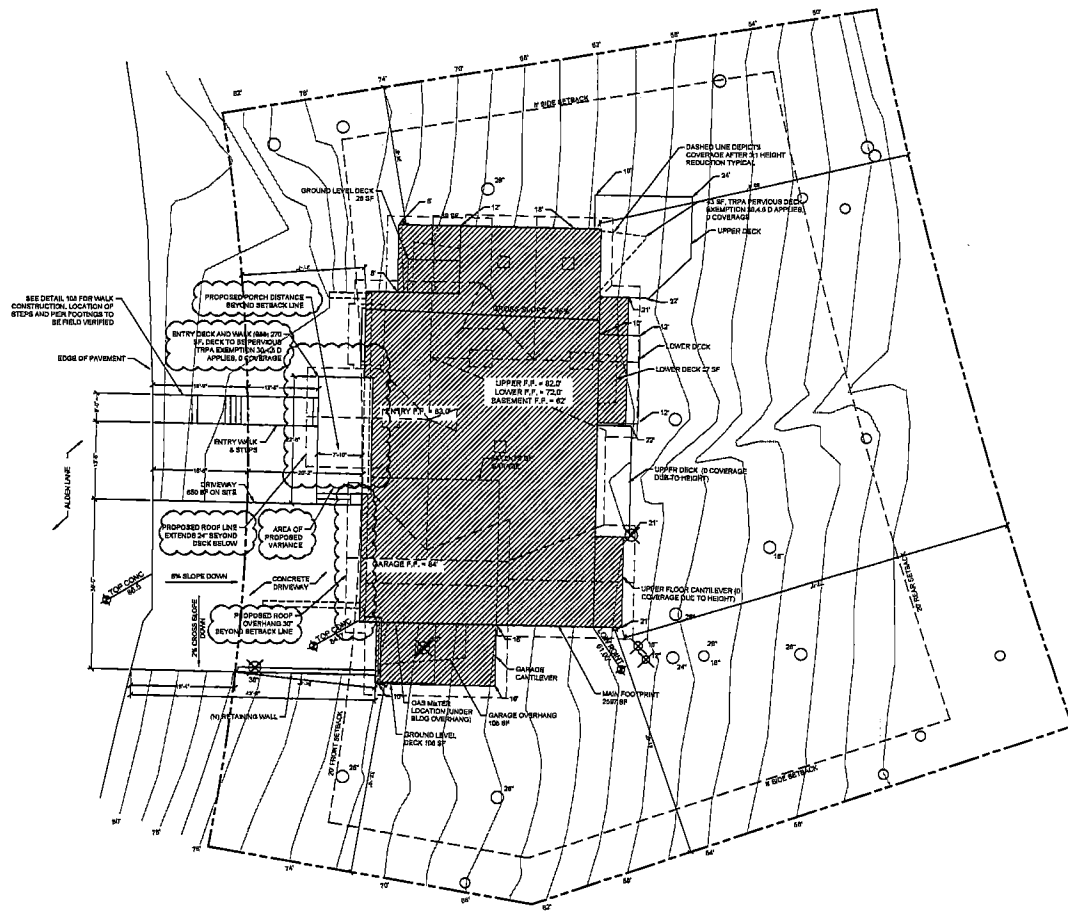
Description:

Situs: 567 ALDEN LN
 INCL

This is a courtesy notice. If you have an impound account through your lender or are not sure if you have an impound account and need more information, please contact your lender directly. Please submit payment for the remaining amount(s) according to the due dates shown. Always include your PIN number with your payment. Please visit our website: www.washoecounty.us/treas

Current Charges									
PIN	Year	Bill Number	Inst	Due Date	Charges	Interest	Pen/Fees	Paid	Balance
12213302	2016	2016096923	1	08/15/2016	1,147.63	0.00	0.00	1,147.63	0.00
12213302	2016		2	10/03/2016	1,147.43	0.00	0.00	1,147.43	0.00
12213302	2016		3	01/02/2017	1,147.43	0.00	0.00	1,147.43	0.00
12213302	2016		4	03/06/2017	1,147.43	0.00	0.00	1,147.43	0.00
Current Year Totals					4,589.92	0.00	0.00	4,589.92	0.00

Prior Years								
PIN	Year	Bill Number	Charges	Interest	Pen/Fees	Paid	Balance	
Prior Years Total								



NOTES:
 1) THIS PLAN IS BASED ON RECORD INFORMATION ONLY. (D BOUNDARY SURVEY WAS PERFORMED.)
 2) EXISTING AND ALLOWABLE COVERAGES SHOWN BELOW ARE BASED ON THE PREVIOUS PERFORMED SITE ASSESSMENT BY TRPA.
 3) TOPO INFORMATION IS BASED ON THE PREVIOUS SURVEY PERFORMED BY BEN BARRONS

ALLOWABLE LAND COVERAGE
 LOT SIDE TABLE BY 20% = 3,652 SF

EXISTING LAND COVERAGE	
RESIDENCE ELEVATION	1,348 SF
DECK/STAIRS	204 SF
PAVING	888 SF
TOTAL	2,440 SF

PROPOSED LAND COVERAGE

BUILDING FOOTPRINT	2,507 SF
SEILING OVERHANGS	204 SF
DECKS (SEE "NOTE BELOW")	0 SF
PARKING DECK	498 SF
TOTAL	3,209 SF

* NOTE: TOTAL DECK COVERAGE AFTER 5:1 HEIGHT REDUCTION = 425 SF. TRPA PERVIOUS DECK EXEMPTION 20.4 D D APPLIES. EX COVERAGE COUNTED FOR DECKS

OFF SITE COVERAGE

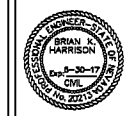
EXISTING	205 SF
PROPOSED	498 SF

NOTES:
 1) ALL IMPROVEMENTS WITHIN THE COUNTY RIGHT-OF-WAY SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE LATEST COUNTY ORDINANCES AND THE LATEST COUNTY STANDARD SPECIFICATIONS AND DETAILS.
 2) A STREET ELEVATION PERMIT IS REQUIRED FOR ANY WORK TO BE PERFORMED WITHIN THE WARHOLE COUNTY RIGHT-OF-WAY.
 3) THE WARHOLE COUNTY ROAD DEPARTMENT (228-180) MUST APPROVE THE NEW DRIVEWAY APPROACH PRIOR TO PERMIT FINAL CERTIFICATE OF OCCUPANCY.
 4) AN ADDRESS SIGN WITH A MINIMUM 8" TALL LETTERING ON CONTRASTING BACKGROUND SHALL BE VISIBLE FROM THE FRONTAGE ROAD.

PREPARED BY:
BRIAN K. HARRISON, P.E.
STRUCTURE DESIGN & ENGINEERING
 2858 GLENVIEW DRIVE, RENO NV 89503
 (775) 857-1951



THIS DRAWING IS THE SOLE PROPERTY OF STRUCTURE DESIGN & ENGINEERING. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR REPRODUCTION WITHOUT WRITTEN PERMISSION IS STRICTLY PROHIBITED.



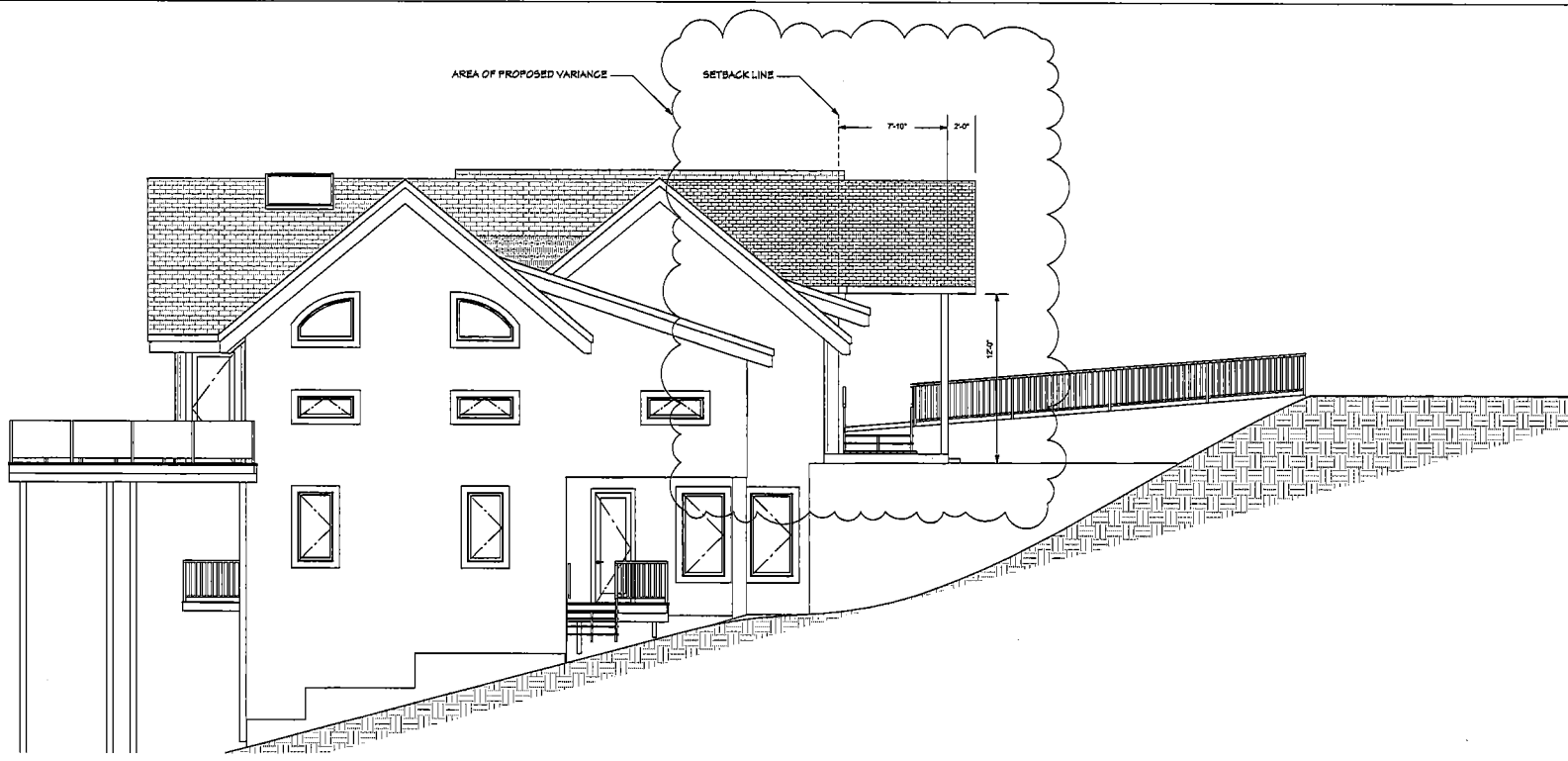
FISHER/KINTZ RESIDENCE
 PREPARED FOR:
 SUSANNA KINTZ
 ERGOCEC LOGAN/DAI
 427 W. VALLEY, NV
 APRIL 122-133-02

SITE PLAN
 SCALE: 1" = 17'

SHEET INDEX

V1	PROPOSED SITE PLAN
V2	PROPOSED ELEVATION
A1	UPPER FLOOR PLAN

DATE	SEPTEMBER 9, 2018
DRAWN BY	BKH
JOB NO.	10284
PROJECT NO.	V1



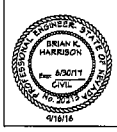
LEFT ELEVATION

SCALE
1/4" = 1'-0"

PREPARED BY:
BRIAN K. HARRISON, P.E.
STRUCTURE DESIGN & ENGINEERING
BRIAN@SDESIGNENGINEERING.COM
2558 CLAYVIEW DRIVE, BERND, NY 13623
(716) 857-1951



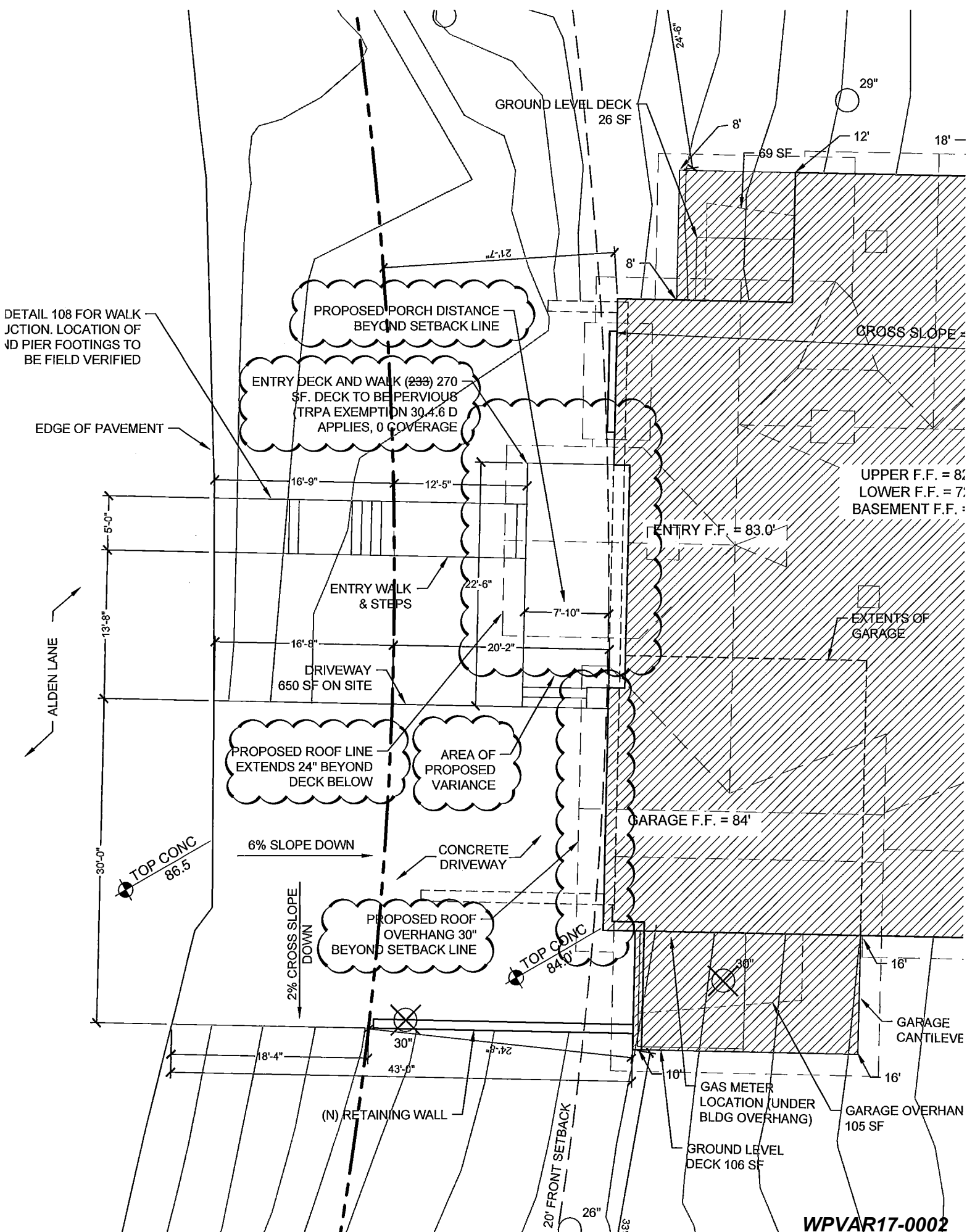
This drawing is the property of S Design Engineering, Inc. and shall not be used for any other project without the express written consent of S Design Engineering, Inc.



FISHERKINTZ RESIDENCE
PREPARED FOR
SUSANNA KINTZ
PROJECT LOCATION
100 WEST ALBANY
APRIL 22, 2012

REV. 2	07/17/12
DATE	05/18/12
DRAWN BY	BKH
JOB NO.	10073
DRAWING NO.	

V2



FRONT ELEVATION



WEST ELEVATION



Charlotte Jones
565 Alden Lane
Incline Village, NV
March 2, 2017

Washoe County Building Department
1001 East Ninth Street
Reno, Nevada 89520

Re: Support of Fisher/Kintz Request for Setback Variance at 567 Alden Lane, Incline Village, NV

Dear Sirs and Madams:

The purpose of this letter is to support the Fisher/Kintz Family request for a variance for an eight foot (8') variance to allow for a covered front porch and a six inch (6") variance for the roof eave to accommodate a decorative truss over the garage door. We support the request for the following reasons:

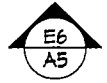
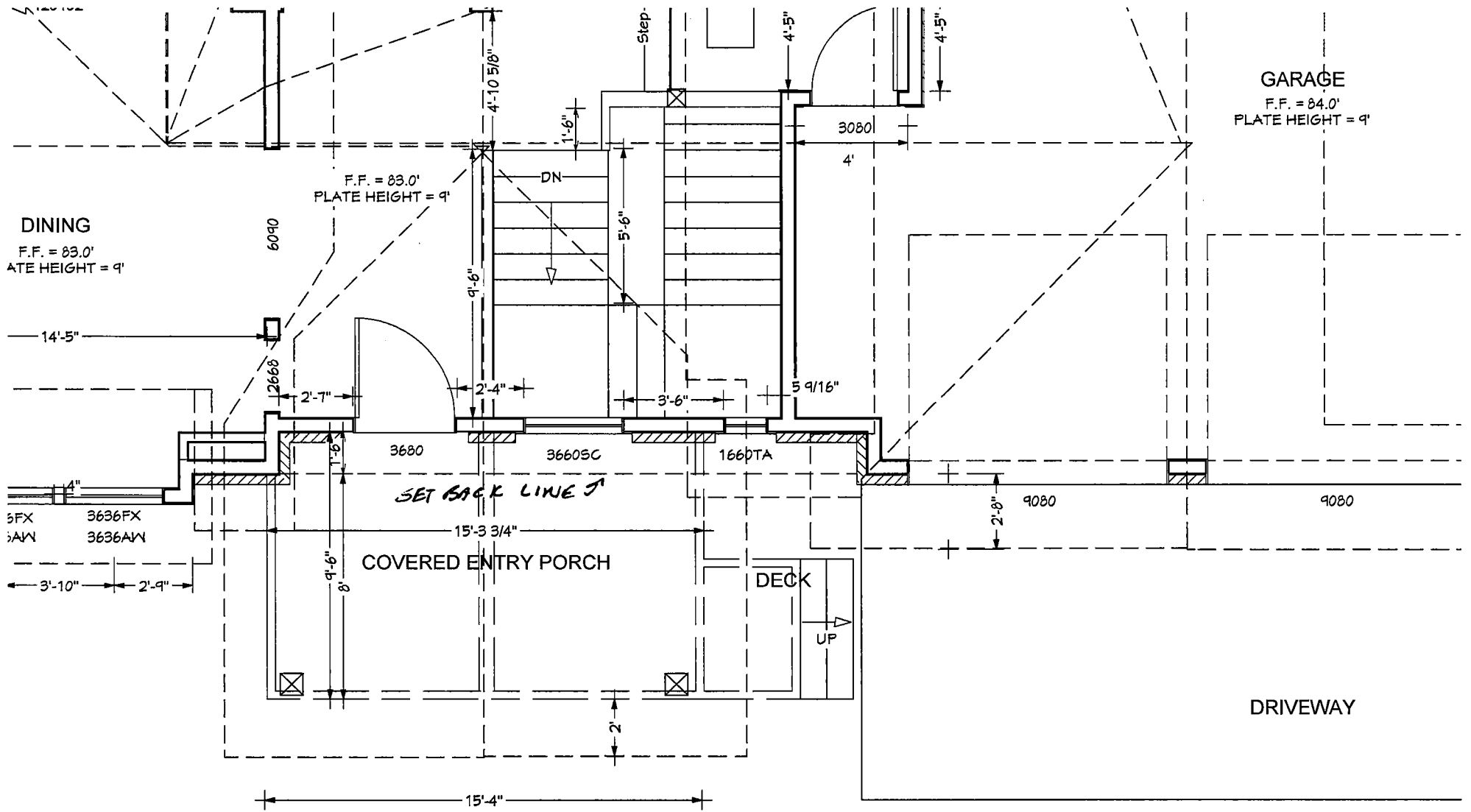
1. The proposed covered front porch and truss work over the porch and garage are aesthetically pleasing and will enhance the value of the homes in the neighborhood.
2. The variance should not be an issue with other neighbors because even with the variance, the residence is set back further from the street than neighboring houses and structures will not block views.
3. Having a covered front porch provides shelter from our inclimate mountain weather.

I hope that letter is helpful to the Department and that the variance request is approved.

Sincerely,



Charlotte Jones





Rick and Jacque Coddington

567 Tyner Way

Incline Village, NV

February __, 2017

Washoe County Building Department

1001 East Ninth Street

Reno, Nevada 89520

Re: Support of Fisher/Kintz Request for Setback Variance at 567 Alden Lane, Incline Village, NV

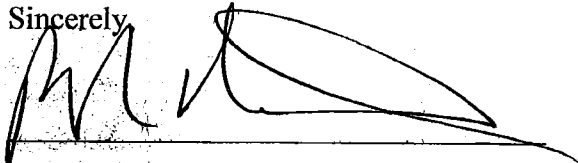
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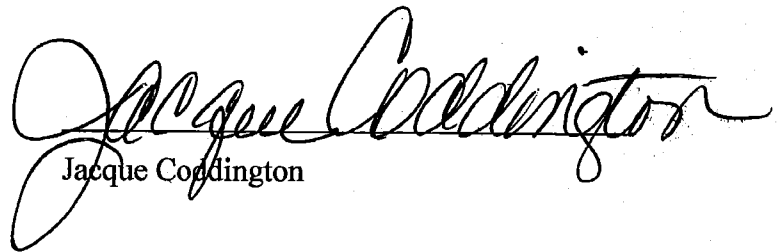
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3. Having a covered front porch provides shelter from our inclimate mountain weather.

We hope that letter is helpful to the Department and that the variance request is approved.

Sincerely,



Rick Coddington



Jacque Coddington



Richard and Shari Liotta

569 Alden Lane,
Incline Village, NV
February __, 2017

Washoe County Building Department
1001 East Ninth Street
Reno, Nevada 89520

Re: Support of Fisher/Kintz Request for Setback Variance at 567 Alden Lane, Incline Village, NV

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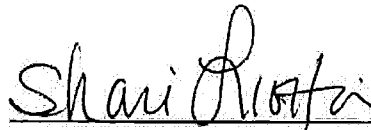
1. The proposed covered front porch and truss work over the porch and garage are aesthetically pleasing and will enhance the value of the homes in the neighborhood.
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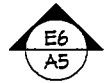
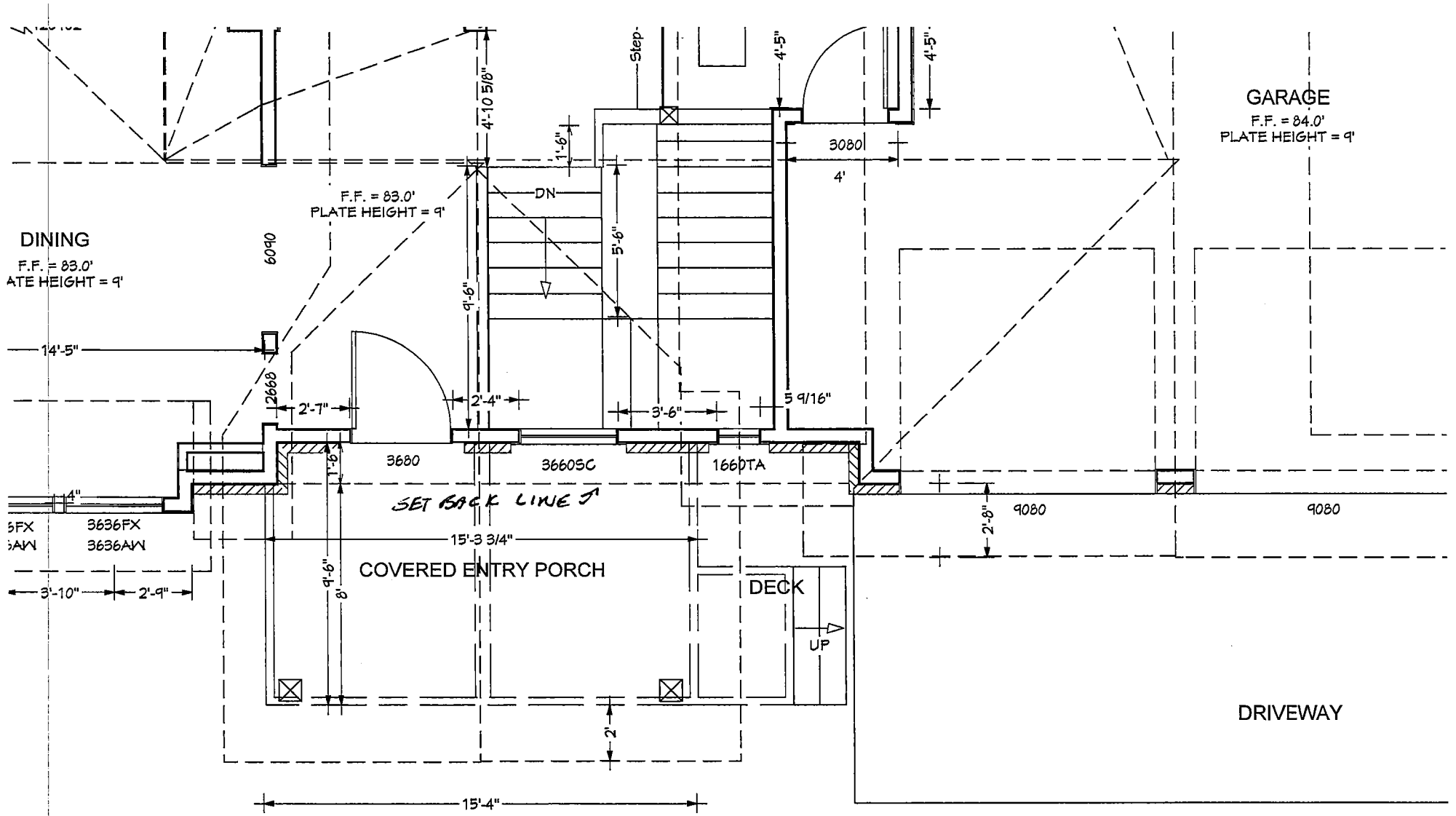
Sincerely,



Richard Liotta



Shari Liotta







555







30 YD

5157







561

YUKON XL



663









569

02BNUSA

373-ARW

4x4
OFF ROAD



567

PACIFIC
CONSTRUCTION

NO
TRESPASSING







ATTACHMENT B

E. Variance Case Number WVAR17-0002 (Fisher/Kintz Front Yard Setback Reduction) – For possible action, hearing, and discussion to approve a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback includes a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also includes a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a “decorative truss” at the front of the garage.

- Applicant/Property Owner Michael Fisher and Susanna Kintz
567 Alden Lane
Incline Village, NV 89451
- Location: 567 Alden Lane, approximately 150 feet northeast of its intersection with Tyner Way
- Assessor’s Parcel Number: 122-133-02
- Parcel Size: ±0.39 acres (±16,988 square feet)
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 17, Township 16 N, Range 18 E, MDM
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.3622
- Email: rpelham@washoecounty.us

Chair Toulouse opened the public hearing. Roger Pelham, Senior Planner, presented the Staff Report. Chair Toulouse called for any questions from the Board. Hearing none, he opened up the presentation to the Applicant.

Susanna Kintz, owner, stated the reason for the denial recommendation from Staff was their finding of a lack of peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner to comply with the 20-foot setback requirement. She submitted the Board should reject Staff’s recommendation of a denial and grant the Variance. Staff’s finding was inconsistent with respect to Variance applications of similarly situated properties. Denial of the Variance by this Board would constitute an arbitrary and capricious action that would deny her and her husband due process of law.

Ms. Kintz stated the subject property was located in Incline Village, and like all the properties she would reference it was subject to a 20-foot setback. The previous structure was old and had asbestos so it had to be torn down. The subject was approximately 6,700 feet above sea level and in winter months it was subject to hazards created by snow and ice. If the Variance was granted the covered porch would still be approximately 20 feet from the street, which was significantly farther from the street than a good majority of the homes in the area. She said the subject had a 30 percent grade, wherein some of the properties staff had recommended approval of a Variance had only a 25 percent grade. She explained the grade was significant, because the steeper the grade the higher the structure must be in order for the structure to sit within the 20-foot setback. She demonstrated the higher the structure was suspended over the grade level, the greater the danger would be to the

inhabitants and visitors due to falls in icy conditions. She felt the slope would directly impact the determination of whether there were particular and exceptional practical difficulties to, or exceptional undue hardships upon the owner to comply with the 20-foot setback requirement.

Ms. Kintz stated that TRPA requirements restricted the overall height of the structure, which would increase the slope of the driveway and the walkway to the home. She felt the greater the slope and the length of the driveway would cause hazards created by snow and ice. She stated the TRPA height restrictions impacted the determination of whether there were particular and exceptional practical difficulties to, or exceptional and undue hardships upon the owner to comply with the 20-foot setback.

Ms. Kintz discussed 541 Dale Drive and 547 Dale Drive that were in her neighborhood, which were similar in size, grade, and slope, had the same TRPA requirements, and were subject to the same hazards from snow and ice as the subject; however, they were granted a Variance. She presented a copy of the Staff Report for 541 Dale Drive. The Variance for 541 Dale Drive reduced the 20-foot setback to 2 feet, wherein the Variance she was requesting was only for a setback of 9 feet 10 inches.

Ms. Kintz stated staff supported approval of the application for Dale Drive on the grounds that the property had a 25 percent grade and the TRPA restrictions would require a longer driveway if the Variance was not granted, which staff found would create hazards from snow and ice. Both of those factors were present in her application and she submitted there was no discernable reason why staff would recommend approval for Dale Drive and recommend denial for her property. She stated staff found special circumstances and hardships existed due to slopes and access, and with the TRPA tree retention requirement the property on Dale Drive was restricted in the placement of the new residence and garage. Staff further found that due to the steep slopes on the property, the proposed garage placement was optimal so as to avoid a steep driveway and access. She said in addition the same hazardous conditions that merit approval of a Variance for a garage within the 20-foot setback were present with respect to a covered porch. Whether they were talking about a walkway or a driveway to a covered entrance, the greater the length and the slope the greater the hazards created by snow and ice.

Ms. Kintz stated it was important to note that in recommending approval of the Variances for 541 and 547 Dale Drive, staff did not recommend limiting the Variance to the garage, but rather recommended the Variance for the garage, covered entry and the home. She said the Board of County Commissioners (BCC) recognized a covered porch was necessary to reduce the hazardous conditions caused by snow and ice. She said the application submitted for 557 Dale Drive recommended denial of a new entrance for the home within the setback for substantially the same reasons for their recommendation of denial for the subject property. Staff dismissed the need for a covered structure to mitigate hazards caused by snow and ice and this Board denied the Variance, but the BCC reversed that decision and the Variance was granted. She understood the BCC would not have granted the application unless they found there existed particular and exceptional practical difficulties to, or exception and undue hardships upon the owner to comply with the 20-foot setback. The distance from the street to the covered entrance for 557 Dale Drive was 6 feet, wherein it would be approximately 20 feet for the subject property.

Ms. Kintz stated staff's recommendation of denial was also inconsistent with the Variance granted for numerous other properties in the same area. She said that structure set well back within the setback line, five or six feet of the street and the same was true for 541 Dale, 553 Dale, 555 Dale, 557 Dale Drive. All of those properties had structures that were significantly closer to the street than the subject property, had the same or similar slopes and were subject to the same TRPA restrictions and the same winter conditions.

Ms. Kintz stated the only difference between the application for the subject property and 541 Dale Drive and 547 Dale Drive properties was the timing of when the application was submitted. In the case of the applications that were recommended for approval, staff reviewed the application prior to the commencement of the new construction. Whereas, with regard to the subject the application was submitted after construction began. She said the timing of the submission of the application should not affect staff's findings.

Ms. Kintz stated in designing the new structure they were able to position the garage within the 20-foot setback, but they were not able to accommodate a covered porch. She said she spent a significant amount of time trying to design a covered entry within the 20-foot setback and hired an architect to help her. The choices were to push the structure back beyond the 20-foot setback, which would have created all the hazards staff recognized in recommending approval of 541 and 547 Dale Drive, place the covered structure within the interior of the home which would have created snow melt and flooding issues, or place the entry on one end or the other of the home. There was no practical way to accommodate a covered porch within the constraints presented by the steep slope and the TRPA restrictions.

Ms. Kintz stated they went forward with construction without first getting a Variance because it would have required waiting another season to start. She thought the Board would grant the Variance for the covered porch or they would not get one, there was just no practical way to design the covered porch with the constraints they faced. They did not mean to in anyway, disrespect the Board or the importance of the work they did by going forward with the construction without first applying. A decision by this Board, based on the unsupportable and inconsistent finding, would be arbitrary and capricious and would deny them due process. It was a fundamental principal of the system of law that people be held to the same rules of law. She said there should not be arbitrary or capricious enforcement of the rules for two applications that were granted for conditions that were identical to the subject and she said the Variance should be granted.

Chair Toulouse opened up questions to the Board. Member Stanley asked if Ms. Kintz was aware at the beginning of the construction that a Variance would be required. Ms. Kintz stated they knew they could not design a covered porch and the only way to get one would be to apply for a Variance. She said they went ahead with the construction knowing they would have a house without a covered porch or that the placement of the property was dictated by the same reasons the other properties were. Member Stanley asked when she consulted with Planner Pelham and at what point did he inform them of the findings and that she was not meeting the requirements. Ms. Kintz stated she did not consult with him, she filed the application. She said she understood that since the building was already there, there was no longer a need for a Variance. She said the BCC must have found the fact that the other homes on Dale Drive were already there, did not mean there wasn't a need for a covered entrance way to mitigate the snow and ice.

Mr. Pelham stated there was no requirement for the Applicant to meet with staff prior to submission of an application. He said in this case he called the Applicant and left two or three messages to encourage them to withdraw early in the process while he could still issue a refund, because it was clear to him that given the limitations of his analysis for a hardship, this was probably not a good candidate for him to go forward with a recommendation of approval.

Member Hill said Dale Smith designed this house. Ms. Kintz stated he helped her design it and helped her with the exterior. Member Hill asked if she was an architect. Ms. Kintz stated she was not, but she designed homes. She said the process of getting the plans finalized took about three months longer than they thought. She thought there would be time to get a Variance between the deadlines for building, but unfortunately she hired someone to do the work and he was not able to deliver, so they had to go forward.

Ms. Kintz stated the fact that the building had already been started and permits approved did not deflect in any way from whether or not the circumstances and the findings should be made and the Variance granted. Member Hill said the Board had to decide on this project alone and they could not look at Dale Drive projects. She went on to clarify the Board had no recollection of what those projects were, how that got decided, was this Board involved in those, or did they go to the BCC on appeal. She informed Ms. Kintz she was entitled to the same appeal process and the Applicant's property could not be compared to other properties. Ms. Kintz said it would be one of the things that would be looked at if it went on to an appeal, whether or not this decision was inconsistent with other decisions and that was why she brought it to this Board's attention. She said she was not able to work within the 20-foot setback line and create the structure that the other projects were able to create with a Variance. She said the fact they went forward did not mean those circumstances were not there; they were there because those properties she mentioned were identical to the subject. The fact they went ahead and got a permit to build it without a front porch was because they were hoping they could come back and get a Variance. She said she had the same constraints the other properties had and she did the best she could to work within those constraints, but that did not mean she should not be able to have the benefit of a Variance when her neighbors who had the exact same circumstances were able to get one.

Member Thomas requested clarification. He stated the Applicant bought the property with a house on it, then tore it down and redesigned the current house that was being built. He said it was designed without a covered front porch and now the Applicant was before the Board saying there was an undue hardship and she needed a Variance for a design she came up with without a front porch to begin with. Mr. Kintz stated the design had a front porch it was just not covered and yes she had an undue hardship in that she could not get a covered front porch within the 20-foot setback line. Member Thomas asked her why she did not design a home with a covered porch. Ms. Kintz stated because of the steep slope, together with the TRPA's restrictions, would have required moving the house farther away from the street. If she did that it would mean a longer driveway, lower, steeper driveway. She said they probably would not have been able to do it because of the 14 percent restriction on the decline of the driveway. She said they positioned the home in the only place they could to not have those more dangerous, hazardous conditions. She said what they did was do the best they could to work within the setback, but they could not come up with a design that had a covered porch, which meant it would be exposed to the rain, snow and ice. She said the other Variances were not just granted for a garage; they were granted for the structure also. The fact that they were coming in after the fact should not mean that they did not have the same extenuating circumstances. She did not believe the fact they already had a permit and were under construction mitigated the findings.

Chair Toulouse opened public comment. Hearing none, he brought it back to the Board for discussion. Member Hill stated she was having a hard time finding the hardship. She said the Applicant designed the home, got a building permit, started construction and then decided they wanted something else.

Member Stanley stated typically Variances were some of the Board's easiest decisions, because they either met the requirements or not. He agreed this project did not seem to meet the findings and he thought it might be arbitrary and capricious to invent a reason going in to the past that would allow the Board to manufacture those findings.

Member Lawrence stated it was unfortunate when regulations, specifically TRPA in this matter, seemed to be causing the most hardship. He stated in not allowing the home to be set farther back or it would be higher, which would cause the driveway to be steeper and it seemed like it was a TRPA issue more than the topography of the property. He said he saw no parking issues with the encroachment, no snow removal or snow placement issues, no street issues or visual obstructions,

Chair Toulouse said he did not see the special circumstance or the hardship and he agreed with Mr. Pelham's judgement in this matter. He said the Board decided every case, case-by-case, they did not consider what was done a hundred times before or what a neighbor might have. He said the Applicant was well within her right to appeal this.

Chair Toulouse called for a motion.

Member Thomas moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny Variance Case Number WPVAR17-0002 for Michael Fisher and Susanna Kintz, being unable to make findings 1, 2 and 3 in accordance with Washoe County Development Code Section 110.804.25. Member Stanley seconded the motion, which carried unanimously.

1. Special Circumstances. There are no special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; and the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property. Therefore, this finding cannot be made to support approval of the variance request.
2. No Detriment. Because there are no identifiable special circumstances applicable to the piece of property, granting the relief will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
3. No Special Privileges. Because there are no identifiable special circumstances, granting the relief will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.



WASHOE COUNTY
Planning and Development
 INTEGRITY COMMUNICATION SERVICE

Community Services Dept.
 P.O. Box 11130
 Reno, Nevada 89520-0027
 Phone: (775) 328-3600
 Fax: (775) 328-6133

Board of Adjustment Action Order
Variance Case Number WVAR17-0002

Decision: Denial

Decision Date: June 1, 2017

Mailing/Filing Date: June 2, 2017

Property Owner: Michael Fisher and Susanna Kintz
 567 Alden Lane
 Incline Village, NV 89451

Assigned Planner: Roger Pelham, MPA, Senior Planner
 Washoe County Community Services Department
 Planning and Development Division

Phone: 775.328.3622
 E-Mail: rpelham@washoecounty.us

Variance Case Number WVAR17-0002 (Fisher/Kintz Front Yard Setback Reduction) – For possible action, hearing, and discussion to approve a variance to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback includes a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also includes a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a "decorative truss" at the front of the garage.

- Applicant/Property Owner: Michael Fisher and Susanna Kintz
 567 Alden Lane
 Incline Village, NV 89451
- Location: 567 Alden Lane, approximately 150 feet northeast of its intersection with Tyner Way
- Assessor's Parcel Number: 122-133-02
- Parcel Size: ±0.39 acres (±16,988 square feet)
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 17, Township 16 N, Range 18 E, MDM
 Washoe County, NV

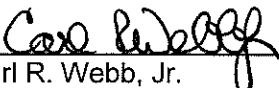
Notice is hereby given that the Washoe County Board of Adjustment denied the above referenced case number based on the inability to make the findings required by Washoe County Development Code Section 110.804.25

To: Michael Fisher and Susanna Kintz
Subject: Variance Case WVAR17-0002 (Fisher/Kintz Front Yard
Setback Reduction)
Date: June 2, 2017
Page: 2

1. Special Circumstances. There are no special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; and the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property. Therefore, this finding cannot be made to support approval of the variance request.
2. No Detriment. Because there are no identifiable special circumstances applicable to the piece of property, granting the relief will impair the intent and purpose of the Development Code by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
3. No Special Privileges. Because there are no identifiable special circumstances, granting the relief will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property

Anyone wishing to appeal this decision to the Washoe County Board of County Commissioners may do so within 10 calendar days after the Mailing/Filing Date shown on this Action Order. To be informed of the appeal procedure, call the Planning staff at **775.328.6100**. Appeals must be filed in accordance with Section 110.912.20 of the Washoe County Development Code.

Washoe County Community Services Department
Planning and Development Division



Carl R. Webb, Jr.
Secretary to the Board of Adjustment

CW/RP/df

Property Owner: Michael Fisher and Susanna Kintz
567 Alden Lane
Incline Village, NV 89451

Professional Consultant: Structural Design and Engineering
Attn: Brian Harrison
2958 Glenview Drive
Reno, NV 89503

Others to be Contacted: Mike Rehberger
688 Bridger Ct.
Incline Village, NV 89451

To: Michael Fisher and Susanna Kintz
Subject: Variance Case WVAR17-0002 (Fisher/Kintz Front Yard
Setback Reduction)
Date: June 2, 2017
Page: 3

Action Order xc: Nathan Edwards, District Attorney's Office; Keirsten Beck, Assessor's Office; Cori Burke, Assessor's Office; Tim Simpson, Utilities; Leo Vesely, Engineering and Capital Projects;
Tahoe Agencies: Tahoe Regional Planning Agency, Post Office Box 5310, Stateline, NV 89449-5310; North Lake Tahoe Fire Protection District; 866 Oriole Way, Incline Village, NV 89451-9439; Incline Village/Crystal Bay Citizen Advisory Board; Incline Village General Improvement District, 893 Southwood Boulevard, Incline Village, NV 89451; Nevada Division of Forestry, 885 Eastlake Boulevard, Carson City, NV 89701; Nevada State Lands, Rex Harold, 901 South Stewart Street, Suite 5003, Carson City, NV 89701-5246; USFS, Brian Garrett, Urban Lands Manager, 35 College Drive, South Lake Tahoe, CA 96150

Attachment D

Washoe County Appeal of Decision to Board of County Commissioners

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Development staff at 775.328.3600.

Appeal of Decision by (Check one)	
Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20.	
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Board of Adjustment
<input type="checkbox"/> Hearing Examiner	<input type="checkbox"/> Other Deciding Body (specify) _____
Appeal Date Information	
Note: This appeal must be delivered in writing to the offices of the Planning & Development Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant.	
Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).	
Date of this appeal: <u>June 12, 2017</u>	
Date of action by County: <u>June 1, 2017</u>	
Date Decision filed with Secretary: <u>June 2, 2017</u>	
Appellant Information	
Name: Michael Fisher & Susanna Kintz	Phone: 775-742-7210
Address: 567 Alden Lane	Fax: 775-832-6800
	Email: skintz@rkglawyers.com
City: Incline Village State: NV Zip: 89451	Cell: 775-742-7210
Describe your basis as a person aggrieved by the decision: See Attached Memorandum and Exhibits	
Appealed Decision Information	
Application Number: Variance #17-0002	
Project Name: Fisher/Kintz Residence	
State the specific action(s) and related finding(s) you are appealing: Denial of Variance #17-0002; finding of no special circumstances.	

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:

See Attached Memorandum and Exhibits

Cite the specific outcome you are requesting with this appeal:

See Attached Memorandum and Exhibits

Did you speak at the public hearing when this item was considered?

- Yes
- No

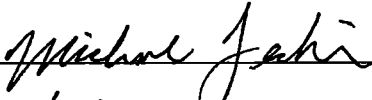
Did you submit written comments prior to the action on the item being appealed?

- Yes
- No

Appellant Signature

Printed Name: Michael Fisher

Susanna Kintz

Signature: 



Date: 6-12-17

6/12/17

**APPEAL TO BOARD OF COUNTY COMMISSIONERS FROM DENIAL
OF VARIANCE WPVAR17-0002**

Michael Fisher and Susanna Kintz (“Appellants”) are aggrieved parties as a result of the denial by the Board of Adjustment of Variance #17-0002.

Appeal to the Washoe County Commissioners is hereby made pursuant to WCC 110.912.20.

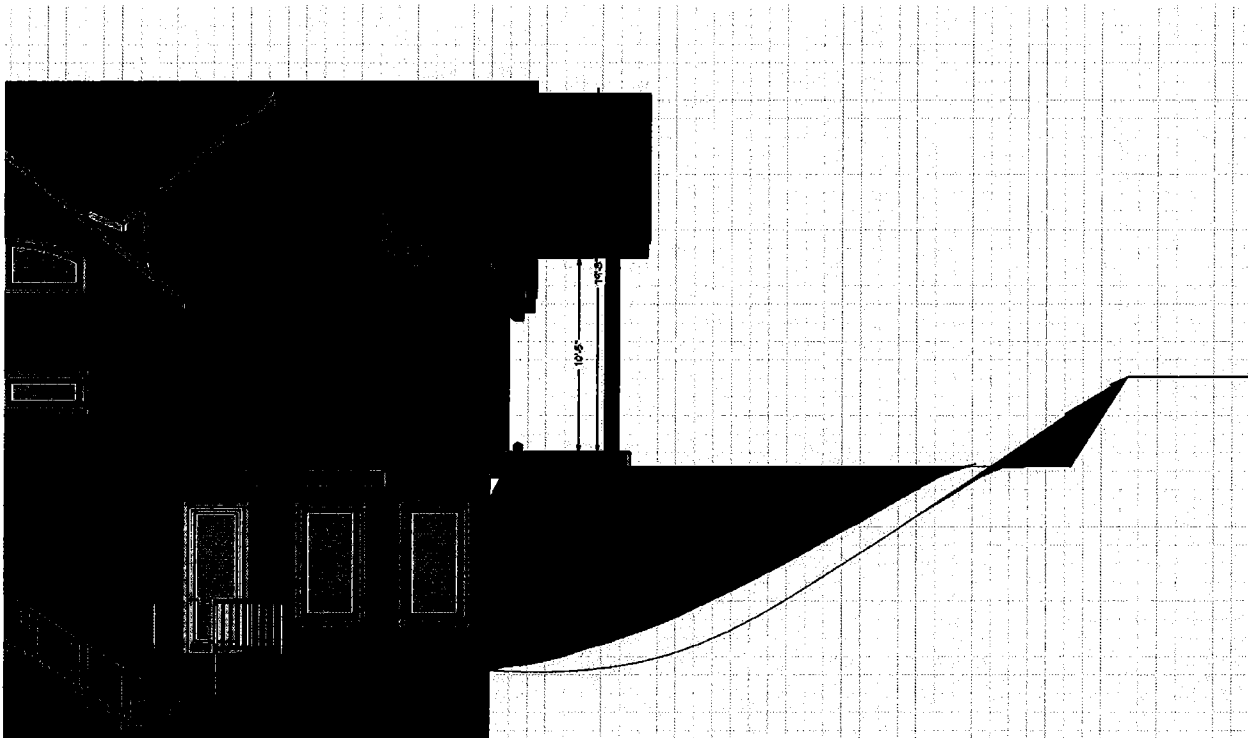
This Appeal is based upon the following bases of error:

1. Washoe County Development Staff, Senior Planner, Mr. Roger Pelham falsely represented to the Board of Adjustment (“BOA”) that there were no special circumstances on the subject property, and that strict compliance with the setback requirement would create no hardships on Appellants.
2. Mr. Pelham misrepresented to the BOA that the fact that Appellants had obtained a permit for construction of a home without a covered porch, precluded a finding of special circumstances supporting a variance for a covered porch.
3. The Board of Adjustment denied the variance on the basis of Mr. Pelham’s false and inadequate findings and erroneous legal standard, and thus its denial was not supported by substantial evidence and constitutes an abuse of discretion.
4. The Board of Adjustment failed to consider whether the steep slope of the subject property, the TRPA height limitations, and ice and snow conditions constituted “special circumstances” and whether those circumstances created hardships on Appellants in complying with the setback requirement as required under NRS 278.300, which constitutes an abuse of discretion.

5. The Board of Adjustment's denial of the variance was arbitrary and capricious and violated Section 110.804.25 of the Development Code and Appellants' Due Process rights where the Board has granted variances to similarly situated property owners and there is no discernable difference between the variance applications.

I. The Reasonableness of the Variance Requested

Appellants seek a variance reducing the setback from 20' to 10' 5", to permit construction of a roof over the front porch of their home, and a truss on their garage roof eave. If the variance is granted, the porch roof will be 29' from the street and the garage eave will be 35'6" from the street. The rest of the home will be positioned behind the required 20' setback.



There is a significant need for a covered front porch to shield the entrance from snow and ice and create safe access to the home in the winter. This is especially true because the subject property has a downward slope,

and ice is likely to accumulate around the entrance, causing hazardous conditions. The surrounding neighbors support the variance, and the Staff identified no adverse impacts.

The requested variance is less intrusive than variances granted to other properties in the area. Most of the homes on down-sloping lots in the area encroach the setbacks. In most cases, the encroaching structures are closer to the street and encroach further into the setback than the subject property. Further, in most cases the encroaching structures include enclosed structures, such as a garage, as well as covered porches. For example, 569 Alden Lane, which is next door to the subject property, is 12'9" from the street, and both the garage and the covered porch encroach the setback. (See **Exhibit A** attached hereto, describing 569 Alden Lane and other similar properties in the area that encroach further into the setback than the requested variance).

The requested variance is needed to create a safe access to the home, it is consistent with the neighborhood, it is less intrusive than most variances granted by the Board, it is supported by the neighbors, and it will impose no adverse impacts or other detriment to the public good. Thus, the requested variance is reasonable in scope and consistent with the purpose and intent of the setback requirement.

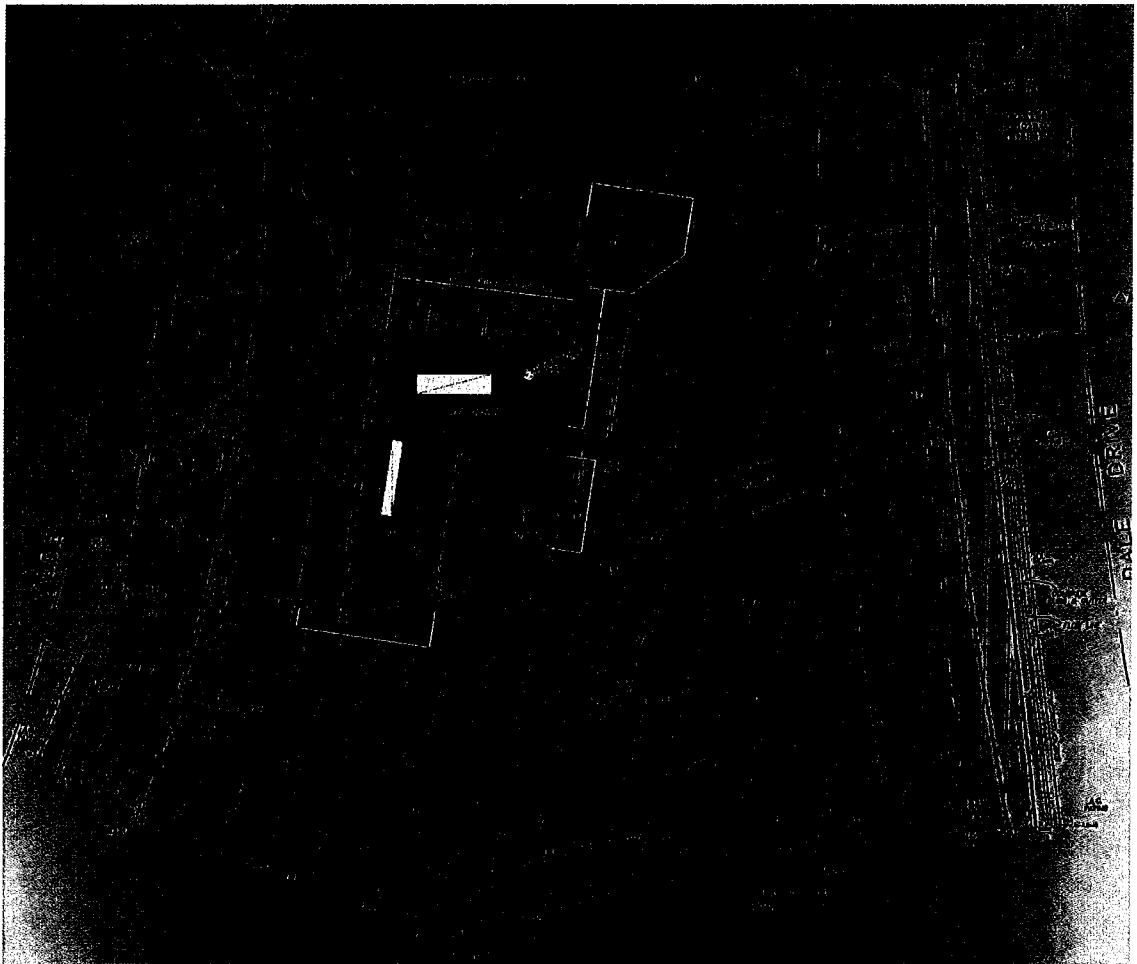
II. Brief History of the Subject Property

The lot has a steep overall slope of 31%; the top section of the property, where it meets Alden Lane, has a 37% slope. The property sits 18' from the property line and thus the setback line is 38' from the street. The property is .39 acres.

The dwelling that was previously constructed on the property had a two-car garage that fully encroached the setback. The home was accessible

by a deck/bridge along the side of the home. The deck/bridge was partially covered and was hazardous in the winter due to snow and ice falling from the roof. The dwelling and driveway were supported by a 58' long 10' high retaining wall that sat on the setback line.

The picture below shows how the new structure (in color) sits on the lot relative to the pre-existing structure (black type). The picture demonstrates that the new structure sits significantly further from the street than the existing structure did.



Appellants intended to remodel the dwelling and construct an addition. However, that plan did not prove feasible given the age and poor condition

of the structure. The home was torn down to accommodate a new structure, however the large retaining wall was retained.

Given the steep slope, TRPA height limitations and other restrictions, Appellants were unable to develop a practical design for the home that included a covered porch that met the setback requirement and decided to seek a variance. (See Section V discussing the hardships). By the time the plans for the home were finalized there was not enough time to obtain a variance before the end of the 2016 building season. Rather than incur the expense of financing two homes for two seasons (Appellants are full time Incline residents and are renting the home next door), the decision was made to submit the plans for permitting without a roof over the front porch, and apply for a variance in the Spring.

III. Special Circumstances Test

NRS 278.300 grants the Board of Adjustment the authority to grant a property owner a variance where due to *special circumstances* on the subject property, strict compliance with the setback requirement creates undue hardships. Section 110.804.25 of the Washoe County Development Code repeats this standard and sets forth basis upon which the Board of Adjustment can find special circumstances. Section 110.804.25(c) requires a finding of special circumstances by:

- 1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
- 2) By reason of exceptional topographic conditions, or
- 3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,

If the Board finds there are special circumstances, it may grant a variance if the strict application of the regulation would result in undue hardships upon the owner of the property.

The following ***special circumstances*** exist on the subject property.

1. 31% Slope

The steep slope of the subject property creates special circumstances in complying with the 20' setback requirement because the further the structure is positioned from the street, the greater the difference in the elevation of the grade level of the property from the elevation of the street. Importantly, the subject property line is 18' from the street and the slope of the property to the setback line is 37%. These factors create even greater elevation differences than most properties having the same or similar slope as the subject property. As discussed below, the difference in the elevation of the grade level from the street level adversely impacts Appellants' ability to simultaneously comply with the setback requirement and the TRPA height limitations.

2. TRPA Height Limits

The subject property must meet the Tahoe Regional Planning Association's (TRPA) Design Review Guidelines. The guidelines limit the height of the structure. As discussed more fully under Section V, given the steep slope of the property and the TRPA height limitations, strict compliance with the setback requirement would require lowering the elevation of the garage, resulting in a downward sloping driveway that exceeds the maximum 14% slope permitted.

3. Snow and Ice Hazards

Snow and ice create hazardous conditions on driveways and walkways which exacerbate the hardships created by the steep slope and TRPA height

limitations. Further, snow and ice can accumulate on the roof and around the entrance, which can create hazardous conditions at the entrance to the home.

IV. The Washoe County Community Services Development Staff's Consideration of Similarly Situated Properties

1. 541 Dale Drive, #VAR15-007, Rodman Property

541 Dale Drive is a .43-acre lot with a 25% downward slope that is close to the subject property. The applicant sought a variance reducing the setback from 20 feet to 2 feet. 541 Dale Drive posed the same special circumstances as the subject property with respect to the slope, TRPA height limitations and snow and ice hazards. Grace Sannazzaro, Staff Planner, made the following findings in recommending the application for approval:

Due to the steep slopes on the subject property, the proposed placement is optimal to avoid a long and steep north facing driveway that could create potential hazards throughout the winter months resulting from ice and snow.

The Board of Adjustment granted the variance on the basis of these special circumstances. A true and correct copy of the Washoe County Community Services Development Staff's Report for VAR15-007 is attached as **Exhibit B**.

2. 547 Dale Drive, VA13-005, Willinger Property

547 Dale Drive, next door to 541 Dale Drive, is a .43-acre lot with a 25% downward slope. The applicant sought a variance reducing the setback from 20 feet to 8 feet. 541 Dale Drive posed the same special circumstances as the subject property. Sandra Monslave, Senior Staff Planner, made the following comments in recommending the application for approval:

Due to the steep slopes on the property, the proposed garage placement is optimal so as to avoid a steep driveway in excess of the maximum 14% slope and potential hazards during the winter months resulting from snow and ice.

A true and correct copy of the Washoe County Community Services Development Staff's Report for VA13-005 is attached as **Exhibit C**.

The variances granted for 541 and 547 Dale Drive permitted both a garage and a covered entry to encroach the 20' setback. In addition, the variance granted for 547 Dale Drive permitted a section of the interior of the home to encroach the setback.

3. 557 Dale Drive, VA15-004, Nudelman Property

557 Dale Drive is located near 541 and 547 Dale Drive and the subject property. The lot is similar in size, slope and shape as the above referenced properties. The application sought a variance for a remodel as opposed to new construction.

The existing structure encroached the setback by 9' feet pursuant to an earlier issued variance. The front entrance and garage were level with the street. The applicant sought a variance permitting the entryway to encroach another 5' into the setback. If granted, the entryway would be 3' from the property line and 6' from the street. The applicant sought the variance to construct a safe entrance to the home.

Eva Krause, the Staff Planner who reviewed the application did not consider the special circumstances created by the steep slope, the TRPA height restrictions or the snow and ice conditions. Instead Ms. Krause looked solely to the front of the house which was level, and concluded "the slope of the lot does not create a situation where the strict application of the

regulations deprives the property of privileges enjoyed by other properties with the identical regulatory zone.”

The Board of Adjustment accepted the Ms. Krause’s findings and denied the variance. The Nudelmans appealed on the grounds that the property was subject to the same special circumstances discussed above. The Board of Commissioners agreed and reversed the denial.

4. 715 Christina, VA07-40-94, Ver Brugge Property

The Board of Adjustment accepted the recommendations of the Staff and approved a variance for construction of a garage encroaching the setback on the grounds that the 28% slope of the property created “special circumstances/hardships” in complying with the setback requirement. A true and correct copy of the final order approving Variance VA07-40-94 is attached as **Exhibit D**.

5. 701 Christina, VAR 0002-005, Moore

The Board of Adjustment accepted the recommendations of the Staff and approved a variance for construction of a garage encroaching the setback on the grounds that the 25% slope of the property created “special circumstances/hardships” in complying with the setback requirement. A true and correct copy of the final order approving Variance VA07-40-94 is attached as **Exhibit E**.

These are just a sampling of the hundreds of variances granted in the Incline/Crystal Bay area for properties have the same or lesser slopes than the subject property. (See also Exhibit A referencing additional similarly situated properties that were granted variances).

V. Hardships on the Subject Property

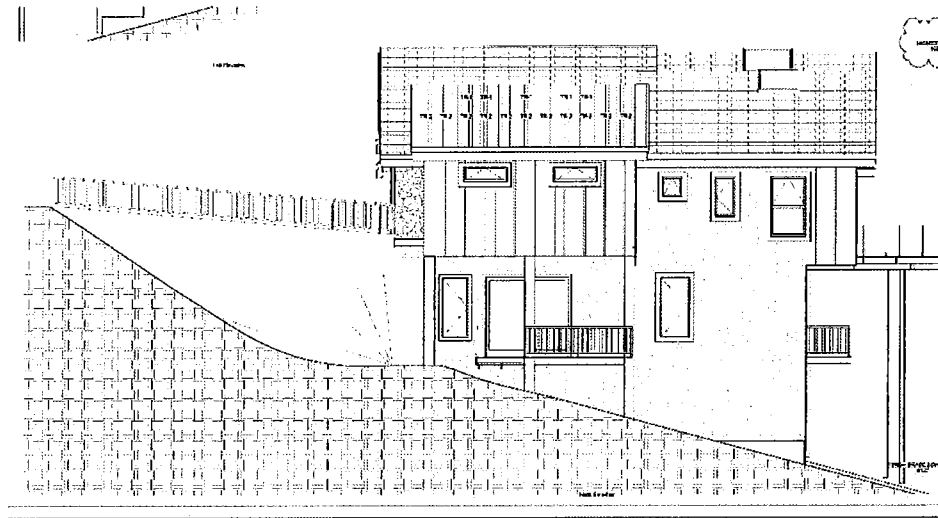
The subject property is subject to the same special circumstances as the above discussed properties; it has a steep slope, and is subject to the

TRPA height limitations, and snow and ice conditions. These special circumstances are not illusory; they create significant constraints in designing a home with a covered entry within the 20-foot setback. Just as the Staff recognized in approving the 547 and 551 Dale Drive variances, it was not possible to design the home with a covered front entry meeting the setback requirement without significant hardship. These hardships and the limitations on the design of the home are discussed in detail below.

At the street level the subject property has an elevation of 6686.5. At the 20-foot setback line, which is approximately 38 feet from the street, the property has an elevation of 6672.4, which creates a 37% slope. Given the hazards created by ice and snow, a flatter shorter driveway is preferable.

The TRPA height limitations vary depending on the slope of the property and the pitch of the roof. As the pitch drops, the permitted height limitation drops as well. For example, if the pitch is lowered from 10:12 to 5:12; the height limit drops from 42' to 36'; a loss of 6 vertical feet. Thus, lowering the pitch of the roof does not mitigate the difficulty of complying with the height limitations.

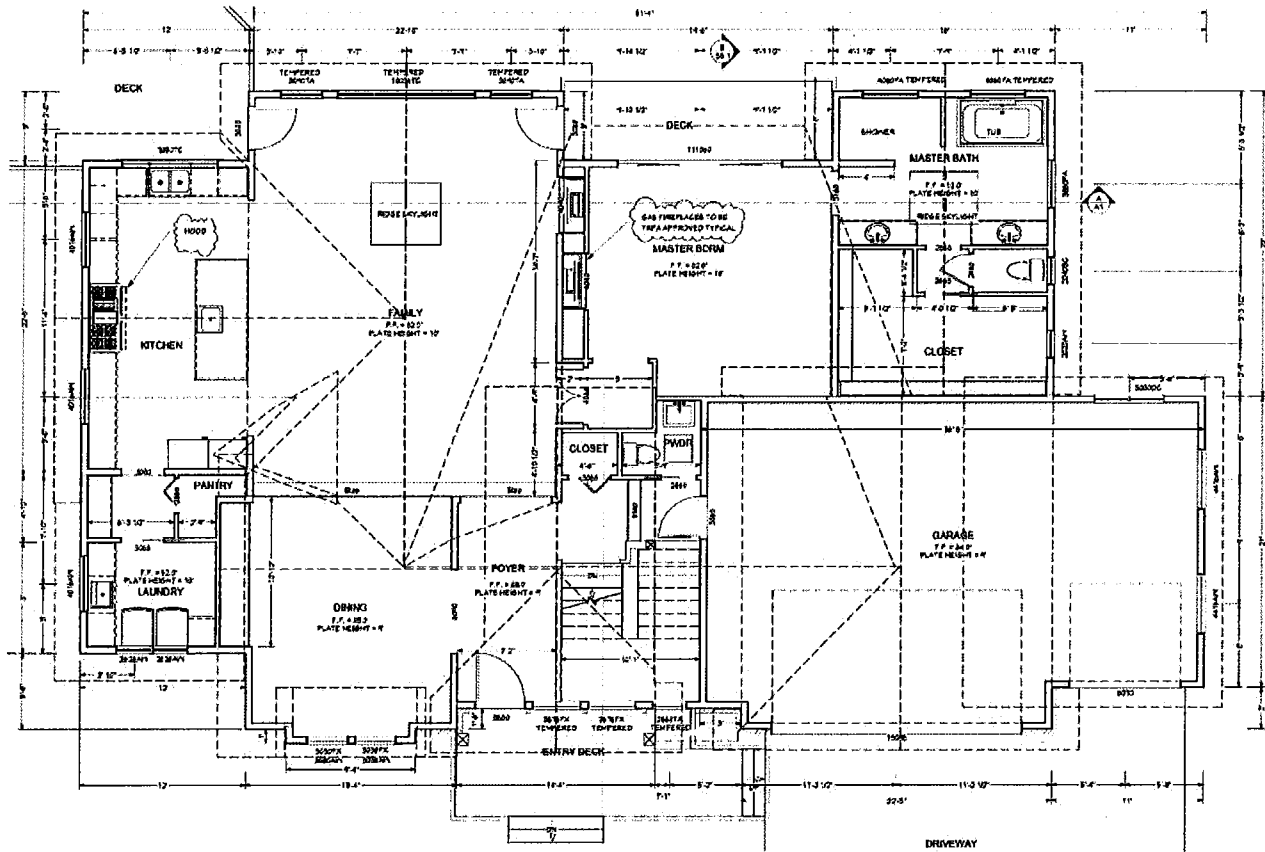
Applicants found that the 10:12 pitch permitted the highest elevation for the garage. With the front of the house situated on the retaining wall on 20-foot setback line, and a roof pitch of 10:12, the TRPA guidelines permitted a 42' high structure. This height limitation permitted the garage to be constructed at an elevation of 6884, which resulted in a driveway having an 6.6% slope. While a flat drive way is preferred given the hazards created by snow and ice, a 6.6% slope is acceptable.



The TRPA height limitations permitted the home to have a depth of only 42 feet. The limited depth created significant design constraints in accommodating features that are generally enjoyed by homes in the area including, a covered front porch, access to the garage, a mudroom, powder room and closet in the front entry. Ultimately, Appellants hired architect Dale Smith to assist them. With Dale's help, Appellants designed an entry that permitted access to the garage, and included a powder room and closet. But Appellants were unable to accommodate a mud room, and the laundry room was moved to the other side of the house. Further, the design only permitted 1 ½ foot covered front porch.

While it might have been *possible* to design a larger covered front porch, it would have necessitated sacrificing other necessary features like access to the garage, a front hall closet and a powder room. Further the covered porch would have to be constructed over conditioned space which can lead to snow melt leaking into the home in the winter.

The picture below shows the floor plan of the home.



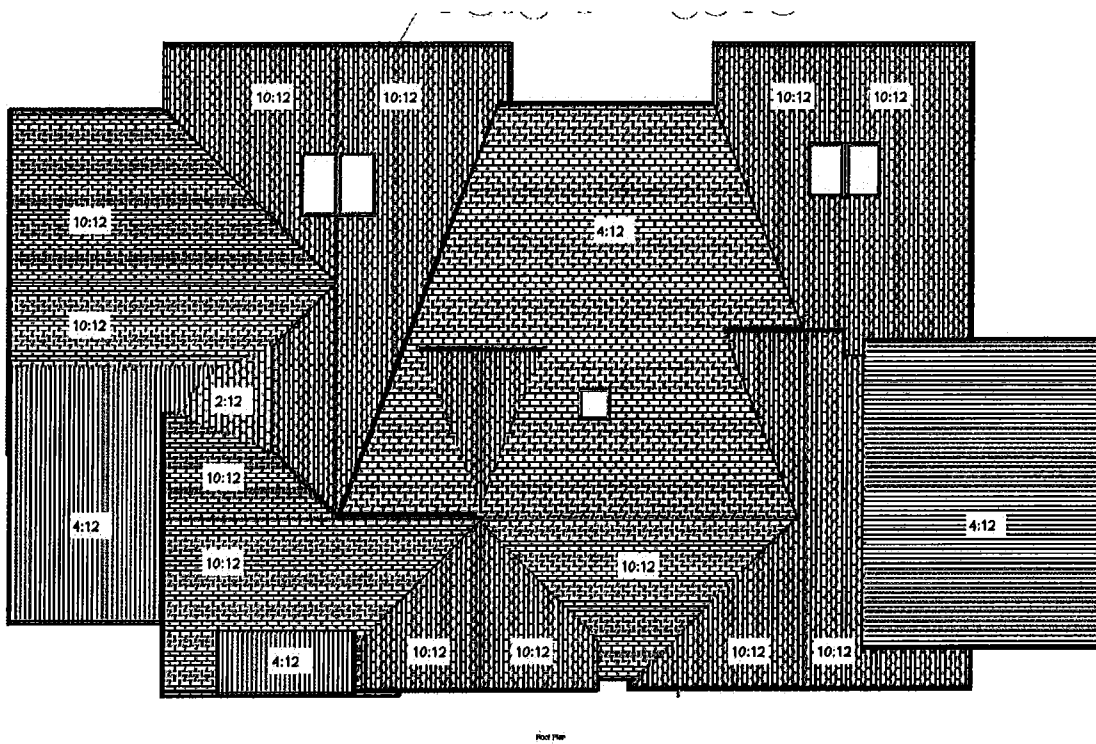
The only way Appellants could accommodate a covered front porch without encroaching the setback and sacrificing needed features, was to move the home further away from the street. However, moving the home deeper on the lot would require lowering the elevation of the home and the garage to comply with TRPA height limitations, which would result in a steeper down-sloping driveway. For example, to allow for a 10-foot covered porch, the garage would have to be lowered by 3.3 feet (assuming a 31% slope). If the garage were kept on the 20-foot setback line, this would have resulted in an 15.3% slope for the driveway, which exceeds the 14% maximum allowed.

Even if Appellants could have achieved a driveway slope of less than 14% by moving the garage further back on the lot, it would necessarily have resulted in a longer and steeper driveway. The Board of Adjustment

recognized the hazardous conditions created by longer and steeper driveways when it approved the 547 and 551 Dale Drive variances. Further, TRPA restricts the size of the home's foot print including the driveway. A longer driveway would have consumed allowable "coverage" that Appellants needed to achieve the other necessary features discussed above, including access to the garage.

Importantly, moving the home beyond the setback line would have required removing the existing retaining wall. This would have caused significant disruption to the soil on the property, which is not desirable, and entailed considerable expense. Further, the loss of the retaining wall would result in the loss of the existing driveway which would have necessitated storing building and construction waste equipment on Alden lane during construction of the home, which was not desirable. Widening the home was not an option because the home is flanked by mature trees that have widths greater than 30 inches, and are protected by TRPA.

Using the computer architecture program Appellants used to design the home, Appellants experimented with various strategies to try to incorporate a covered porch without encroaching the setback. None of these efforts yielded a workable design. It is important to note that every time a wall is moved, new obstacles are created. For example, in order to retain the 42' height limitation (as opposed to a lower height limitation) more than 50% of the roof planes of the home have to have a 10:12 pitch. The 10:12 pitch creates a high ridge line, which has to be kept within the 42' overall height limitation. This restricts the allowable span of the roof planes, which in turn creates design constraints. The home's existing roof plan shown below demonstrates how complicated the roof plane plan of the home became in light of the height limitations.



Ultimately, like the architects who designed the homes for 541 and 547 Dale Drive, who faced the same constraints caused by the special circumstances on the property, Appellants were unable to accommodate a covered porch that did not encroach the 20' setback while at the same time retain other important features Appellants required, like access to the garage, a hall closet and powder room. These features, as well as the room sizes and overall size of the home are in line with the newer homes in the neighborhood, including the properties that were granted variances. There are no “over-the-top” features like a glass wine cellar, oversized rooms, or an elevator.

Ironically, Appellants would have loved to have moved the home further back on the lot because doing so would have opened better lake views. As the back porch on the floor plan demonstrates, the lake view is to the right of the property. There are mature trees along the property line that

block that view. However, as discussed, the TRPA height limitations made this an impracticality.

While it may have been *possible* to design the home with a covered porch that did not encroach the setback, it would have required a longer steeper driveway and necessitated sacrificing other needed features, which constitute significant hardship. There is a substantial need for a covered porch to create safe access to the home in the winter season and the denial of a variance for a covered porch denies Appellants benefits enjoyed by other properties that are not subject to the same special circumstances. Importantly, the owners of 541 and 547 Dale Drive were not required to suffer these hardships when they were granted their variances.

VI. The Staff's Misrepresentations to the Board Regarding the Subject Property

Roger Pelham, Senior Staff Planner, presented the application for the subject property to the Board and recommended the variance be denied. In making his recommendation, Mr. Pelham did not inform the Board of the special circumstances created by the steep slope, rather he negated them. With respect to the steep slope, Mr. Pelham stated in his report:

Such a slope might create a challenge to development if the dwelling were being remodeled or if there were other constraints in addition to the slope. Sloped lots, however, are commonplace in the Tahoe Area Plan, and by themselves are not exceptional.

Not only did Mr. Pelham mislead the Board with regard to the significance of the steep slope, Mr. Pelham misled the Board regarding the constraints placed on Appellants due to the TRPA restrictions. Mr. Pelham told the Board there were *no constraints* imposed on the design of the home. Mr. Pelham stated:

In this case, a dwelling that was previously located on the parcel was completely removed. ***There were no constraints prohibiting the applicant from designing a covered entry way within the required setbacks.*** There is a substantial amount of area on the subject parcel which might have allowed the design of the dwelling to include the entryway that the variance is seeking to allow.

Mr. Pelham's statement is false. As demonstrated above, there were significant constraints on the design of the home, the very constraints faced by the architects of 541 and 547 Dale Drive.

Mr. Pelham's misrepresentations led the Board to believe that Appellants were free to design the home however they wanted; and that there was nothing preventing them from including a covered porch behind the setback in that design. This was false. As detailed above, in order to accommodate a covered porch, Appellants would have to lower the elevation of the structure resulting in a steep driveway that likely would not satisfy the 14% maximum slope requirement and remove the existing retaining wall; or sacrifice needed design features such as access to the garage, a front hall closet and a powder room. These are significant hardships, and because Mr. Pelham misrepresented the constraints placed on Appellants in designing the home, the Board did not consider them. The Board merely accepted Mr. Pelham's representations that there were no special circumstances and no hardships, and denied the variance on that basis.

The Board's findings were based entirely on Mr. Pelham's false statements and material omissions and thus are inadequate and cannot support the Board's denial of the Variance. The inadequacy of the BOA's findings constitutes grounds for reversal.

VII. The Staff's Erroneous Standard under NRS 278.300

Not only did Mr. Pelham misrepresent the conditions on the subject property and fail to consider the hardships created by strict application of the setback requirement, he misstated the standard that applies under NRS 278.300 and Section 110.804.25. Mr. Pelham stated:

It is clear that the topography, by itself, does not create a hardship to development of the parcel of land, ***as a new dwelling was approved to be constructed within the required setbacks.*** (*Emphasis Added*).

In other words, according to Mr. Pelham, the fact that Appellants were granted a permit, regardless of whether the permit was for a home with a covered front porch or not, negates the finding of special circumstances.

This is not the standard under NRS 278.300 or Section 110.804.25. There is nothing in these laws and regulations precluding the Board of Adjustment from granting a variance for a property that has a permitted structure. Mr. Pelham's interpretation would preclude the issuance of a variance for *any property* that has an existing permitted structure. All of the above referenced properties, including 541 and 547 Dale Drive, had permitted structures on the properties, and none of the property owners were denied variances on that basis. Further, Mr. Pelham's interpretation of NRS 278.300 and Section 110.804.25 lacks rational basis. The fact that Appellants obtained a permit for a house without a covered porch does not establish that Appellants could have obtained a permit for a house with a covered porch without a variance; rather the opposite is true.

It is clear from the statements Mr. Pelham made at the hearing that he reached his finding of no special circumstances solely on the basis of this erroneous standard. Mr. Pelham indicated to the Board that this was an "easy call" and that he had made the determination that the subject property

lacked special circumstances from the face of Appellants' application. He told the Board that within days of filing the application, he tried to reach Appellants to urge them to pull their application so they could recover their filing fee because the application was so lacking. Nowhere in Mr. Pelham's report, or in the statements he made at the hearing, did Mr. Pelham mention the TRPA height limitations, the driveway slope restrictions, or the hazards created by snow and ice. Mr. Pelham did not mention these circumstances, because he did not take them into consideration. Nor did Mr. Pelham consider the hardships created by strict application of the setback requirement. Instead, Mr. Pelham applied a per se rule, and recommended denial on the sole basis that Appellants had obtained a permit for the property.

This is the same standard Ms. Krause applied in recommending the denial of the Nudelman Variance discussed above. In fact, following the hearing, Mr. Pelham told Applicants that their variance had been denied for the same reason the Nudelman Variance had been denied. According to Mr. Pelham, in order to find special circumstances under Section 110.804.25, there must be *no possibility* that the home can be built without the variance. Thus, the fact that there was an existing permitted structure on the 557 Dale Drive property negated a finding of special circumstance. When Appellants reminded Mr. Pelham that the Board of County Commissioners had reversed the Board of Adjustment's denial of the Nudelman Variance, Mr. Pelham indicated that the Board of County Commissioners' interpretation of the setback laws was not binding on the Staff, and he continued to maintain that the issuance of a permit for Appellants' property precluded a finding of special circumstances.

Underlying Mr. Pelham's erroneous per se standard, is his assumption that a property owner who obtains a permit could have designed the home with the desired structure without a variance. Mr. Pelham applied this erroneous standard when he recommended denial of VA16-003 (Fleming Front Yard Setback Reduction). As in the instant case, Mr. Pelham substituted his own judgment for that of the applicant and determined that the applicant could have accommodated the desired structure without a variance. As in the instant case, Mr. Pelham reached that conclusion without considering the hardships that the property owner would suffer in order to accommodate the desired structure without a variance. As in the instant case, the BOA adopted Mr. Pelham's findings and denied the variance on that basis. This Board of County Commissioners rejected Mr. Pelham's reasoning and reversed the BOA's denial.

Mr. Pelham, without knowledge or consideration of the constraints and hardships Applicants faced, found no special circumstances on the sole basis that Appellants obtained a permit for the home. This was improper. The same standards governing the issuance of a variance apply for all properties, including properties having permitted structures. It is clear the Board of Adjustment applied the erroneous standard propounded by Mr. Pelham because the Board merely adopted Mr. Pelham's findings as their own. Thus, the Board's denial was grounded on an erroneous legal standard, which constitutes grounds for reversal.

VIII. The Board of Adjustment Failed to Accord Appellants the Benefits Accorded Similarly Situated Appellants

The Board of Adjustment has granted hundreds of variances for properties in the Incline/Crystal Bay area on the sole or primary basis that the steep slopes create hardships in complying with the 20' setback

requirement. The Board confirmed its recognition of those hardships when it recently granted 541 and 547 Dale Drive variances. 541 and 547 Dale Drive are essentially identical to the subject property with respect to the special conditions and hardships, and there is nothing in the Staff reports reviewing the variance applications that distinguishes the three properties. The only discernible difference is the Staff member reviewing the variances. The requested variance is reasonable in scope, it is supported by the neighbors, and the Staff found no adverse impact. There is no rational basis justifying the different outcomes. By denying Appellant's variance, the Board failed to accord Appellants the benefits and privileges it has extended to similarly situated property owners.

However, the Board does not believe it is obligated to review prior decisions. Indeed, when Appellants brought this issue to the Board's attention, the Board all but ignored it. One Board member inquired why Appellant Susanna Kintz spoke about 541 and 547 Dale Drive in her statement at all; as if the fact that the Board had granted variances for those properties was irrelevant. However, the Board cannot consider variances in a vacuum. The Washoe County Development Code imposes the obligation on the Board to treat applicants consistently. Section 110.804.25(c) requires that the Board find that the variance if granted "would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated." The Board cannot make this required finding if it fails to consider the privileges it has granted other applicants in the past, especially where the properties are substantially similar to the subject property.

Further and importantly, the Due Process and Equal Protection Clause protections under the Constitutions of the United States and Nevada, prohibit

the Board from exercising the authority granted to it under NRS 278.300 in an arbitrary manner. Whether an applicant is granted a variance should not depend upon whether the variance was reviewed by Mr. Pelham or Ms. Monslave. Both Mr. Pelham and Ms. Monslave are Senior Staff Planners, yet they reached diametrically opposite findings with respect to essentially identical circumstances. Where the only distinction between a variance that was granted, and the one that was denied, is the staff member reviewing it, the exercise of the Board's authority is arbitrary.

At the very least the Board should have found the similarities between the properties compelling, and questioned Mr. Pelham as to how he could have reached such a diametrically opposite finding from staff members who reviewed the 541 and 547 Dale Drive applications. However, the Board did not ask Mr. Pelham a single question regarding the similarities or distinctions between the properties. The Board merely accepted Mr. Pelham's misstatements regarding the circumstances on the property, and his conclusion that there were no special circumstances on the grounds that Appellants had obtained a permit. By so doing, the Board failed to accord Appellants the same consideration it has accorded other applicants in considering their applications, and denied Applicants the benefits and privileges it has granted to hundreds of other property owners in Incline Village facing identical hardships in complying with the setback requirement.

The Board abused its discretion by denying the variance on the basis of inadequate findings and an erroneous legal standard, and it violated Appellants' right to due process by failing to grant Appellants the same consideration it has granted other applicants, and by failing to accord Appellants the same benefits and privileges it has accorded similarly situated property owners.

IX. Relief Requested

Pursuant to Section 110.912.20 of the WCDL, this Board may consider Appellants' application de novo or limit its review to determining whether the Board of Adjustment abused its discretion in denying the variance. Further, the Board of County Commissioners may either remand the matter back to the BOA with instructions or may directly grant the variance. Appellants request that the Board consider this matter de novo and approve Variance #17-0002.

X. Conclusion

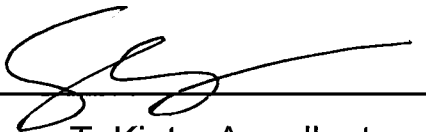
In enacting NRS 278.300, the Nevada Legislature recognized that the setback requirement, if strictly applied, can deprive a property owner of privileges enjoyed by other property owners within the same regulatory area; privileges such as a safe driveway, a covered entryway, interior access to the garage, and other necessary features enjoyed by other the properties that are not subject to the same special circumstances. In order to address this inequity, the Legislature permits the Board to grant property owners relief from NRS 278.300. The Nevada Legislature intended for NRS 278.300 to be liberally construed in favor of granting relief when relief is appropriate.

Here, the subject property does not have a covered entry. The property receives significant snow, and is a down-sloping lot. There is significant need for a covered entry porch to shield entrance area from snow and ice to create safe access to the home. The requested variance is reasonable in scope, it is supported by the neighbors, it is consistent with the neighborhood, and it is consistent with the purpose and intent of the setback requirement. On the other hand, the steep slope, the TRPA height limitations and the snow and ice conditions, created hardships on Appellants in designing the home with a covered entry that did not encroach the setback.

Strict compliance would have necessitated a longer steeper driveway that exceeds the maximum 14% slope permitted and/or required sacrificing other needed features; hardships that other properties that are not situated on steep slopes do not suffer. The subject property presents exactly the circumstances NRS 278.300 was designed to ameliorate.

The Board abused its discretion in denying the variance on the basis of Mr. Pelham's flawed and inadequate findings and erroneous legal standard. Further, the Board erred by failing to accord Appellants the same consideration of their variance and the same privileges that it has accorded other similarly situated property owners. For these reasons, the Board of County Commissioners should reverse the BOA's denial and approve Variance #17-0002.

Respectfully submitted by:

A handwritten signature in black ink, appearing to be 'SK', is written over a solid horizontal line.

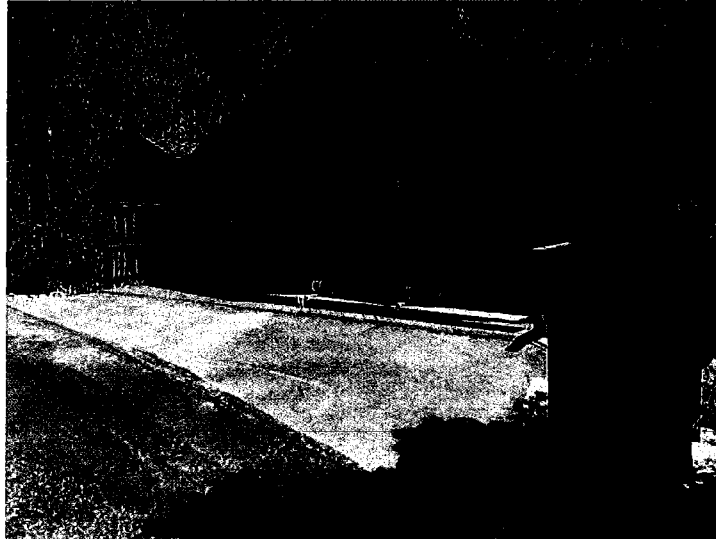
Susanna T. Kintz, Appellant

EXHIBIT A

Sampling of Similarly Situated Properties that Encroach the 20' Setback

1. 569 Alden Lane

569 Alden Lane is next door to the subject property. The slope, size and shape of the subject property are nearly identical to the subject property. This structure is 12'9" from the street at its closest point.



2. 529 Dale Drive

529 Dale Drive is located near the subject property. The slope, size and shape of the subject property are substantially similar to the subject property. 529 Dale Drive is 13'7" from the street.



3. 551 Sugar Pine

This property is located in the same area as the subject property and has a similar slope, size and shape. The home is 15' from the street.



4. 505 Sky Lake

The slope, size and shape of the property are similar to the subject property. The home sits 14' from the street.



EXHIBIT B



Board of Adjustment Staff Report

Meeting Date: October 1, 2015

Subject: Variance Case Number: VA15-007
Applicant: Ira Rodman
Agenda Item Number: 9A
Project Summary: A request to reduce the required 20 foot front yard setback to 4 feet-2 inches and to vary the maximum roof overhang (architectural feature) from 2 feet to 4 feet in order to construct a new three story single family dwelling
Recommendation: Approval with Conditions
Prepared by: Grace Sannazzaro, Planner
Washoe County Community Services Department
Planning and Development Division
775.328.3627
Phone: 775.328.3627
E-Mail: gsannazzaro@washoecounty.us

Description

Variance Case Number VA15-007 (Rodman) – Hearing, discussion, and possible action to approve a variance to reduce the front yard setback from 20 feet to 4 feet-2 inches and to vary the maximum roof overhang (architectural feature) from 2 feet to 4 feet to construct a new three story single family dwelling.

- Applicant: Ira Rodman
- Property Owners as of 08/15/15: Raymond & Barbara Miller, Trustees
(Application submittal date)
- Property Owner as of 08/20/15: Rodman Pension Trust
- Location: 541 Dale Drive, Incline Village
- Assessor's Parcel Number: 122-132-14
- Parcel Size: 0.426 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler
- Section/Township/Range: Section 17, T16N, R18E, MDM,
Washoe County, NV

Staff Report

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Vicinity Map 4
Site Plan 5
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Motion.....13
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Exhibits Contents

Conditions of Approval Exhibit A
Reviewing Agency Conditions and Comments Exhibit B
Public Notice Map Exhibit C
Rodman Owner Affidavit Exhibit D

Variance Definition

The purpose of a Variance is to provide a means of altering the requirements in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved; and to provide for a procedure whereby such alterations might be permitted by further restricting or conditioning the project so as to mitigate or eliminate possible adverse impacts.

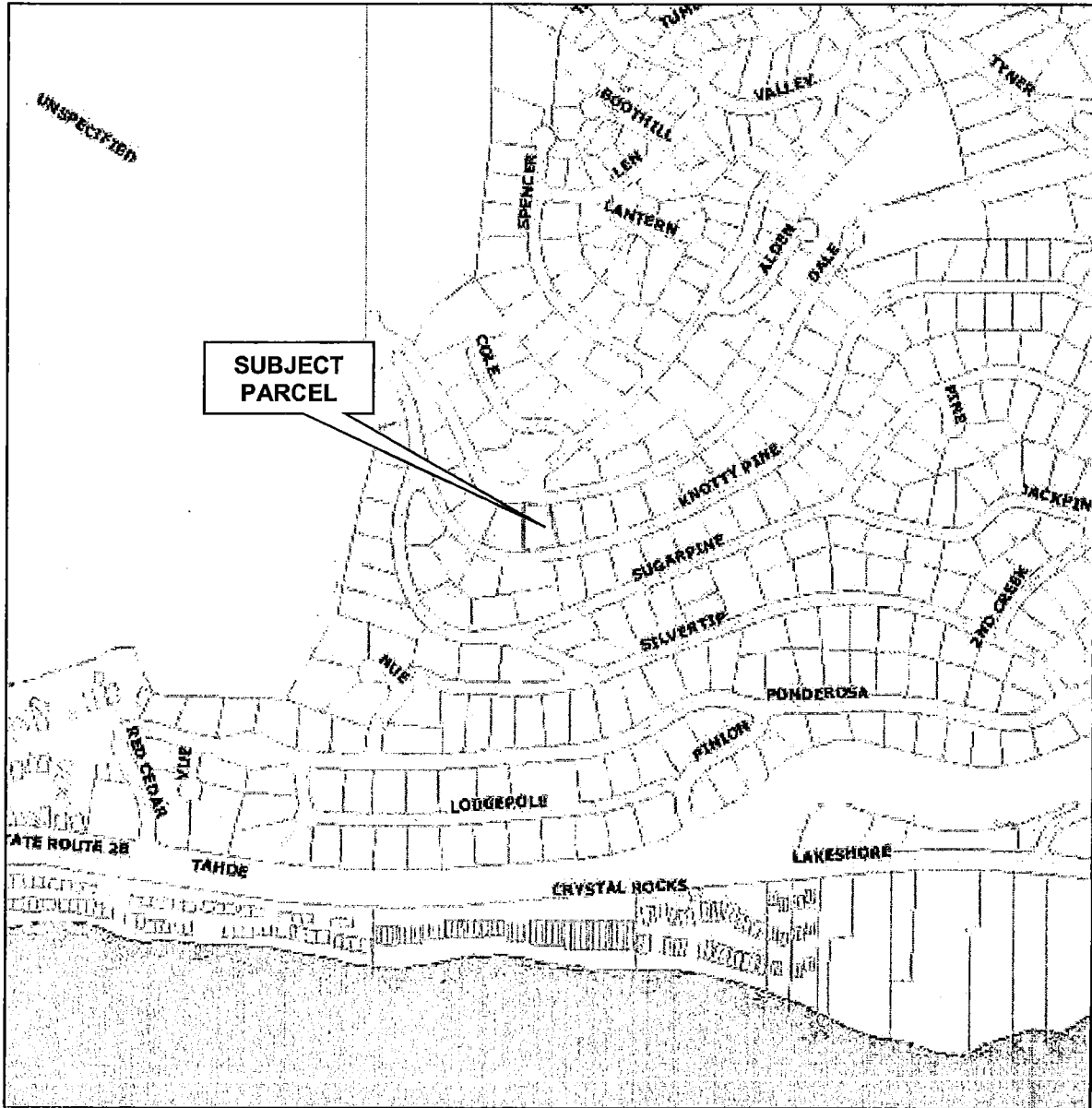
NRS 278.300 (1) (c) limits the power of the Board of Adjustment to grant variances only under the following circumstances:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, the Board of Adjustment has the power to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under Washoe County Code Section 110.804.25, the Board must make four findings which are discussed below.

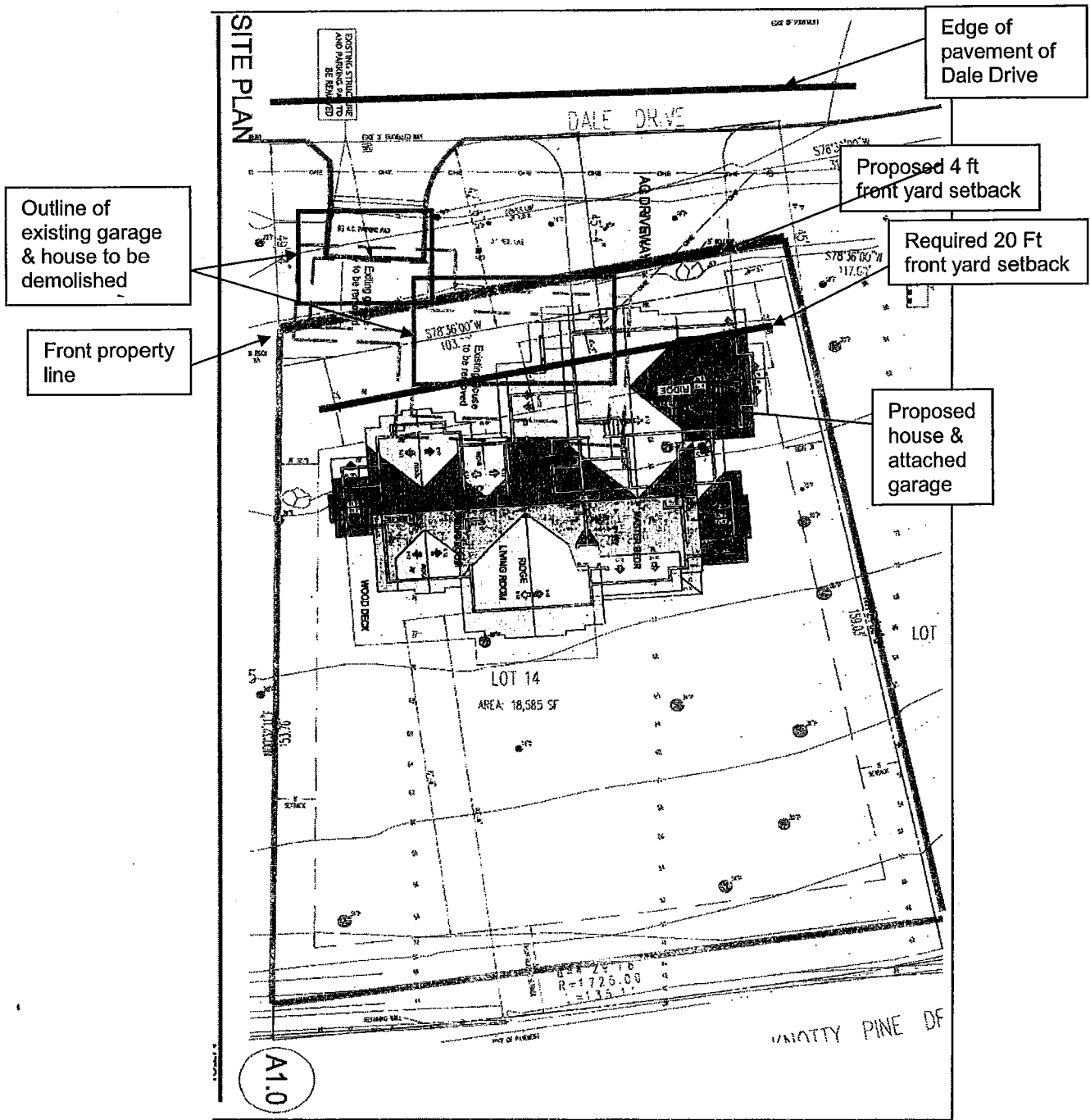
If the Board of Adjustment grants an approval of the Variance, that approval may be subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as "Operational Conditions." These conditions must be continually complied with for the life of the business or project.



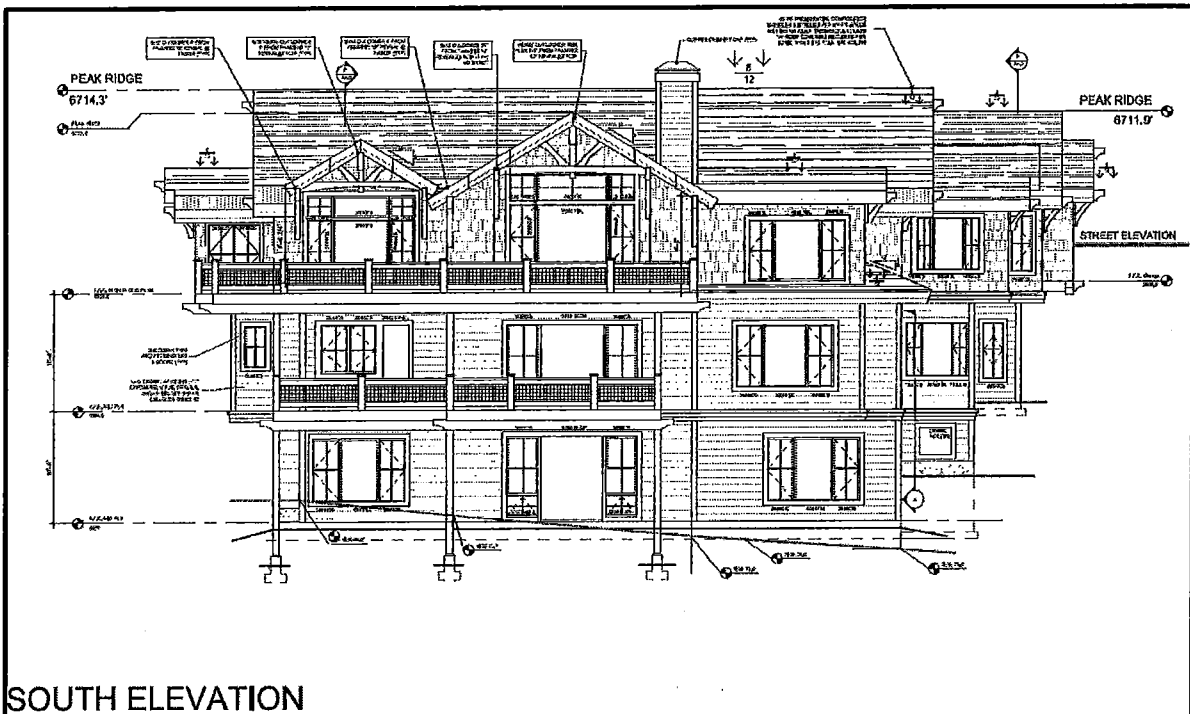
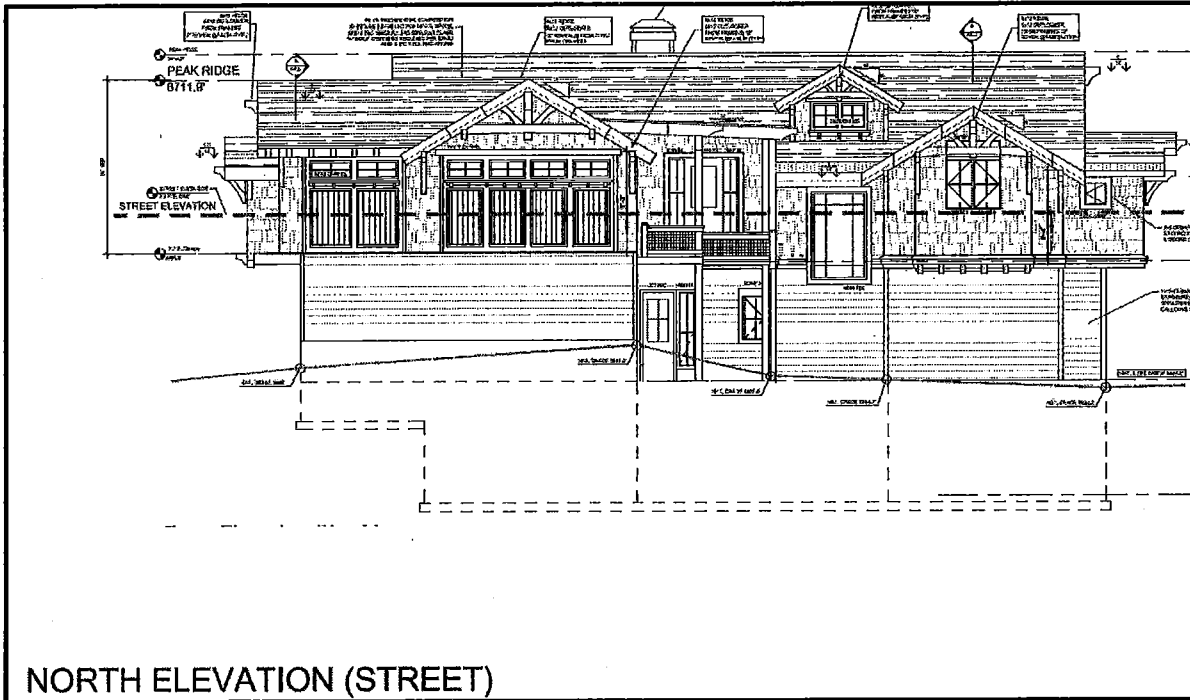
Vicinity Map

The subject parcel is addressed as 541 Dale Drive, Incline Village; located at the intersection of Dale Drive and Tyner Way. APN: 122-132-14

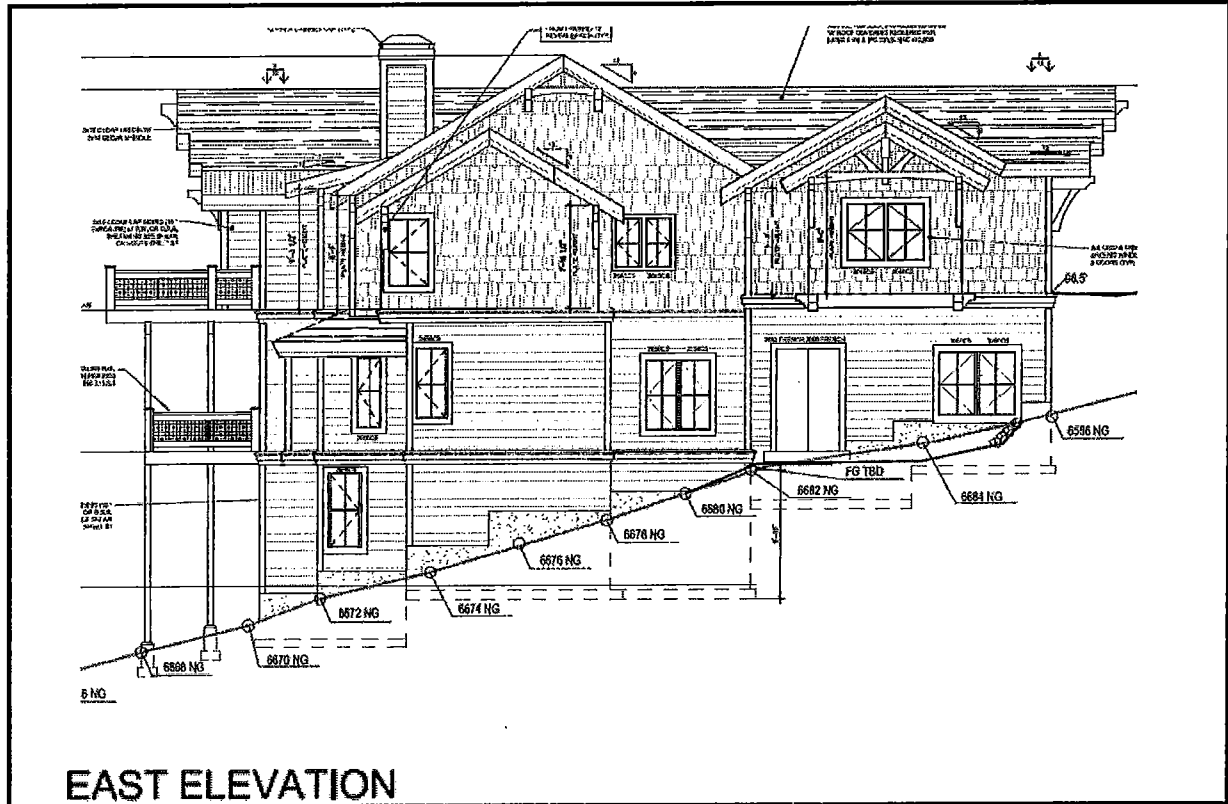
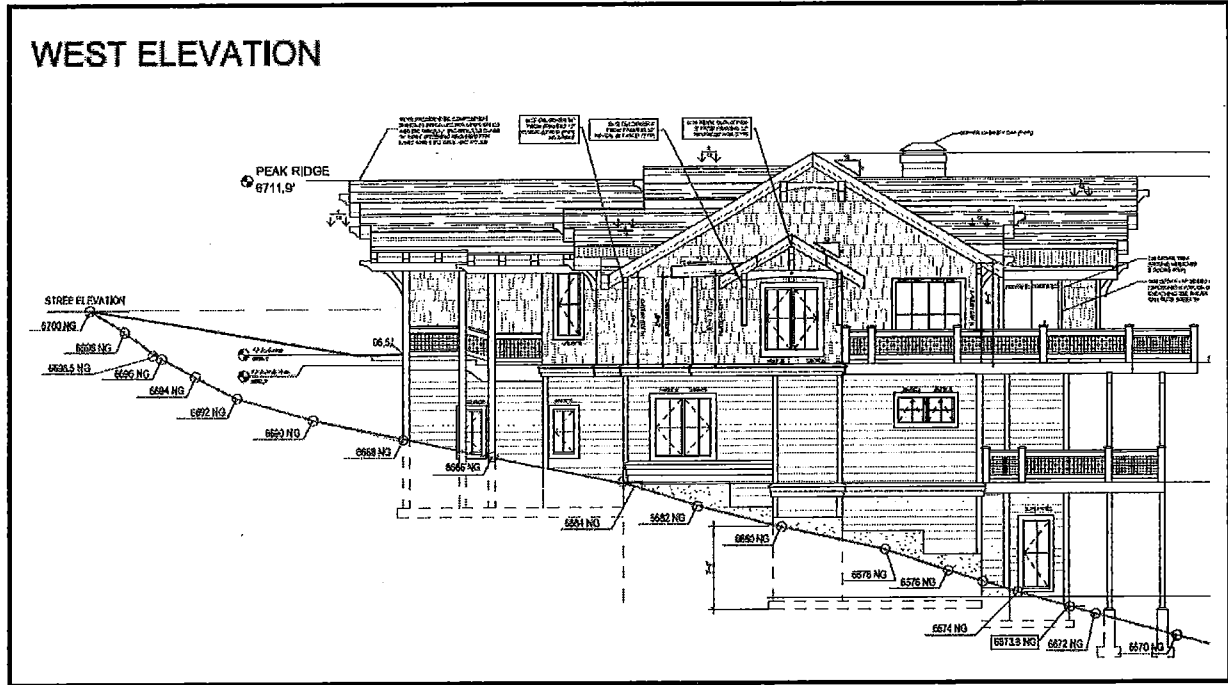


Site Plan

NOTE: In the above image, the orange line shows the property lines, the blue line outlines the location of the existing house to be demolished, the red line is the required 20 foot front yard setback, and the green line is the edge of the pavement of Dale Drive. The footprint of the proposed house and attached garage is in shades of gray. The applicant is requesting that the front yard setback be 4 feet-2inches.



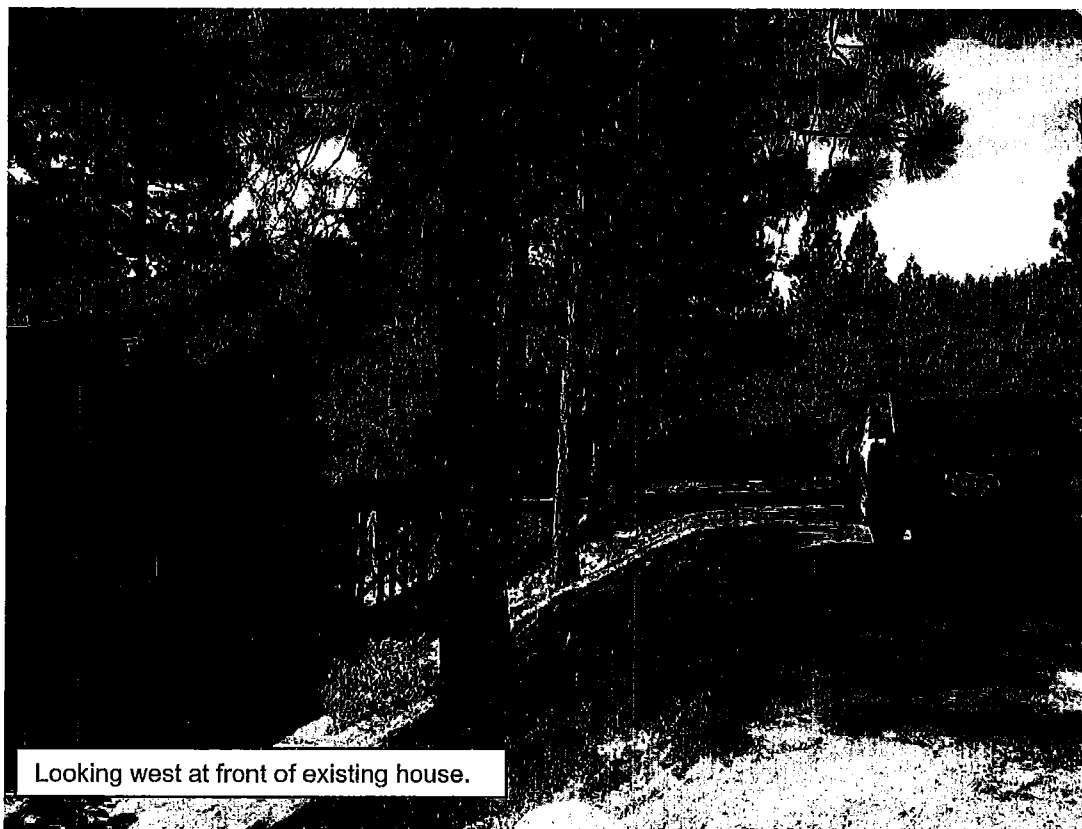
Elevations of Proposed House



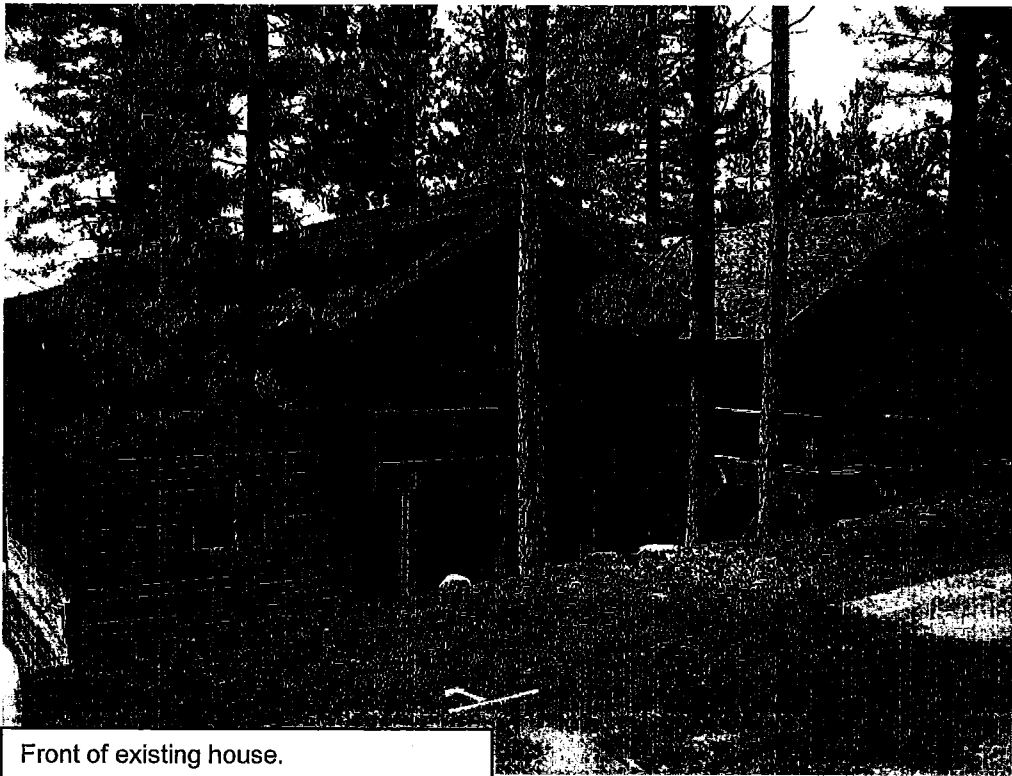
Elevations of Proposed House (cont'd)



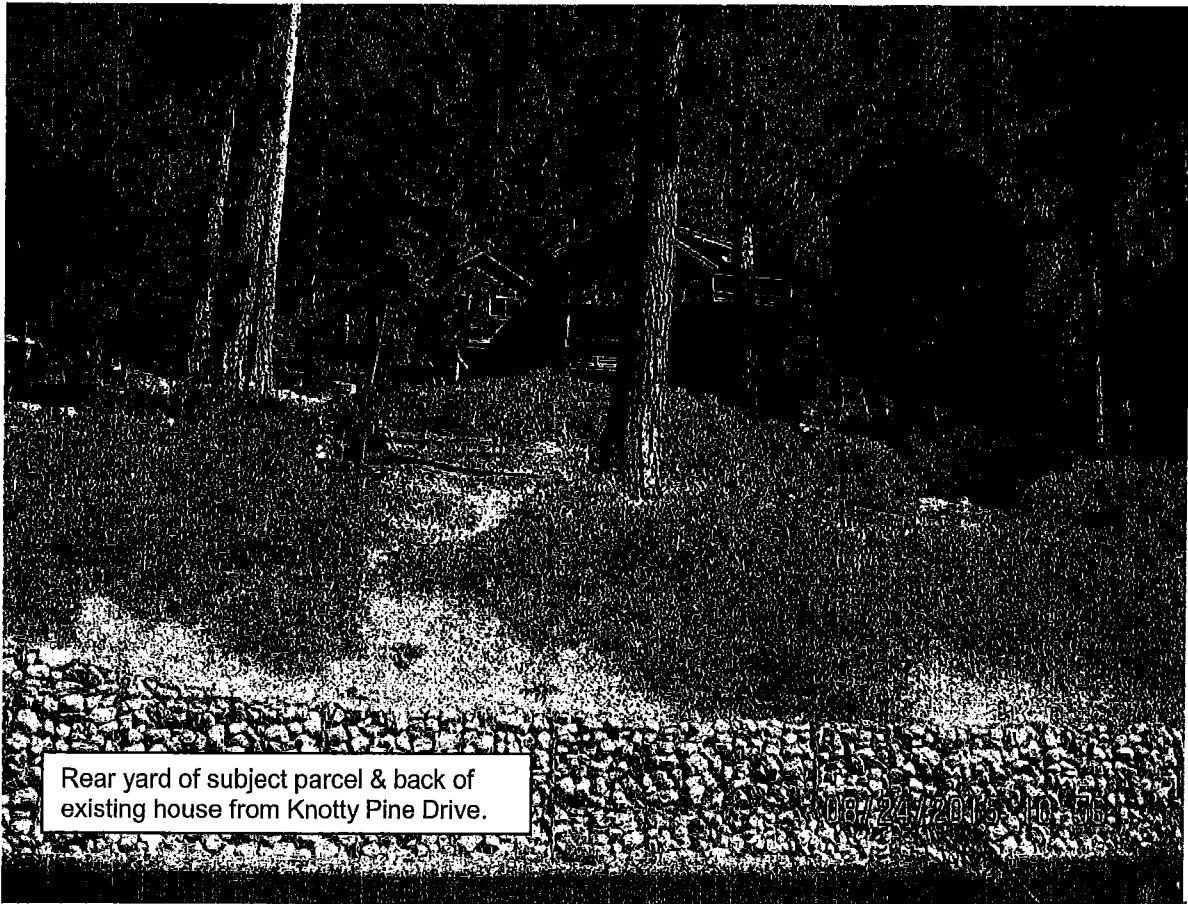
Front of existing house.



Looking west at front of existing house.



Front of existing house.



Rear yard of subject parcel & back of existing house from Knotty Pine Drive.

Project Evaluation

The subject .43 acre parcel is zoned Medium Density Suburban (MDS), which requires a 20 foot front yard setback. The applicant is requesting a variance to reduce the front yard setback to 4 feet-2 inches and to vary the allowable roof overhang into the front yard setback from 2 feet to 4 feet to accommodate a new three level single family dwelling.

The subject parcel is developed with a single family dwelling and attached garage. The applicant advises that the existing dwelling will be demolished and replaced by a new larger dwelling and attached garage. The submitted site plan shows the existing dwelling to be over the front property line, encroaching into the Dale Drive right-of-way, being approximately 25 feet from the edge of pavement of Dale Drive. The applicant states that the new dwelling and garage will be approximately 45 feet from the edge of pavement of Dale Drive, approximately 4 feet inside the front property line, and the 4 foot eave overhang will not go over the front property line. A condition of approval is being recommended that restricts any roof eaves, light fixtures or other structural or architectural elements from projecting over the front property line.

Properties in the area of the subject parcel contain steep slopes, which have resulted in the majority of dwellings using a stepped down building design with garages and living space at street level. Because the subject property contains similar slopes, with the front portion having approximately 25% slope, the proposed new dwelling uses a similar design consisting of three levels, including the garage on the top level at street elevation. Along the curve of Dale Drive, at its intersection with Tyner Way, the pavement is not centered within the right-of-way, leaving a width of unpaved right-of-way in front of the subject parcel, which the applicant states will create the need for a longer and steeper north-facing driveway between the future garage and the edge of pavement resulting in potential hazards during the winter months from ice and snow. The applicant states that without the requested variance, there would be an increased building height, which would not meet TRPA height limitations. (The building height is determined by slope of the lot and pitch of the roof, and it's measured from the lowest point of the house to the height point, not the average, and there are additional rules on top of these regarding TRPA height limitations.) The site plan identifies several 30 inch trees, which are required to be preserved by the Tahoe Regional Planning Agency. Approval of the variance may result in the preservation of mature pine trees present on the subject parcel, thus mitigating potential impacts to natural resources.

A Revocable Encroachment Permit for Dale Drive was issued in 2008 by the Washoe County Engineer, which was based on a survey submitted by the property owner for a portion of the existing residence, garage with eaves, entry deck, and wood driveway bridge. If the variance request is granted, the Encroachment Permit will be removed and replaced with a Hold Harmless Agreement per Washoe County Engineering's recommended condition due to the proposed construction being within the 20 foot front yard setback and close to the right-of-way. A condition of approval is also being recommended that requires installation of garage door openers. The submitted site plan shows the proposed dwelling approximately 45 feet from the edge of pavement of Dale Drive which is an improvement from the existing residence, which is shown on the site plan to be approximately 25 feet from the edge of pavement. The proposed 45 foot distance complies with the Washoe County Public Works Road Division, which requires a minimum distance of 20 feet from edge of pavement to a garage door for snow removal purposes.

The applicant advises that the variance will allow the proposed dwelling to have a lower building height on the south side, as viewed from Knotty Pine Drive, which will reduce the overall mass

of the dwelling as viewed from the houses situated below the subject site. The ridge height of the proposed three story dwelling will be three feet lower than the ridge of the existing house, and from Dale Drive it will appear as a one story residence. Lastly, the applicant states that the request to extend the roof overhang a total of 4 feet is a reasonable overhang to meet with the overall design of the new residence and garage. The 4 foot overhanging eaves around the edge of the house will make the house appear smaller and lower to the ground.

Change of Property Owner

Since the date of the application submittal, ownership of the subject property changed from Raymond and Barbara Miller to Ira Rodman who is listed as the applicant in the application. In summary, Ira Rodman is now the applicant and property owner regarding the subject variance application VA15-007. A signed and notarized Property Owner Affidavit is included as Attachment D to this staff report reflecting the new ownership.

Citizen Advisory Board

The proposed project is to be presented by the applicant's representative at the September 28, 2015, meeting of the Incline Village/Crystal Bay Citizen Advisory Board. At the time of this writing, the CAB meeting has not taken place. Staff's intent is to discuss the CAB meeting minutes during the presentation at the October 1, 2015 Board of Adjustment meeting.

Reviewing Agencies

The following Reviewing Agencies received a copy of the project application for review and evaluation:

- Washoe County Planning and Development Division
- Washoe County Engineering and Capital Projects Division
- Building and Safety Department
- Washoe County Health District
- Incline Village General Improvement District
- North Lake Tahoe Fire Protection District
- Incline Village/Crystal Bay Citizen Advisory Board
- Tahoe Regional Planning Agency

Provided below, are the Reviewing Agencies that provided comments and/or recommended conditions of approval in response to their evaluation of the project application. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order if the variance request is granted approval.

- Washoe County Planning and Development provided standard conditions and is recommending approval subject to the conditions of approval.

Contact: Grace Sannazzaro, 775.328.3627, gsannazzaro@washoecounty.us

- Washoe County Engineering and Capital Projects, Roads Division is requiring a "Hold Harmless Agreement".

Contact: Kimble Corbridge, 775.328.2054, kcorbridge@washoecounty.us

- Environmental Health Services provided conditions that will be applicable at the building permit stage. Environmental Health Services advised the subject parcel is served by a public water system and an "Onsite Sewage Disposal System" (OSDS). The site plan that will be submitted for building permits will need to identify the location of the OSDS and repair area, and will be subject to Environmental Health's approval; and all improvements will need to meet all setback requirements per the Washoe County Health District Regulations Governing Sewage, Wastewater.

Contact: Chris Anderson, 775.328.2632, canderson@washoecounty.us

- North Lake Tahoe Fire Protection District had no comment regarding the variance request, however advised that any future structure will require a fire sprinkler system.

Contact: Mark Regan, 775.461.6200

- Incline Village General Improvement District (IVGID) stated that the subject variance request will have no impact on IVGID.

Contact: Tim Buxton, Public Works Director, 775.832.1246

Staff Comment on Required Findings

Section 110.804.25 of Article 804, *VariANCES*, within the Washoe County Development Code, requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the variance request. Staff has completed an analysis of the application and has determined that the proposal is in compliance with the required findings as follows.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property.

Staff Comment: Due to topographic conditions consisting of slopes of approximately 25 percent, the applicant is proposing placement of the new residence in the chosen location to create a shorter gentler sloped north facing driveway to prevent potential hazards during the winter months created by ice and snow. The proposal will aid in the retention of mature pine trees, which is in compliance with the Tahoe Regional Planning Agency (TRPA) tree retention requirement.

2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted.

Staff Comment: Due to the steep slopes on the subject property, the proposed placement is optimal to avoid a long and steep north facing driveway that could create potential hazards throughout the winter months resulting from ice and snow. Additionally, the garage is proposed to be 45 feet from the edge of pavement on Dale Drive, thereby complying with the Washoe County Public Works, Road Division requirements of maintaining a minimum of 20 feet from edge of pavement to a garage door for snow removal purposes. Staff cannot identify any significant impacts to neighboring properties as a result of the proposed new residence and attached garage.

3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.

Staff Comment: The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.

4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

Staff Comment: The subject parcel is designated with the Medium Density Suburban (MDS) Regulatory Zone. Pursuant to Washoe County Development Code, Article 302 Allowed Uses, a single family dwelling and garage are allowed with building permits in the MDS Regulatory Zone.

5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Staff Comment: There is no military installation within 3,000 feet of the subject property. Therefore, this finding does not apply to the subject property and is not required to be a part of the motion pursuant to Washoe County Development Code Section 110.804.25.

Recommendation

Those agencies which reviewed the application recommended conditions in support of approval of the variance request. Therefore, after a thorough analysis and review, Variance Case Number VA15-007 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number VA15-007 for Ira Rodman, having made all four findings in accordance with Washoe County Development Code Section 110.804.25.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;

2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated; and
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment, unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Development Division within 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment.

xc: Property Owner: Raymond and Barbara Miller, Trustees
 P.O. Box 4316
 Incline Village, NV 89450

 Applicant: Ira Rodman
 P.O. Box 426
 Crystal Bay, NV 89402

 Consultant: Wyatt Ogilvy
 P.O. Box 136
 Kings Beach, CA 96143

EXHIBIT C



WASHOE COUNTY

Board of Adjustment Staff Report

Meeting Date: August 1, 2013

Subject: Variance Case No: VA13-004
Applicant(s): D.R. and Lynn Willinger
Agenda Item No. 8A
Project Summary: To vary front yard setback to allow construction of new attached garage and residence.
Recommendation: Approval with Conditions
Prepared by: Sandra Monsalve, AICP, Senior Planner
Washoe County Community Services Department
Division of Planning and Development
Phone: 775.328.3608
E-Mail: smonsalve@washoecounty.us

Description

Variance Case No VA13-004 (Willinger) – To vary the front yard setback from twenty (20) feet to eight (8) feet to allow the construction of a new residence and attached garage, and to vary the maximum roof “overhang” of the proposed garage (architectural feature) from two (2) feet to three (3) feet, per Section 110.406.30(e).

- Applicant / Developer D.R. and Lynn Willinger, 930 Tahoe Blvd., #802-374, Incline Village, NV 89451.
- Property Owner Frank & Virginia Murnane, 547 Dale Drive, Incline Village, NV 89451.
- Location: 547 Dale Drive, Incline Village, NV 89451
- Assessor’s Parcel No: 122-132-13
- Parcel Size: ±0.425 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village-Crystal Bay
- Development Code: Article 804, and Article 406
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Sec 17, T16N, R18E

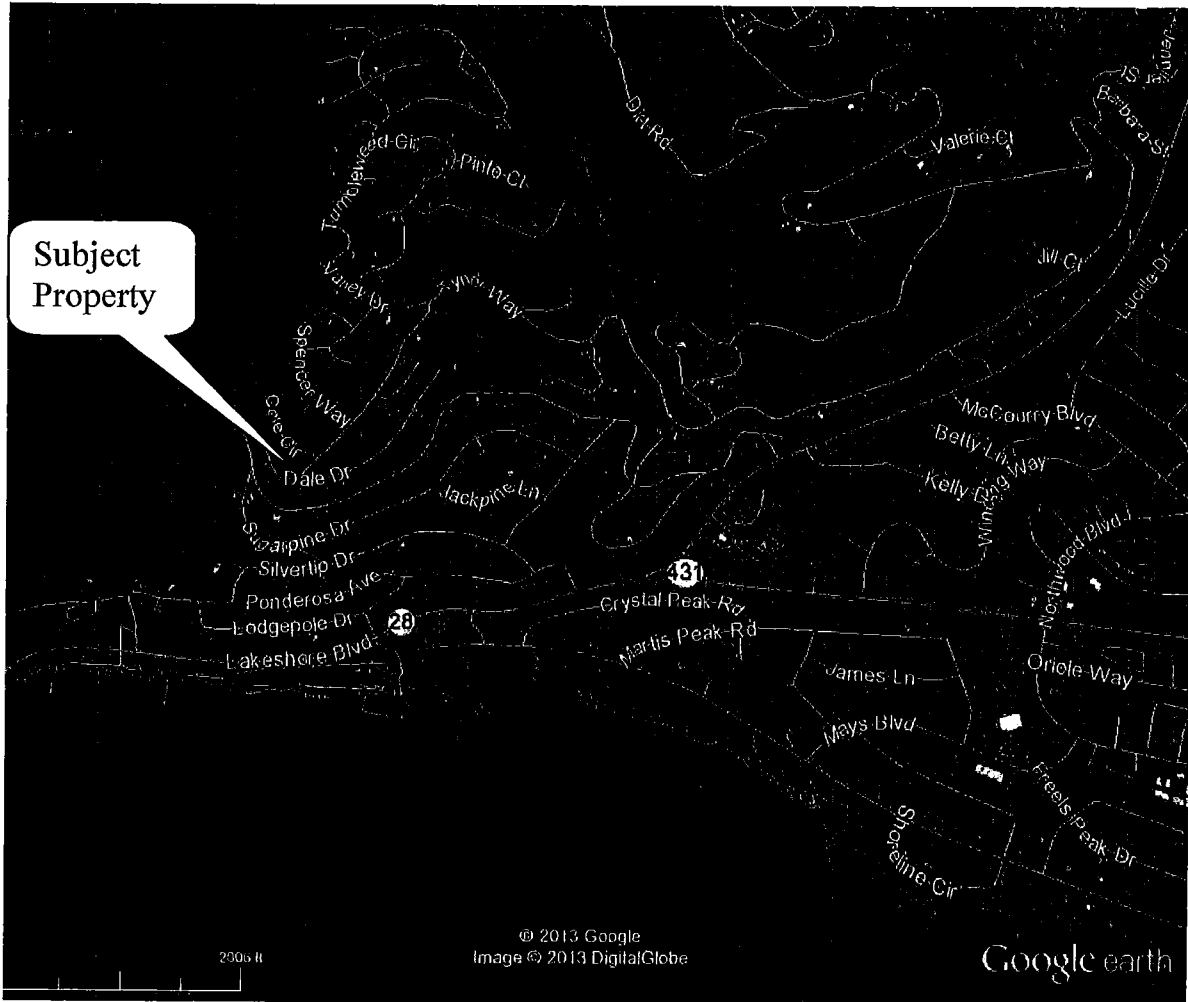
Staff Report Contents

Vicinity Map 3
Project Evaluation 4
Reviewing Agencies 5
Recommendation 8
Motion 8
Appeal Process 8
Site Plans 10-12
Variance Definition 12

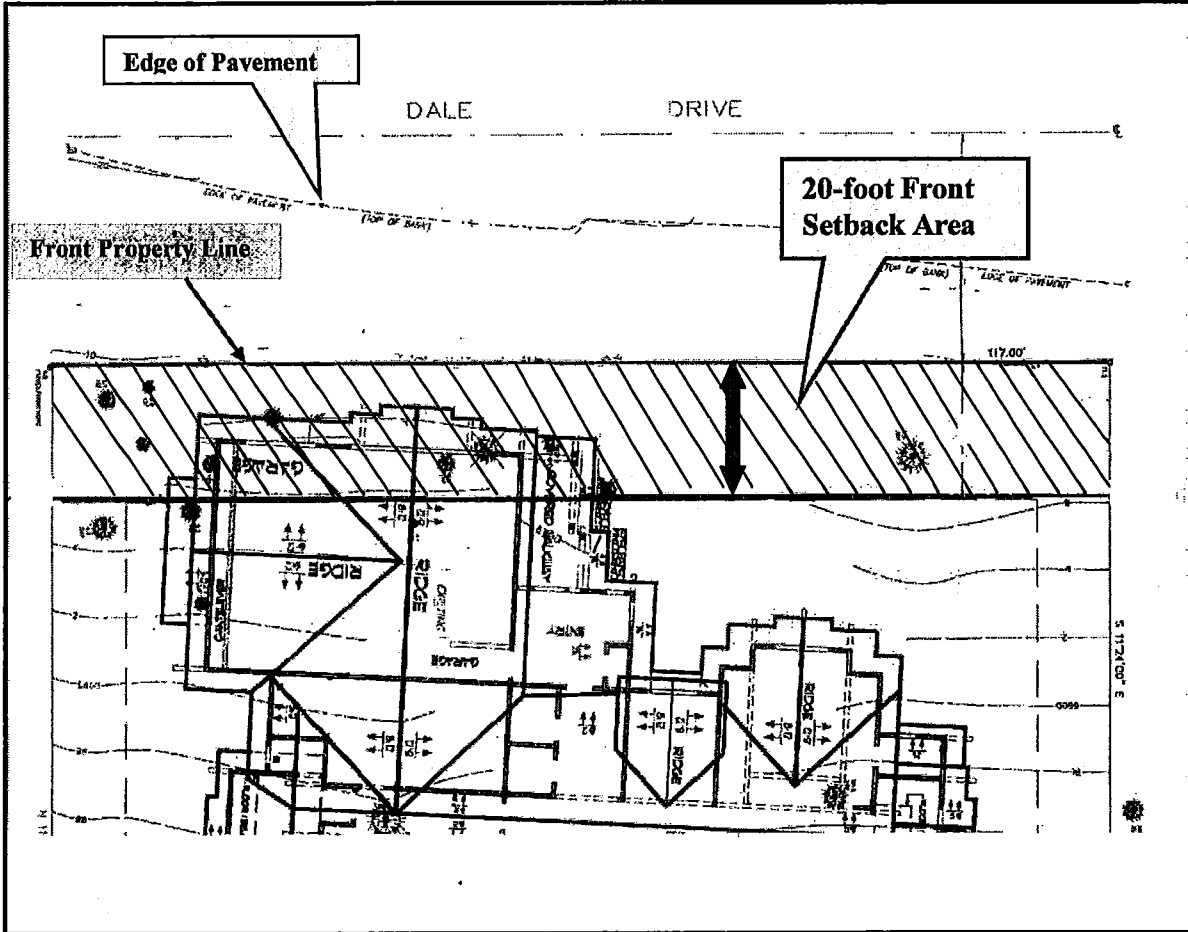
Exhibits Contents

Conditions of Approval Exhibit A
Engineering and Capital Projects Memo Exhibit B
Incline Village General Improvement District Exhibit C

Vicinity Map



Detail of Garage Location



Project Evaluation

Background/History:

This is a request to vary the front yard setbacks within Section 110.406.05.1 to reduce the front setback from twenty (20) feet to no less than eight (8) feet to facilitate the construction of a new single family residence, with an attached two (2) car garage; and to vary the maximum roof overhang (architectural feature) of the proposed garage from two (2) feet to three (3) feet, per Washoe County Development Code, Section 110.406.30(e).

Currently there is an existing 1,568 square foot residence with no garage on the property, originally constructed in 1966 with all required permits. The applicant plans on demolishing the existing residence, and constructing a new home with an attached 3-car garage. The subject property is located at 547 Dale Drive, approximately 50 feet east of the intersection of Dale Drive and Tyner Way in Incline Village. The parcel is ±.427 acres, and is within the Medium Density Suburban (MDS) regulatory zone within the Tahoe planning area.

Special Circumstances/Hardship:

Due to slopes in excess of 25%, and the Tahoe Regional Planning Agency (TRPA) tree retention requirement, the applicant is restricted in the placement of the new residence and garage. The applicant has therefore proposed to place the new residence in the chosen location so as to have the least amount of disturbance to the natural terrain across the parcel as possible. The proposed site plan design places the new garage 24 feet from edge of pavement, and back 8-feet from the front property line. The applicant is also requesting to vary the allowable roof overhang, commonly referred to as an architectural feature, from 2-feet into the setback to a maximum of 3-feet, resulting in a 1-foot variance. This is a design feature of the newly proposed residence and garage.

Impacts:

Due to the steep slopes on the property, the proposed garage placement is optimal so as to avoid a steep driveway in excess of the maximum 14% slope and potential hazards during the winter months resulting from snow and ice. Additionally, the garage is proposed to be 24 feet from the edge of pavement on Dale Drive, thereby complying with the Washoe County Public Works, Road Division requirements of maintaining a minimum of 15-feet from edge of pavement to a garage door for snow clearing purposes. Also a 36-inch diameter pine tree located within the building footprint has been marked for removal by TRPA as a hazard tree. However a 30-inch in diameter pine tree must remain on-site as part of the Tahoe Regional Planning Agency (TRPA) tree retention program, thereby creating the situation of the garage being sited towards the easterly side of the lot.

The proposed home is designed in such a way as to have the appearance of a one-story home from Dale Drive. The lot directly across the street from the subject parcel is owned by the Forest Service and is undeveloped. Also, adjacent property owners have garages available for off-street parking, and are similarly designed. The property owner is building a garage in order to create off-street, enclosed parking for year-round use, thus removing any vehicles from the street, which improves line-of-sight for vehicular travel along Dale Street. Lastly, the request to extend the roof overhang by 1-foot is a design feature in order to maintain fluidity in the architectural design of the residence and garage, and to lessen any potential visual impacts.

Staff sees no significant impacts to neighboring properties or mountain and lake views as a result of the proposed new residence and attached garage. Staff has made all mandated findings for this variance request.

Reviewing Agencies

The following agencies received a copy of the project application for review and evaluation:

- Washoe County Planning and Development Division
- Washoe County Engineering and Capital Projects Division (engineering and water resources)
- Washoe County District Attorney, Civil Division

- Washoe County Health District
 - Environmental Health Division
- Incline Village General Improvement District (IVGID)
- North Lake Tahoe FPD
- Tahoe Regional Planning Agency (TRPA)

Two of the seven above listed agencies/departments sent comment/conditions for the requested variance. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order

- Washoe County Planning and Development addressed general conditions for the proposed new residential construction with attached garage.
 - Contact: Sandra Monsalve, 775.328.3608, smonsalve@washoecounty.us
- Washoe County Engineering and Capital Projects provided general conditions for the proposed garage and residential construction.
 - Contact: Leo Vesely, 775.328.2040, lvesely@washoecounty.us

Community Input

At the time of publication staff had not received community input in regard to the variance request.

Staff Comment on Required Findings

Section 110.804.25 of Article 804, *Variances*, within the Washoe County Development Code states "prior to approving an application for a variance, the Board of Adjustment, the Planning Commission or hearing examiner shall find that findings (a) through (d) apply to the property and, if a military installation is required to be noticed, finding (e):

- (a) Special Circumstances. Because of the special circumstances applicable to the property, including either the:
 - (1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
 - (2) By reason of exceptional topographic conditions, or
 - (3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,

the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;

Staff Comment:

- *The subject property has slopes in excess of 25% across the entire lot.*
 - *The proposed garage placement is partly due to the Tahoe Regional Planning Agency (TRPA) tree retention requirements.*
 - *The subject parcel is also located on the down slope side of Dale Drive, creating additional hazardous conditions during the winter months. Hazards such as drainage/snowmelt and/or ice accumulation on longer, steeper driveways necessitates intrusion into the front setback.*
- b) No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted.

Staff Comment:

- *The variance will not create a detriment to the scenic or environmental character of the surrounding area, nor affect Lake views of adjacent properties.*
- c) No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.

Staff Comment:

- *The granting of this variance would allow the property owner to construct a garage in order to improve covered off-street parking which is consistent with Washoe County Development Code parking standards found in Article 410.*
 - *The construction of a garage would be consistent with adjacent properties that have attached garages, in addition to improving vehicular traffic line-of-sight by removing vehicles from the street.*
- d) Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

Staff Comment:

- *WCC Section 110.410.10.1 Off-Street Parking Space Requirements requires 2 parking spaces per dwelling unit, 1 of which must be in an enclosed garage.*
- *Though the house, when constructed met the parking requirements of the code in effect at the time; this property improvement would comply with the current code and assist in removing vehicles from Dale Drive.*

- e) Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Staff Comment:

- o *N/A, there is no military installation near the subject property.*

Staff has completed the analysis of the application and has determined that the proposal has met the required findings as outline within the Development Code.

Recommendation

After a thorough analysis and review, Variance Case No. VA13-004 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

I move that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case No. VA13-004 for Mr. and Mrs. Doug Willinger, having made all required findings in accordance with Washoe County Development Code Section 110.804.25:

1. Special Circumstances. That due to slopes greater than 25% and TRPA requirements for tree retention; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

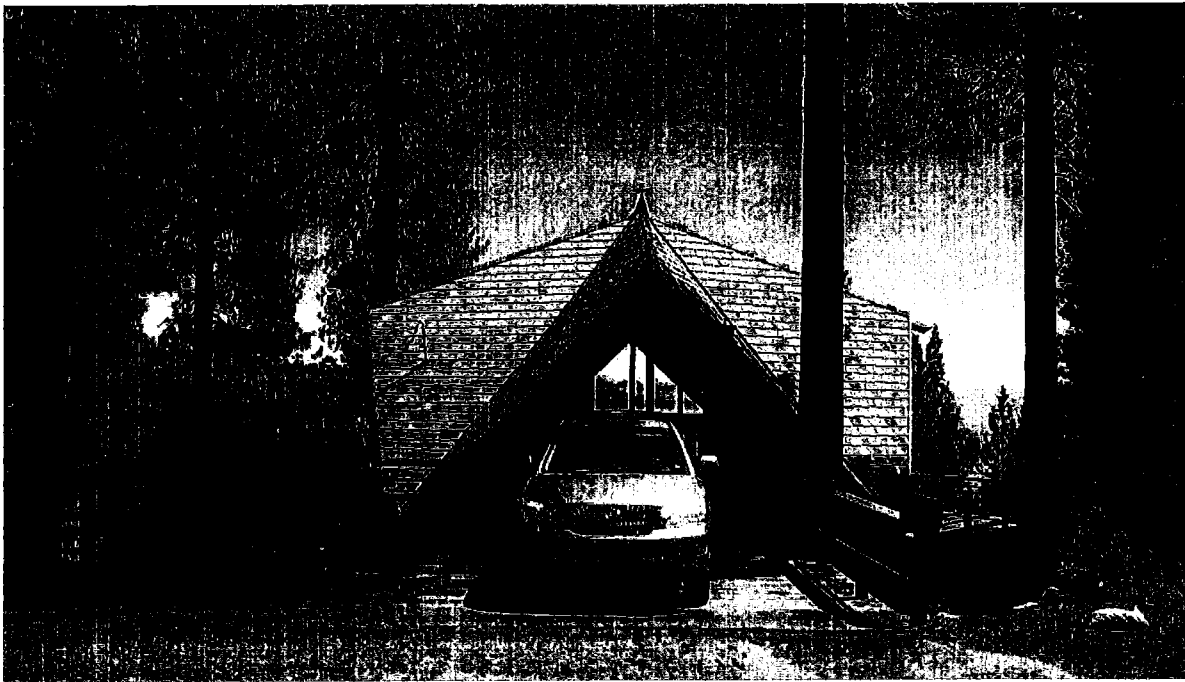
Appeal Process

The Board of Adjustment action will be effective 10 days after the public hearing date, unless the action is appealed to the County Commission, in which case the outcome of the appeal shall be determined by the Washoe County Commission.

SUBJECT PARCEL



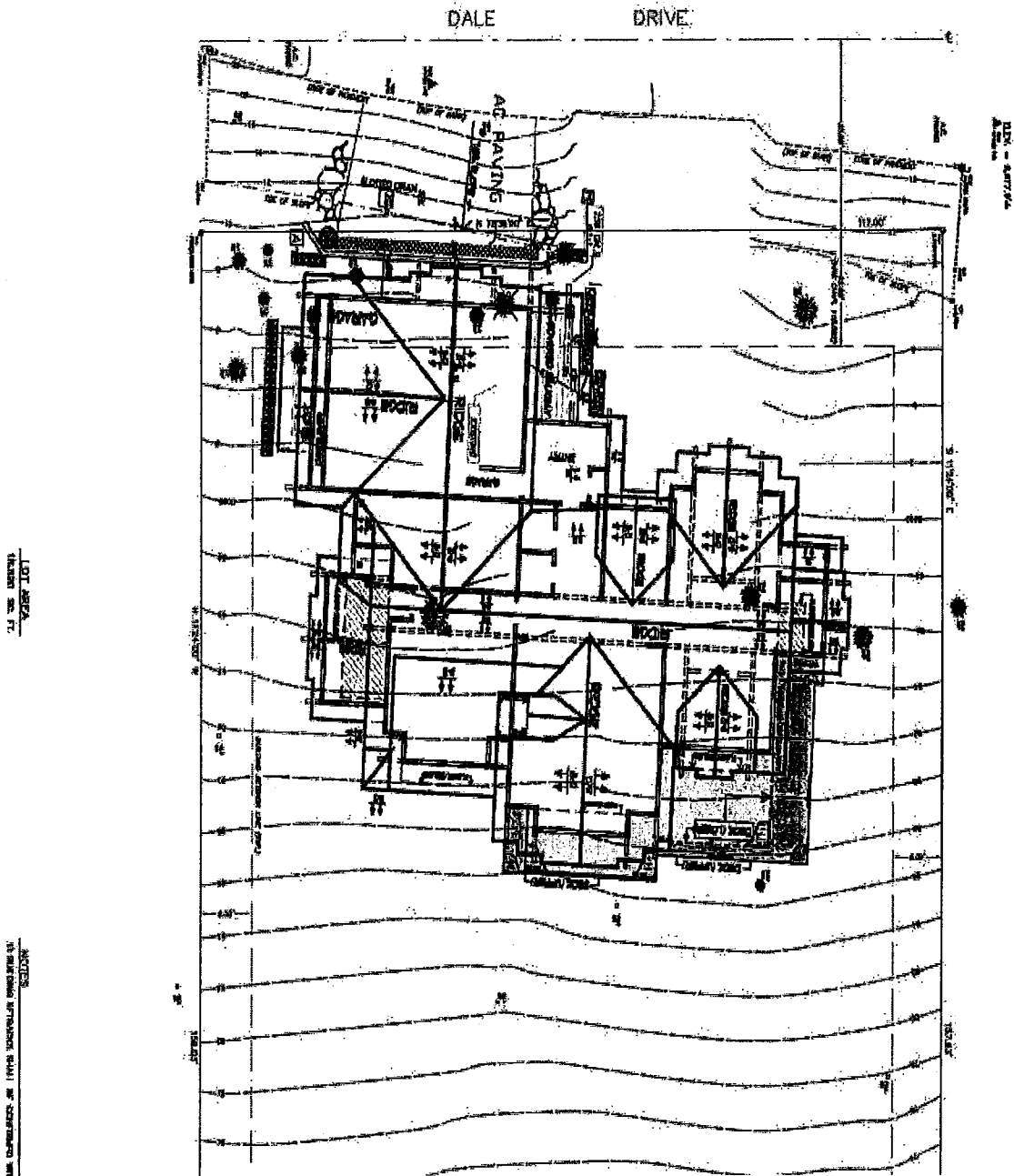
Existing Residence and Parking Deck



Looking West on Dale Drive



Site Plan



Variance Definition

The use and standards for a variance are set out in NRS 278.300 (1) (c), which provides that:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, the Board of Adjustment has the power to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under WCC 110.804.25, the Board must make four findings which are discussed below.

If the Board of Adjustment grants an approval of the Variance, that approval may be subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as "*Operational Conditions*". These conditions must be continually complied with for the life of the business or project.

xc: Property Owner: Frank and Virginia Murnane, 547 Dale Drive, Incline Village, NV 89451.

Applicant: D.R. and Lynn Willinger, 930 Tahoe Boulevard, #802-374, Incline Village, NV 89451.

Representatives: Luke Andrew Busby, Ltd., 543 Plumas Street, Reno, NV 89509.

EXHIBIT D



WASHOE COUNTY

"To Protect and To Serve"



**WASHOE COUNTY BOARD OF ADJUSTMENT
DEPARTMENT OF DEVELOPMENT REVIEW
Michael A. Harper, AICP, Director**

**MEMBERS:
Bill Hilke, Chair
Stephen Amesbury**

Development Review (702) 328-6100
Business License Div. (702) 328-3733
FAX (702) 328-3648

**Karin Highwood
Alex Kanwatz
Richard Mills**

FINAL ORDER

September 15, 1994

**Maurice and Sheryl Ver Brugge
1180 Essex Lane
Foster City, CA 94404**

Dear Mr. and Mrs. Ver Brugge:

At its regular meeting of September 1, 1994 the Washoe County Board of Adjustment conditionally approved (5 conditions) the following request:

Variance Case No. V7-40-94: To reduce the required front yard setback from 15 feet to 11 feet to facilitate the construction of a proposed garage and remodel of an existing home. The residence is located at 715 Cristina Drive, Lot 17, Scotchwood Subdivision. The ±.363 acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan and situated in a portion of Section 11, T16N, R18E, MDM, Washoe County, Nevada. (APN: 128-251-06)

Sharon Kvas made the staff presentation. Staff had recommended conditional approval. A determination for special circumstances was made because the front half of the property had a 26% slope. Additionally, Tahoe Regional Planning Agency coverage requirements necessitated utilizing the existing parking deck. No negative impacts were found to be associated with the request and no adverse comments were received as a result of the agency review.

Karin Highwood reported that the Incline Village/Crystal Bay Citizens Advisory Board had recommended approval of the variance request on August 31, 1994.

Craig Bonds, applicant's representative, stated that they were in agreement with the staff report which included the conditions for a hold harmless agreement and garage door opener, and that he was present to answer any questions.

Chairman Hilke opened the public hearing, and as no one appeared in favor or opposition, the public hearing was declared closed.

Maurice and Sheryl Van Brugge
Re: V7-40-94
September 15, 1994—page 2

ACTION

Karin Highwood moved to conditionally approve Variance Case No. V7-40-94. The motion was seconded by Alex Karwetz and passed by a vote of four (4) in favor, none (0) opposed, and one (1) absent with Stephen Amesbury and Dick Mills not present.

The approval for the amendment for the variance was based on the following findings:

1. That due to the 26% slope of the property and Tahoe Regional Planning Agency coverage requirements, the site chosen is the only reasonable location for an enclosed garage;
2. that the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties;
3. that the request is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. that granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and
5. that the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

As no appeals have been filed in the time period stipulated in the Washoe County Development Code, the decision of the Board of Adjustment is final.

Yours truly,



Michael A. Harper, AICP
Development Review Director and
Secretary to the Board of Adjustment

MAH/SK/ma (V4094FO)

Attachments: Conditions

xc: Rusty Nash, Deputy D.A.; Judy Ramos, Assessor's Office; Regional Transportation Commission; Craig Bonds, P. O. Box 4071, Incline Village, NV 89450

CONDITIONS
for
VARIANCE CASE NO. V7-40-84

(As approved by the Board of Adjustment at its meeting on September 1, 1984)

ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO ISSUANCE OF A BUILDING PERMIT, UNLESS OTHERWISE SPECIFIED.

COMPLIANCE WITH THE CONDITIONS OF THIS VARIANCE IS THE RESPONSIBILITY OF THE APPLICANT, HIS SUCCESSOR IN INTEREST, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE VARIANCE MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ALL AGREEMENTS, EASEMENTS OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE DEPARTMENT OF DEVELOPMENT REVIEW.

THE WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

GENERAL CONDITIONS

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or
 - b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by the Washoe County Board of Adjustment; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by the Washoe County Board of Adjustment.

The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).

2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Development Review.

Maurice and Sheryl Van Brugge
Re: V7-40-94
September 15, 1994--page 4

3. A copy of the variance's final order and approved site plan shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless the final order and site plan are attached.
4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Development Review prior to the submittal of a building permit application.
5. The applicant shall install an automatic garage door opener prior to issuance of a Certificate of Occupancy by Washoe County Building and Safety Division.

**WASHOE COUNTY BOARD OF ADJUSTMENT
STAFF REPORT**

To: Members of the Washoe County Board of Adjustment

Re: Variance Case No. V7-40-94

Date: August 22, 1994

Prepared By: SK

GENERAL INFORMATION SUMMARY

Applicant: Maurice & Cheryl Ver Brugge

Requested Action: To reduce the required front yard setback from 15 feet to 11 feet to facilitate the construction of a proposed garage and remodel of an existing home. The residence is located at 715 Cristina Drive, Lot 17, Scotchwood Subdivision. The ±.383 acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan and situated in a portion of Section 11, T16N, R18E, MDM, Washoe County, Nevada. (APN: 128-251-06)

RECOMMENDATION/FINDINGS

Based upon the staff analysis, comments received, and the site inspection, staff recommends conditional approval of the request and offers the following motion for your consideration:

The Washoe County Board of Adjustment conditionally approves Variance Case No. V7-40-94 having made the findings:

1. That due to the 26% slope of the property and Tahoe Regional Planning Agency coverage requirements, the site chosen is the only reasonable location for an enclosed garage;
2. that the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties;
3. that the request is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. that granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and

5. that the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

ANALYSIS

Background:

This existing residence was built in 1977. It consists of 1724 square feet comprising three bedrooms and two baths. The owner is proposing a remodel/addition to upgrade the existing home and increase the size significantly, more in keeping with the evolving character of the east slope of Incline Village.

Currently, a first story foundation exists for a detached garage which was never completed. This unfinished portion will be integrated into the remodel. This remodel addition would increase the square footage of the home by approximately 2,000 square feet, bringing the total square footage to 3,722 square feet. In addition, a garage would be constructed over the existing parking deck.

Special Circumstances/Hardship:

The front half of the property has a 26% slope. The site chosen is the only feasible location to provide an enclosed garage with a driveway under 14% as required by Washoe County. Additionally, Tahoe Regional Planning Agency coverage requirements necessitate utilizing the existing parking deck.

Impacts:

The proposed encroachment into the front setback will site the garage ± 18 feet from edge of pavement. Staff believes there is ample room for both snow removal and snow storage, however, Roads Division requests a hold harmless agreement. Sufficient space is available to pull a compact vehicle off pavement to access the garage, but a garage door opener is requested for larger vehicular access. The garage location does not interfere with line of sight for vehicular traffic on Cristina Drive.

The remodel will involve a significant increase in size of the residence, which is a well-kept twenty year old mountain home. However, this area of Incline Village is being redeveloped into far larger estate-size homes. This remodel will be consistent with the pattern developing on the east slope of Incline Village. No negative impacts were found to be associated with the request.

Agency Comments: The plans were submitted to involved agencies and no adverse comments were received. Washoe County Engineering Division does request the installation of a garage door opener.

Incline Village General Improvement District reports no impact to IVGID utilities for the garage addition. The applicant is cautioned to contact that agency prior to the remodel of the existing dwelling which will require reassessment of service to the residence and compliance with all IVGID Ordinances, Rules and Regulations.

Washoe County Board of Adjustment
Re: Variance Case No. V7-40-94 (Maurice & Cheryl Ver Brugge)
August 22, 1994 - page 3

APPLICABLE REGULATIONS

Nevada Revised Statutes Chapter 278; Washoe County Code Chapter 110

SK (V4094S)

Attachments: Conditions, Maps.

XC: Maurice & Sheryl Ver Brugge, 1180 Essex Lane, Foster City, CA 94404; Craig Bonds, P. O. Box 4071, Incline Village, NV 89450

CONDITIONS
for
VARIANCE CASE NO. V7-40-84

ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO ISSUANCE OF A BUILDING PERMIT, UNLESS OTHERWISE SPECIFIED.

COMPLIANCE WITH THE CONDITIONS OF THIS VARIANCE IS THE RESPONSIBILITY OF THE APPLICANT, HIS SUCCESSOR IN INTEREST, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE VARIANCE MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ALL AGREEMENTS, EASEMENTS OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE DEPARTMENT OF DEVELOPMENT REVIEW.

THE WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

GENERAL CONDITIONS

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or
 - b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by the Washoe County Board of Adjustment; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by the Washoe County Board of Adjustment.

The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).

2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Development Review.
3. A copy of the variance's final order and approved site plan shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless the final order and site plan are attached.

washoe county development review

Washoe County Board of Adjustment
Re: Variance Case No. V7-40-94 (Maurice & Cheryl Ver Brugge)
August 22, 1994 -- page 5

4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Development Review prior to the submittal of a building permit application.
5. The applicant shall install an automatic garage door opener prior to issuance of a Certificate of Occupancy by Washoe County Building and Safety Division.

EXHIBIT D



WASHOE COUNTY

"To Protect and To Serve"



WASHOE COUNTY BOARD OF ADJUSTMENT
DEPARTMENT OF DEVELOPMENT REVIEW
Michael A. Harper, AICP, Director

Development Review (702) 328-6100
Business License Div. (702) 328-3733
FAX (702) 328-3648

MEMBERS:
Bill Hilke, Chair
Stephen Amesbury

Karin Highwood
Alex Kanwitz
Richard Mills

FINAL ORDER

September 15, 1994

Maurice and Sheryl Ver Brugge
1180 Essex Lane
Foster City, CA 94404

Dear Mr. and Mrs. Ver Brugge:

At its regular meeting of September 1, 1994 the Washoe County Board of Adjustment conditionally approved (5 conditions) the following request:

Variance Case No. V7-40-94: To reduce the required front yard setback from 15 feet to 11 feet to facilitate the construction of a proposed garage and remodel of an existing home. The residence is located at 715 Cristina Drive, Lot 17, Scotchwood Subdivision. The ±.363 acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan and situated in a portion of Section 11, T16N, R18E, MDM, Washoe County, Nevada. (APN: 128-251-06)

Sharon Kvas made the staff presentation. Staff had recommended conditional approval. A determination for special circumstances was made because the front half of the property had a 26% slope. Additionally, Tahoe Regional Planning Agency coverage requirements necessitated utilizing the existing parking deck. No negative impacts were found to be associated with the request and no adverse comments were received as a result of the agency review.

Karin Highwood reported that the Incline Village/Crystal Bay Citizens Advisory Board had recommended approval of the variance request on August 31, 1994.

Craig Bonds, applicant's representative, stated that they were in agreement with the staff report which included the conditions for a hold harmless agreement and garage door opener, and that he was present to answer any questions.

Chairman Hilke opened the public hearing, and as no one appeared in favor or opposition, the public hearing was declared closed.

Maurice and Sheryl Van Brugge
Re: V7-40-94
September 15, 1994—page 2

ACTION

Karin Highwood moved to conditionally approve Variance Case No. V7-40-94. The motion was seconded by Alex Kanwetz and passed by a vote of four (4) In favor, none (0) opposed, and one (1) absent with Stephen Amesbury and Dick Mills not present.

The approval for the amendment for the variance was based on the following findings:

1. That due to the 26% slope of the property and Tahoe Regional Planning Agency coverage requirements, the site chosen is the only reasonable location for an enclosed garage;
2. that the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties;
3. that the request is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. that granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and
5. that the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

As no appeals have been filed in the time period stipulated in the Washoe County Development Code, the decision of the Board of Adjustment is final.

Yours truly,



Michael A. Harper, AICP
Development Review Director and
Secretary to the Board of Adjustment

MAH/SK/ma (V4094FO)

Attachments: Conditions

xc: Rusty Nash, Deputy D.A.; Judy Ramos, Assessor's Office; Regional Transportation Commission; Craig Bonds, P. O. Box 4071, Incline Village, NV 89450

CONDITIONS
for
VARIANCE CASE NO. V7-40-84

(As approved by the Board of Adjustment at its meeting on September 1, 1984)

ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO ISSUANCE OF A BUILDING PERMIT, UNLESS OTHERWISE SPECIFIED.

COMPLIANCE WITH THE CONDITIONS OF THIS VARIANCE IS THE RESPONSIBILITY OF THE APPLICANT, HIS SUCCESSOR IN INTEREST, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE VARIANCE MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ALL AGREEMENTS, EASEMENTS OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE DEPARTMENT OF DEVELOPMENT REVIEW.

THE WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

GENERAL CONDITIONS

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or
 - b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by the Washoe County Board of Adjustment; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by the Washoe County Board of Adjustment.

The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).

2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Development Review.

3. A copy of the variance's final order and approved site plan shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless the final order and site plan are attached.
4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Development Review prior to the submittal of a building permit application.
5. The applicant shall install an automatic garage door opener prior to issuance of a Certificate of Occupancy by Washoe County Building and Safety Division.

**WASHOE COUNTY BOARD OF ADJUSTMENT
STAFF REPORT**

To: Members of the Washoe County Board of Adjustment

Re: Variance Case No. V7-40-94

Date: August 22, 1994

Prepared By: SK

GENERAL INFORMATION SUMMARY

Applicant: Maurice & Cheryl Ver Brugge

Requested Action: To reduce the required front yard setback from 15 feet to 11 feet to facilitate the construction of a proposed garage and remodel of an existing home. The residence is located at 715 Cristina Drive, Lot 17, Scotchwood Subdivision. The ±.363 acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan and situated in a portion of Section 11, T16N, R18E, MDM, Washoe County, Nevada. (APN: 128-251-06)

RECOMMENDATION/FINDINGS

Based upon the staff analysis, comments received, and the site inspection, staff recommends conditional approval of the request and offers the following motion for your consideration:

The Washoe County Board of Adjustment conditionally approves Variance Case No. V7-40-94 having made the findings:

1. That due to the 26% slope of the property and Tahoe Regional Planning Agency coverage requirements, the site chosen is the only reasonable location for an enclosed garage;
2. that the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties;
3. that the request is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. that granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and

washoe county development review

5. that the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

ANALYSIS

Background:

This existing residence was built in 1977. It consists of 1724 square feet comprising three bedrooms and two baths. The owner is proposing a remodel/addition to upgrade the existing home and increase the size significantly, more in keeping with the evolving character of the east slope of Incline Village.

Currently, a first story foundation exists for a detached garage which was never completed. This unfinished portion will be integrated into the remodel. This remodel addition would increase the square footage of the home by approximately 2,000 square feet, bringing the total square footage to 3,722 square feet. In addition, a garage would be constructed over the existing parking deck.

Special Circumstances/Hardship:

The front half of the property has a 26% slope. The site chosen is the only feasible location to provide an enclosed garage with a driveway under 14% as required by Washoe County. Additionally, Tahoe Regional Planning Agency coverage requirements necessitate utilizing the existing parking deck.

Impacts:

The proposed encroachment into the front setback will site the garage ± 18 feet from edge of pavement. Staff believes there is ample room for both snow removal and snow storage, however, Roads Division requests a hold harmless agreement. Sufficient space is available to pull a compact vehicle off pavement to access the garage, but a garage door opener is requested for larger vehicular access. The garage location does not interfere with line of sight for vehicular traffic on Cristina Drive.

The remodel will involve a significant increase in size of the residence, which is a well-kept twenty year old mountain home. However, this area of Incline Village is being redeveloped into far larger estate-size homes. This remodel will be consistent with the pattern developing on the east slope of Incline Village. No negative impacts were found to be associated with the request.

Agency Comments: The plans were submitted to involved agencies and no adverse comments were received. Washoe County Engineering Division does request the installation of a garage door opener.

Incline Village General Improvement District reports no impact to IVGID utilities for the garage addition. The applicant is cautioned to contact that agency prior to the remodel of the existing dwelling which will require reassessment of service to the residence and compliance with all IVGID Ordinances, Rules and Regulations.

washoe county development review

Washoe County Board of Adjustment
Re: Variance Case No. V7-40-94 (Maurice & Cheryl Ver Brugge)
August 22, 1994 – page 3

APPLICABLE REGULATIONS

Nevada Revised Statutes Chapter 278; Washoe County Code Chapter 110

SK (V4094S)

Attachments: Conditions, Maps.

XC: Maurice & Sheryl Ver Brugge, 1180 Essex Lane, Foster City, CA 94404; Craig Bonds, P. O. Box 4071, Incline Village, NV 89450

washoe county development review

Washoe County Board of Adjustment
Re: Variance Case No. V7-40-94 (Maurice & Cheryl Ver Brugge)
August 22, 1994 - page 4

CONDITIONS
for
VARIANCE CASE NO. V7-40-94

ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO ISSUANCE OF A BUILDING PERMIT, UNLESS OTHERWISE SPECIFIED.

COMPLIANCE WITH THE CONDITIONS OF THIS VARIANCE IS THE RESPONSIBILITY OF THE APPLICANT, HIS SUCCESSOR IN INTEREST, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE VARIANCE MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ALL AGREEMENTS, EASEMENTS OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE DEPARTMENT OF DEVELOPMENT REVIEW.

THE WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

GENERAL CONDITIONS

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or
 - b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by the Washoe County Board of Adjustment; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by the Washoe County Board of Adjustment.

The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).

2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Development Review.
3. A copy of the variance's final order and approved site plan shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless the final order and site plan are attached.

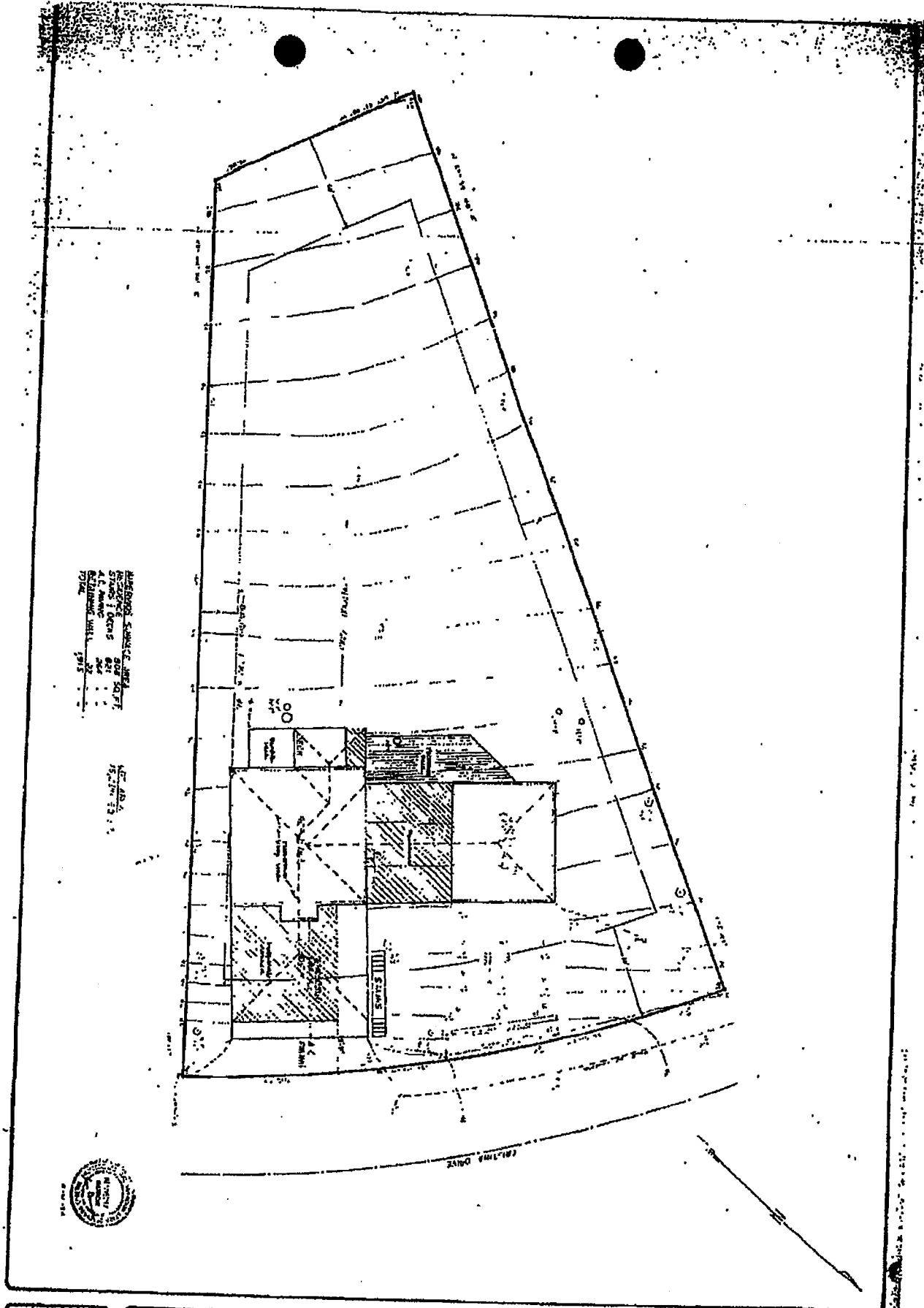
washoe county development review

Washoe County Board of Adjustment

Re: Variance Case No. V7-40-94 (Maurica & Cheryl Ver Brugge)

August 22, 1994 -- page 5

4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Development Review prior to the submittal of a building permit application.
5. The applicant shall install an automatic garage door opener prior to issuance of a Certificate of Occupancy by Washoe County Building and Safety Division.



METERS SOURCE AREA
 STATION 1 OAKS 800 SQ FT
 A. L. MANNING 200' x 200'
 DISTANCE 200' 200'
 1915

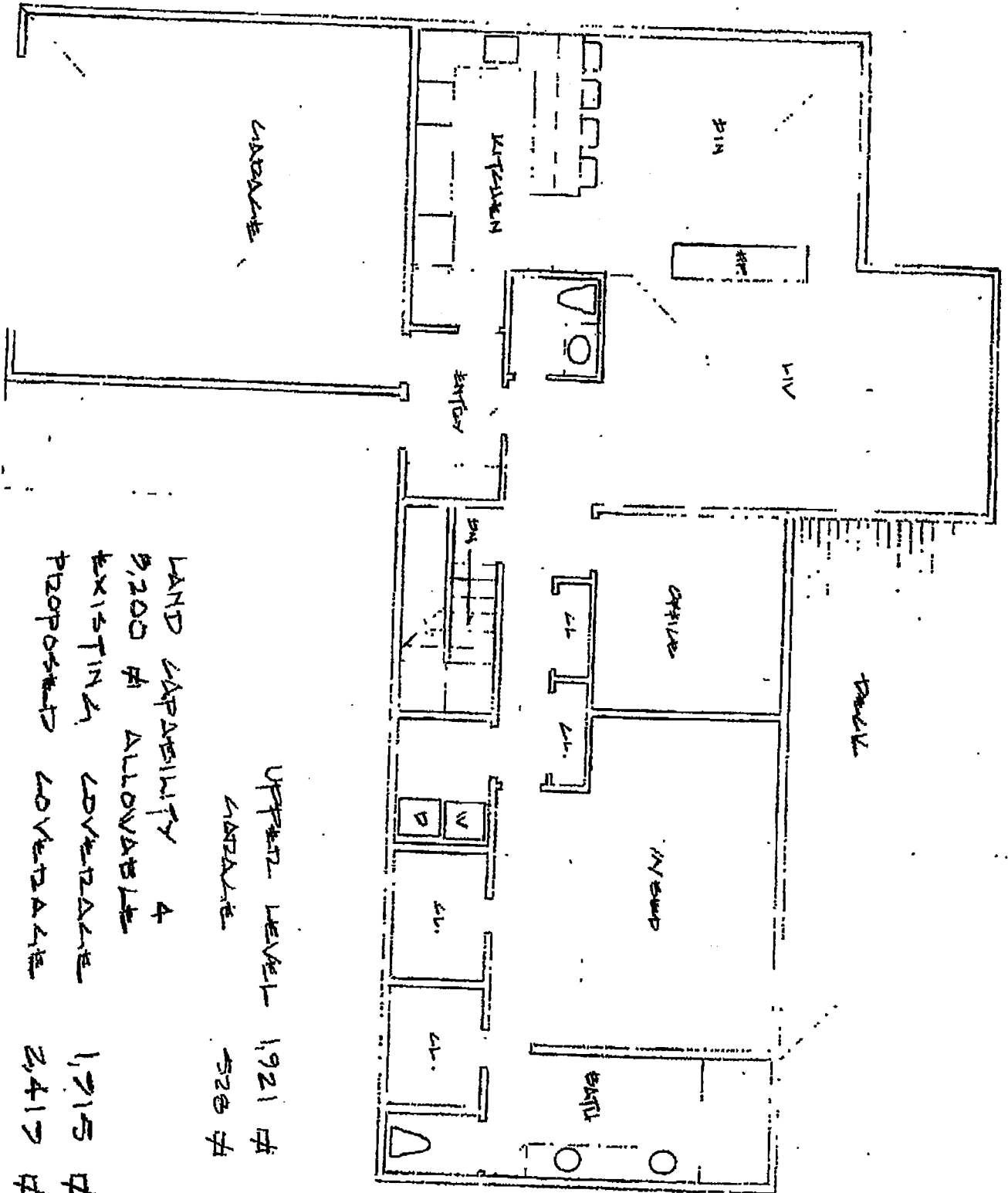
MET. AREA
 15,200 SQ. FT.



DATE	1915
BY	A. L. MANNING
FOR	STATION 1 OAKS
SCALE	AS SHOWN
REVISIONS	
NO.	
DATE	
BY	
FOR	

TOPOGRAPHIC SURVEY
 LOT 17, SCOTENWOOD SUBDIVISION
 PALME WILLOW, WASHINGTON COUNTY, NEVADA
 A.C.N. 22-22-06 775 CRISTINA DRIVE

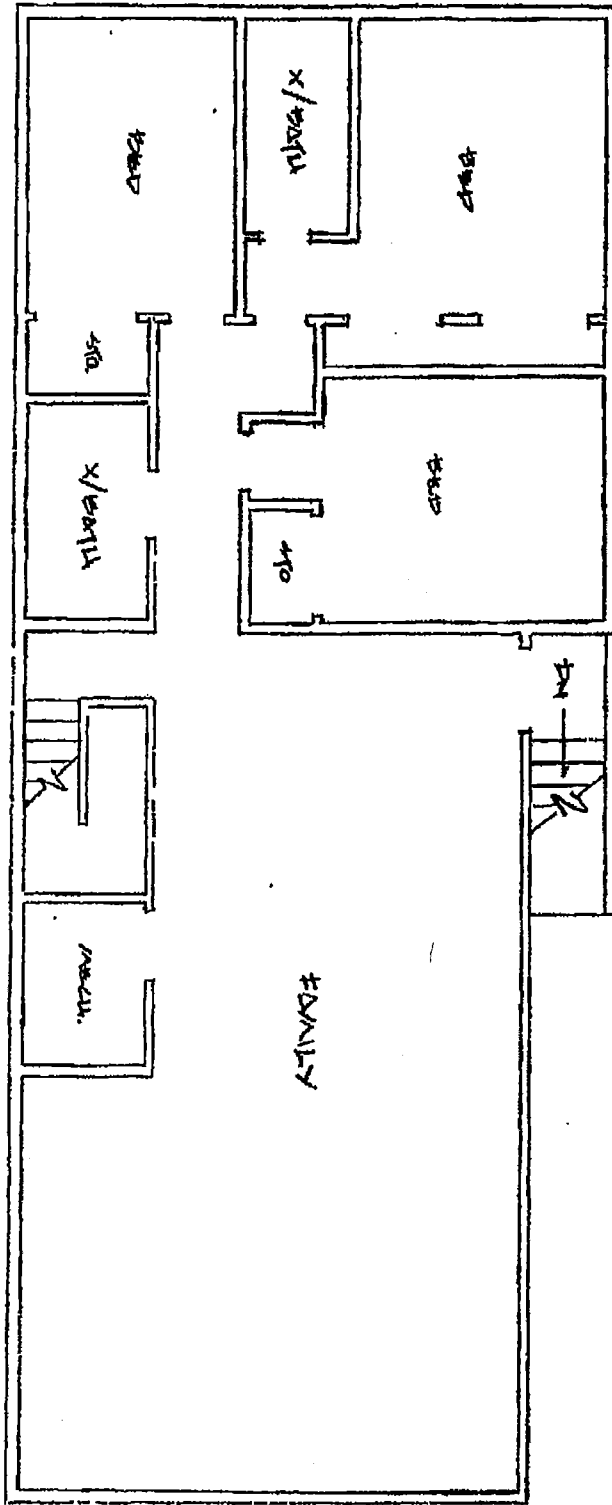
Kenneth F. Barrow R.L.S.
 LAND SURVEYOR
 1000 BURNING TREE DRIVE, LAS VEGAS, NEVADA 89166
 (702) 735-1111



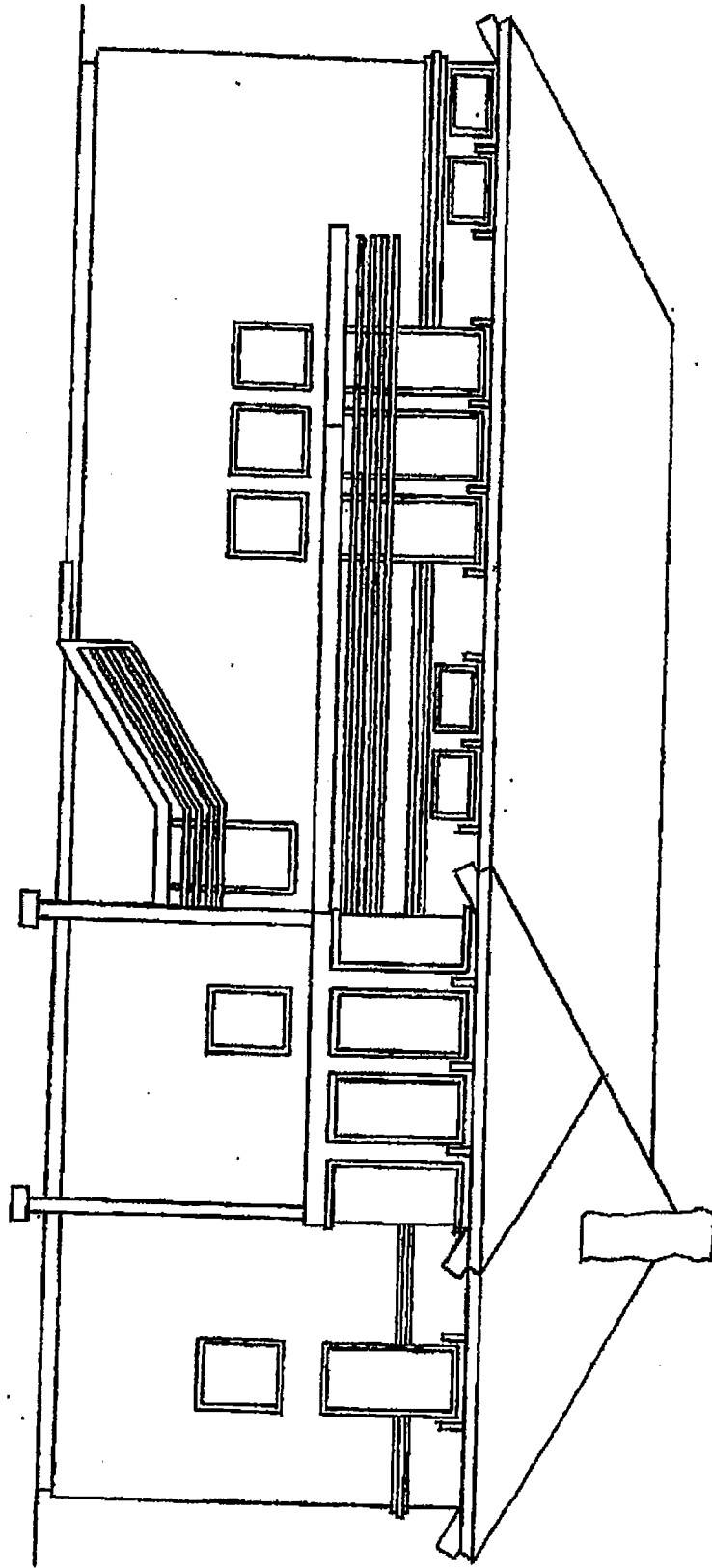
UPPER LEVEL 1,921 #
 LABORATORY 528 #

LAND CAPABILITY	4
EXISTING ALLOWABLE	1,915 #
PROPOSED COVERABLE	2,415 #

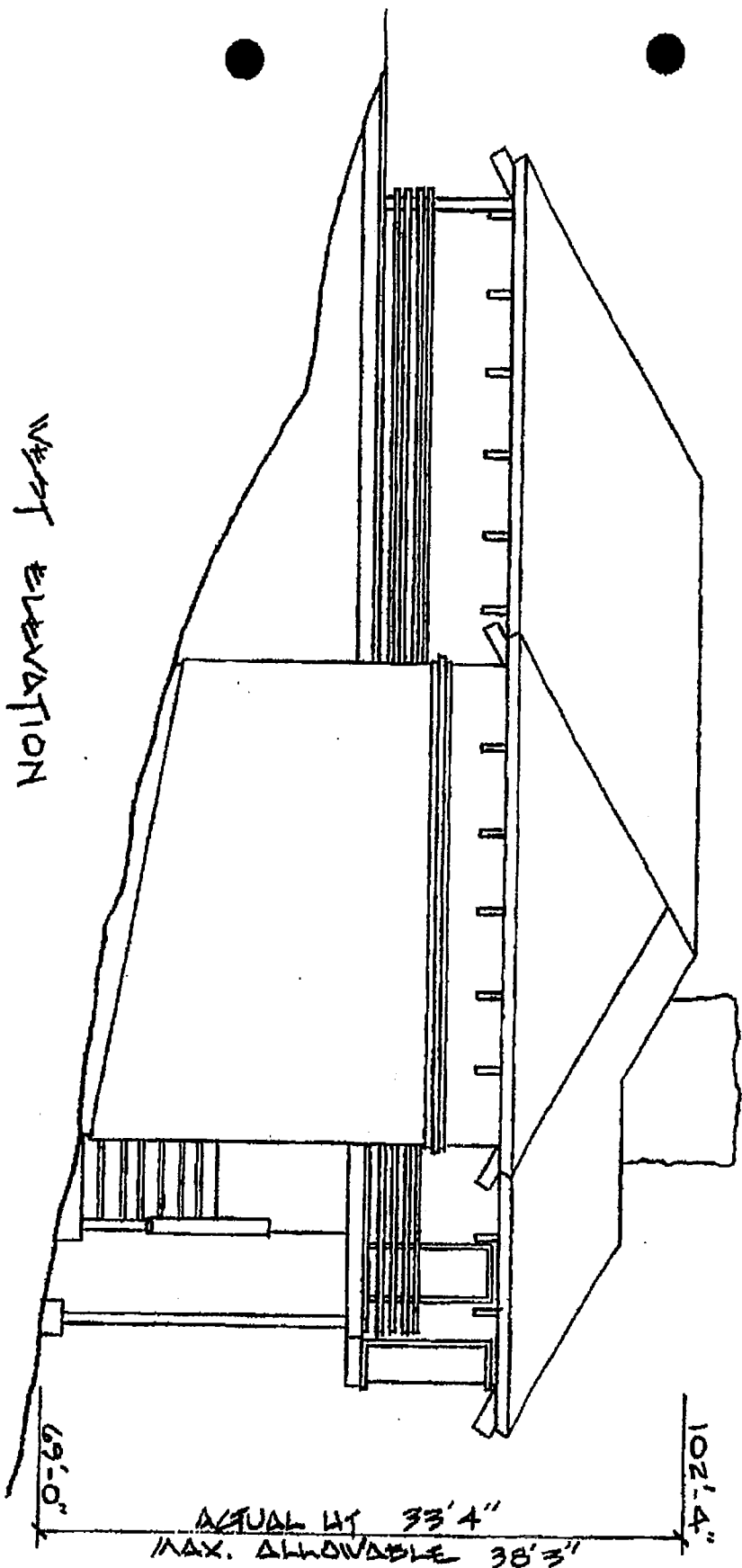
LOWER LEVEL 1801 #



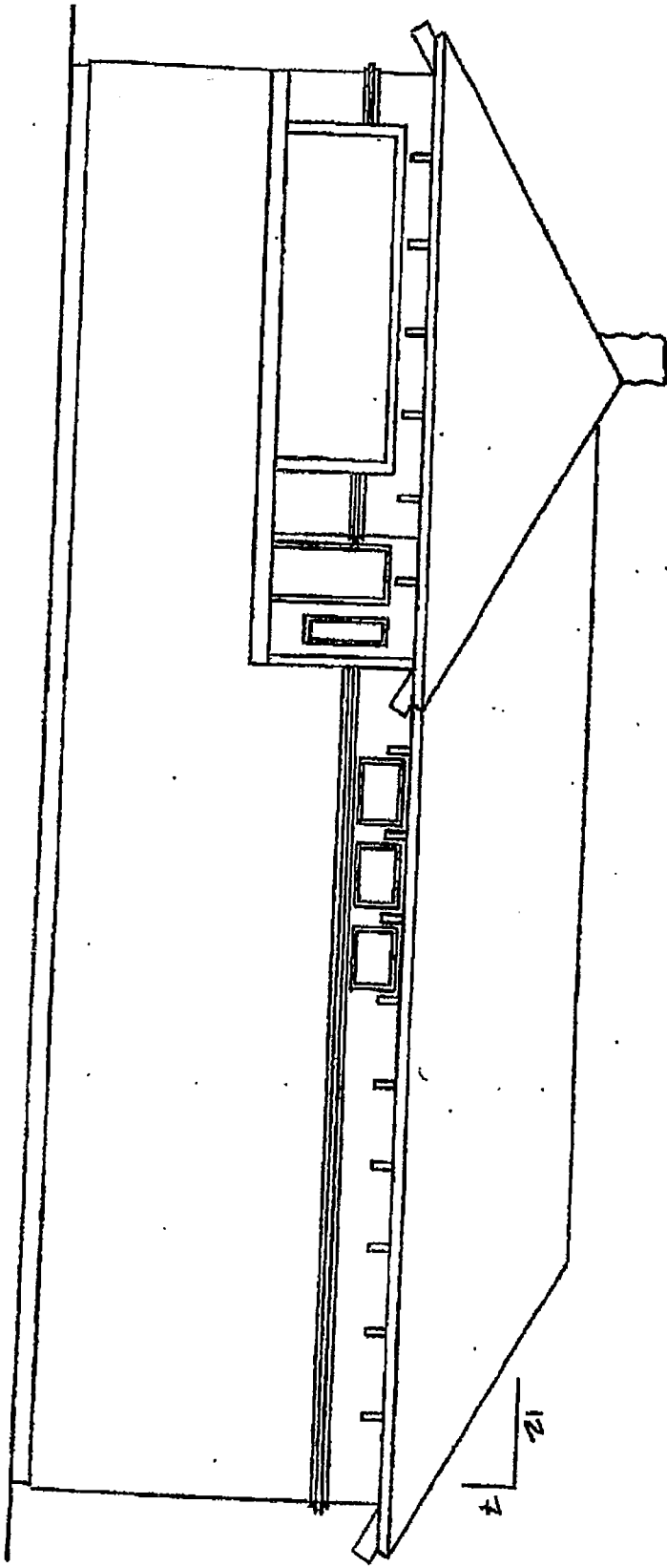
SOUTH ELEVATION



WEST ELEVATION



NORTH ELEVATION



EAST ELEVATION

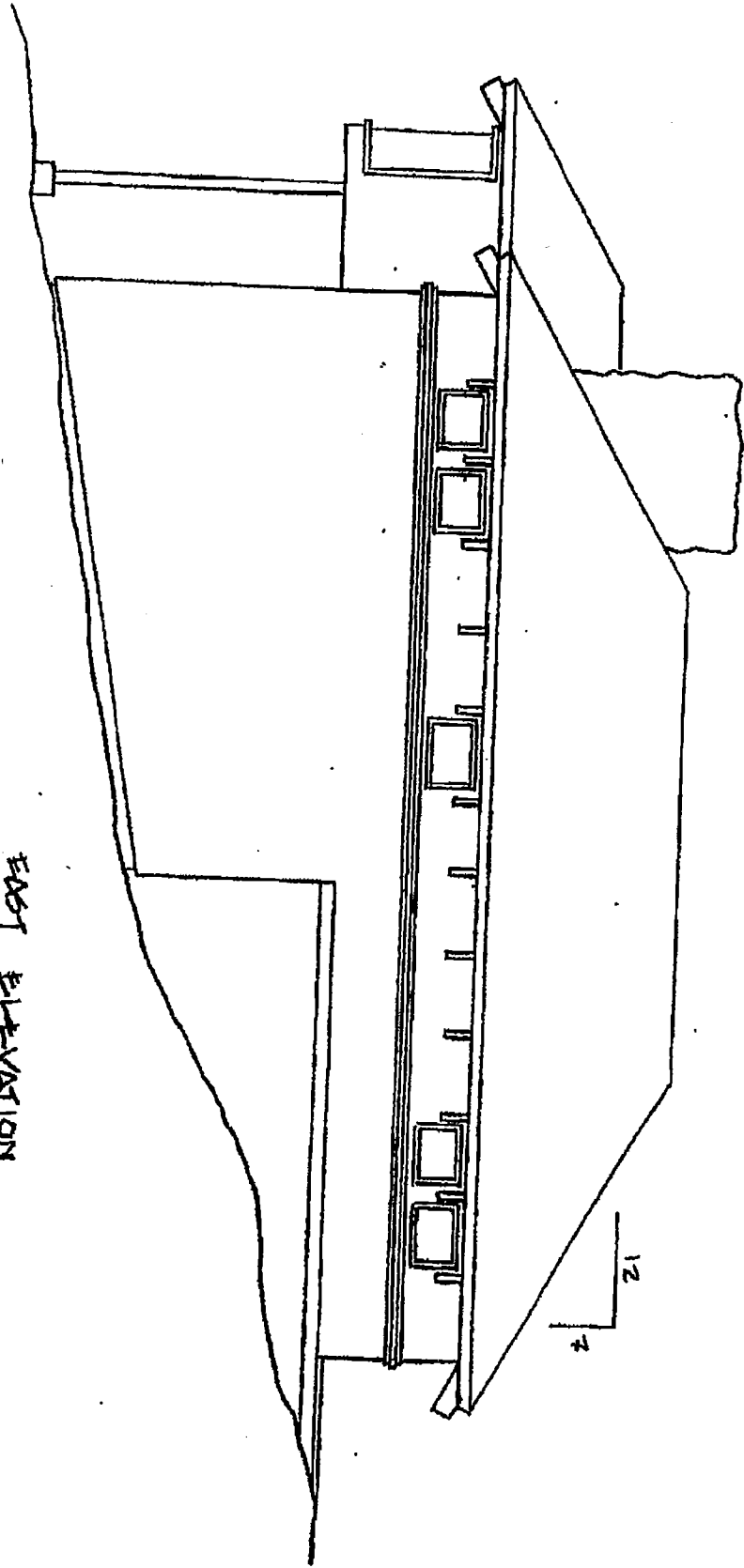


EXHIBIT E



ACTION ORDER

**Washoe County
Department of
Community
Development**

1001 E. Ninth St., Bldg A
Post Office Box 11130
Reno, NV 89520-0027
Tel: 775-328-3680
Fax: 775-328-3648

**Washoe County
Board of
Adjustment**
Bill Hülke, Chair
Frank Petersen
V. Chair
Neal Cobb
Jane Maxfield
Richard Tannehill

April 10, 2000

Phillip and Randi Moore
PO Box 9246
Incline Village, NV 89452

Dear Applicant:

The Washoe County Board of Adjustment, at its regular meeting of April 6, 2000, approved with seven (7) conditions:

VARIANCE CASE NO. VA0002-005 (PHILLIP AND RANDI MOORE) - To vary the required setbacks within Section 110.406.05.1 to reduce the front yard setback from 15 feet to 7½ feet. The request will facilitate the construction of 1,797 square feet to an existing 2,329 square foot residence (4,126 total), a new two-car garage (496 square feet) and 459 square feet of new deck areas. The property is located at 701 Cristina Drive, Lot 11, Scotchwood Subdivision, ±1.5 miles north of the intersection of Country Club Drive and Tahoe Boulevard (SR 28). The ±.368-acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan within Washoe County Commissioner District No. 1, and situated in a portion of Section 10, T16N, R18E, MDM, Washoe County, Nevada (APN: 126-251-12)

The approval of the variance was based on the following findings:

1. That the property has a downslope in excess of 28% and the reduction of the front yard setback from the required distance of fifteen feet to 7½ feet will provide a distance of fifteen feet from the edge of the pavement to the garage. This distance meets the minimum length of driveway/deck acceptable to the Washoe County Roads Division to provide two guest parking spaces for the residence in addition to the two enclosed garage spaces since off-street parking in the vicinity is limited due to the narrow configuration of the street;
2. That the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties. Developed properties on either side of the subject property have lake views towards the west. In addition, the property across the street is a through lot with existing development along the Fairview Drive frontage located at a much higher elevation;
3. That no applicable policies exist to make the finding of consistency or non-consistency with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. That granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and
5. That the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

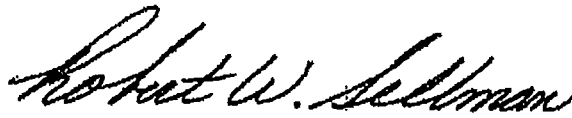
Robert W. Sellman
Director



To: Phillip and Randi Moore
Re: VA0002-005
April 10, 2000
Page 2

If no appeals have been filed in the time period stipulated in the Washoe County Development Code, the decision by the Board of Adjustment is final.

Yours truly,



Robert W. Sellman
Director, Washoe County Community Development
Secretary to the Board of Adjustment

RWS/MD/km (VA0002-005F1)

Applicant: Phillip and Randi Moore, PO Box 9246, Incline Village, NV 89452

Representative: Wayne Ford, PO Box 4775, Incline Village, NV 89450

Agencies: Incline Village/Crystal Bay Citizen's Advisory Board; Incline Village General Improvement District; James Barnes, DA's Office; Judy Ramos, Assessor's Office; John Faulkner, Chief Appraiser, Assessor's Office; Tahoe Regional Planning Agency, Post Office Box 1038, Zephyr Cove, NV 89448-1038; North Lake Tahoe Fire Protection District; 866 Oriole Way, Incline Village, NV 89451-9439

To: Phillip and R. Moore
Re: VA0002-005
April 10, 2000
Page 3

**CONDITIONS FOR
VARIANCE CASE NO. VA0002-005
MOORE**

(As approved by Washoe County Board of Adjustment
at its meeting on April 6, 2000)

*****IMPORTANT—PLEASE READ*****

UNLESS OTHERWISE SPECIFIED, ALL CONDITIONS MUST BE MET OR FINANCIAL ASSURANCES MUST BE PROVIDED TO SATISFY THE CONDITIONS PRIOR TO SUBMITTAL FOR A BUILDING PERMIT. THE AGENCY RESPONSIBLE FOR DETERMINING COMPLIANCE WITH A SPECIFIC CONDITION SHALL DETERMINE WHETHER THE CONDITION MUST BE FULLY COMPLETED OR WHETHER THE APPLICANT SHALL BE OFFERED THE OPTION OF PROVIDING FINANCIAL ASSURANCES. ALL AGREEMENTS, EASEMENTS, OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL HAVE A COPY FILED WITH THE COUNTY ENGINEER AND THE DEPARTMENT OF COMMUNITY DEVELOPMENT.

COMPLIANCE WITH THE CONDITIONS OF THIS VARIANCE IS THE RESPONSIBILITY OF THE APPLICANT, AND ALL OWNERS, ASSIGNEES, AND OCCUPANTS OF THE PROPERTY AND THEIR SUCCESSORS IN INTEREST. FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED IN THE ISSUANCE OF THE VARIANCE MAY RESULT IN THE INSTITUTION OF REVOCATION PROCEDURES.

ANY OPERATIONAL CONDITIONS IMPOSED BY TO THIS VARIANCE APPROVAL ARE SUBJECT TO REVIEW BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT PRIOR TO THE ANNUAL RENEWAL OF A BUSINESS LICENSE. FAILURE TO COMPLY WITH THE CONDITIONS MAY RESULT IN WITHHOLDING RENEWAL OF THE BUSINESS LICENSE UNTIL THE DEPARTMENT OF COMMUNITY DEVELOPMENT HAS DETERMINED COMPLIANCE HAS BEEN ACHIEVED.

ALL CONDITIONS LISTED WITHIN THIS APPROVAL MUST BE SATISFIED TO EFFECTUATE THIS VARIANCE APPROVAL. THE PROPERTY OWNER AND/OR APPLICANT ARE RESPONSIBLE FOR COMPLYING WITH ALL RELEVANT RULES, REGULATIONS, DEVELOPMENT STANDARDS, POLICIES AND PROCEDURES OF WASHOE COUNTY. WASHOE COUNTY RETAINS THE RIGHT TO ENFORCE ALL APPLICABLE ORDINANCES THAT ARE NOT WAIVED OR VARIED BY THE APPROVAL OF THIS APPLICATION.

WASHOE COUNTY RESERVES THE RIGHT TO REVIEW AND REVISE THE CONDITIONS OF THIS APPROVAL SHOULD THEY DETERMINE THAT A SUBSEQUENT LICENSE OR PERMIT ISSUED BY WASHOE COUNTY VIOLATES THE INTENT OF THIS APPROVAL.

GENERAL CONDITIONS

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or

To: Phillip and [redacted] di Moore
Re: VA0002-009
April 10, 2000
Page 4

- b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by Washoe County; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by Washoe County; or
 - d. The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).
2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Community Development.
 3. A copy of the Final Order and approved site plan for the variance shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless both the Final Order and site plan are attached.
 4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Community Development prior to the issuance of a building permit.
 5. The applicant shall install an automatic garage door opener prior to the issuance of the certificate of occupancy from Washoe County Building and Safety Division. Compliance with this condition shall be determined by the staff of the Department of Community Development.
 6. The use of straw bales for either temporary erosion control or mulch material is prohibited. A note shall be placed on the building plans stating that straw will not be used and shall show an alternative temporary erosion control method and mulching material. Compliance with this condition shall be determined by the staff of the Department of Community Development.
 7. The applicant shall complete a Washoe County encroachment permit prior to the issuance of a building permit. Compliance with this condition shall be determined by the staff of the Department of Public Works, Road Division.

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Agenda Item No: 7
Staff Recommendation: PARTIAL
CONDITIONAL
APPROVAL

WASHOE COUNTY BOARD OF ADJUSTMENT
STAFF REPORT

To: Members of the Washoe County Board of Adjustment
Re: Variance Case No. VA0002-005
Date: April 6, 2000
Prepared By: Maryanin DeHaven

GENERAL INFORMATION SUMMARY

Applicant: Phillip and Randi Moore

Requested Action: To vary the required setbacks within Section 110.406.05.1 to reduce the front yard setback from 15 feet to 7½ feet and to allow the increase in the permissible roof overhang from two feet to four feet at the ridge of the garage. The request will facilitate the construction of 1,797 square feet to an existing 2,329 square foot residence (4,126 total), a new two-car garage (496 square feet) and 459 square feet of new deck areas. The property is located at 701 Cristina Drive, Lot 11, Scotchwood Subdivision, ±1.5 miles north of the intersection of Country Club Drive and Tahoe Boulevard (SR 28). The ±.368-acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan within Washoe County Commissioner District No. 1, and situated in a portion of Section 10, T16N, R18E, MDM, Washoe County, Nevada (APN: 126-251-12).

RECOMMENDATIONS/FINDINGS

Based upon the staff analysis, comments received and the site inspection, staff recommends partial approval of the request with the attached conditions and offers the following motion for your consideration:

The Washoe County Board of Adjustment partially conditionally approves the reduction of the front yard setback for construction of the garage and denies the increase of the front garage overhang from two feet to four feet for Variance Case No. VA0002-005 having made the following findings:

1. That the property has a downslope in excess of 28% and the reduction of the front yard setback from the required distance of fifteen feet to 7½ feet will provide a distance of fifteen feet from the

edge of the pavement to the garage. This distance meets the minimum length of driveway/deck acceptable to the Washoe County Roads Division to provide two guest parking spaces for the residence in addition to the two enclosed garage spaces since off-street parking in the vicinity is limited due to the narrow configuration of the street. In addition, there is no special circumstance such as size, shape or topography of the property that warrants approval of the increase of the roof overhang at the front of the garage from two feet to four feet;

2. that the request will not create a detriment to scenic or environmental character of the surrounding area, nor affect the lake views of the adjacent properties. Developed properties on either side of the subject property have lake views towards the west. In addition, the property across the street is a through lot with existing development along the Fairview Drive frontage located at a much higher elevation;
3. that no applicable policies exist to make the finding of consistency or non-consistency with the policies, action programs, standards and maps of the Comprehensive Plan and the Tahoe Area Plan;
4. that granting of the request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the Medium Density Suburban (MDS) land use designation; and
5. that the Board gave reasoned consideration to the information contained within the staff report and information received during the meeting.

ANALYSIS

Background:

The subject property is located on the west side of Cristina Drive near its intersection with Fairview Drive. A majority of the lots developed along Cristina Drive are located on the west side of the street on a downslope. These properties have views towards the west of Lake Tahoe. An existing residence is located on the north side of the subject lot, and the United States of America (United States Forest Service) owns the vacant lot located to the south.

The property measures approximately 87 feet wide and 184 feet deep (approximately 16,000 square feet). There is an existing residence on the property that measures approximately 2,329 square feet in size. The residence was constructed in 1979 and there is currently no garage on the property, only an uncovered parking deck. All of the existing residence and proposed addition is located on the front half of the property due to the slope of the lot.

Special Circumstances/Hardship:

The property has a slope in excess of 28% for the front half of the lot (facing Cristina Drive). The closer the garage and addition is constructed to the roadway, the lower the amount of grading and impervious coverage required because of the reduction in driveway length. The request maximizes the size of the home, minimizes the amount of coverage required and allows construction of a two-car garage where one did not exist previously.

Impacts:

Cristina Drive is a narrow, winding road in Incline Village. There is minimal opportunity to park, store snow or even pass vehicles in certain portions of the roadway during the winter with snow berms. The Board of Adjustment has granted variance to construct garages for existing residences closer than fifteen feet from the edge of the pavements. Staff has recommended approval and the Board of Adjustment has granted approval based on the premise that the construction of the garage improves conditions on the roadway by: a) providing enclosed garages for safety, b) removing parked cars from the roadway, c) does not exacerbate the existing roadway conditions and d) never reduces available parking opportunities.

In the case of new construction, the Roads Division and Department of Community Development staff reviews the request under different standards. The addition of the enclosed garage and guest parking in the driveway will provide an opportunity to park cars on the property and not on Cristina Drive. Roads Divisions requests a minimum of fifteen feet from the edge of the pavement to the garage structure in Incline Village. The applicant has provided fifteen feet to the edge of the pavement on their application request.

In addition to the reduced setback request, staff has reviewed the request to increase the roof overhang above the proposed garage from two feet to four feet. Staff has recommended that this portion of the request not be approved because there is no special circumstance such as size, shape or topography that relates to this feature. It is possible to construct the garage without the additional roof overhang and due to the fact that it is only proposed at the ridge, it is most likely an architectural element of the proposed project.

Recently, the use of straw bales for either temporary erosion control or mulch has resulted in a situation where noxious weeds have been transported into the Lake Tahoe basin. As such, alternatives to straw bales are recommended such as pine needle filter fabric, pine needles/duff or wood mulches. Therefore, the conditions of approval restrict the use of straw bales and require an alternative form of erosion control or mulching.

Agency Comments:

The Department of Public Works, Roads Division has included a condition that the applicant applies for a Washoe County encroachment permit for snow removal purposes. No other department has included conditions of approval.

Citizen Advisory Board Comments:

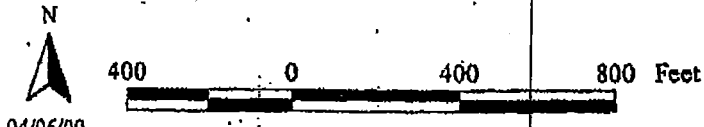
Incline Village/Crystal Bay Citizen's Advisory Board meets the night prior to the Board of Adjustment meeting. The concerns of the Citizen's Advisory Board will be presented at the Board of Adjustment meeting.

VICINITY MAP



Vicinity Map

Variance Case No. VA0002-005
701 Cristina Drive



04/06/00



LAND USE SUMMARY

Land Use Designation: Medium Density Suburban

Development Suitability Constraints: Slopes in excess of 20%

Allowed Use Type:

Section 110.304.15 - Residential Use Types. The Table of Uses, 110.302.05.1, allows single-family residential units and/or additions with the issuance of a Building Permit.

Adjacent Land Use Compatibility:

The adjacent land use designations for the parcels surrounding the subject property, and their compatibility with the proposed land use designation of **Medium Density Suburban**, are listed in Figure 1. The "High" land use compatibility rating with the surrounding land uses generally indicates that minimal conflicts could occur with adjacent land uses, and little or no screening or buffering measures are necessary. The "Medium" land use compatibility rating generally indicates that limited screening and buffering is necessary. The "Low" land use compatibility indicates significant screening and buffering is necessary.

Figure 1

ADJACENT PARCELS COMPATIBILITY WITH MEDIUM DENSITY SUBRUBAN		
Direction	Land Use Designation	Land Use Compatibility
North	Medium Density Suburban	High
South	Medium Density Suburban	High
East	Medium Density Suburban	High
West	Medium Density Suburban	High

Source: Table 3, Land Use Compatibility Matrix of the adopted Washoe County Comprehensive Plan Land Use and Transportation Element.

Area Plan Modifiers: Tahoe Modifiers

Parking: Two parking spaces required, one of which must be enclosed
 Two enclosed parking spaces provided and two open spaces on parking deck
 No handicapped spaces required

Landscaping: No landscape area required No landscaping provided

APPLICABLE REGULATIONS

Nevada Revised Statutes Chapter 278; Washoe County Code Chapter 110

MAD (VA0002-005)

Attachments: Conditions, Maps, Site Plan, Floor Plan, Elevations.

XC: Applicant: Phillip and Randi Moore
Representative: Wayne Ford
Agencies: Incline Village/Crystal Bay Citizen's Advisory Board; Incline Village General Improvement District

CONDITIONS

to

VARIANCE CASE NO. VA0002-005

(As recommended by Department of Community Development and
attached to Staff Report dated April 6, 2000)

1. The applicant shall obtain a valid Washoe County building permit or other administrative permit in the time period set forth as follows:
 - a. For projects which require a Tahoe Regional Planning Agency (TRPA) permit, within one year from the date of approval by TRPA; or
 - b. For projects which require a TRPA permit and which have TRPA approval (or conditional approval), within one year from the date of approval by Washoe County; or
 - c. For projects which do not require a TRPA permit, within one year from the date of approval by Washoe County; or
 - d. The applicant shall commence and complete construction in accordance with the time periods required by said permit(s).
2. The applicant shall demonstrate substantial conformance with the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance. Conformance shall be determined by the Department of Community Development.
3. A copy of the Final Order and approved site plan for the variance shall be attached to all building permit applications issued by Washoe County. Building plans will not be reviewed unless both the Final Order and site plan are attached.
4. The applicant shall execute a hold-harmless agreement with the District Attorney's office for snow removal purposes. A copy of the agreement shall be submitted to the Department of Community Development prior to the issuance of a building permit.
5. The applicant shall install an automatic garage door opener prior to the issuance of the certificate of occupancy from Washoe County Building and Safety Division. Compliance with this condition shall be determined by the staff of the Department of Community Development.

6. The use of straw bales for either temporary erosion control or mulch material is prohibited. A note shall be placed on the building plans stating that straw will not be used and shall show an alternative temporary erosion control method and mulching material. Compliance with this condition shall be determined by the staff of the Department of Community Development.
7. The applicant shall complete a Washoe County encroachment permit prior to the issuance of a building permit. Compliance with this condition shall be determined by the staff of the Department of Public Works, Roads Division.



Conditions of Approval

Variance Case Number: VA16-005

The project approved under Variance Case Number WPVAR17-0002 shall be carried out in accordance with the Conditions of Approval granted by the Board of County Commissioners on July 25, 2017. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable Codes, and neither these conditions nor the approval by the County of this project/use override or negate any other applicable restrictions on uses or development on the property.

Unless otherwise specified, all conditions related to the approval of this Variance shall be met or financial assurance must be provided to satisfy the conditions of approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Development Division.

Compliance with the conditions of approval related to this Variance is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the Variance may result in the initiation of revocation procedures.

Washoe County reserves the right to review and revise the conditions of approval related to this Variance should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, “may” is permissive and “shall” or “must” is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some “Conditions of Approval” are referred to as “Operational Conditions”. These conditions must be continually complied with for the life of the project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

Washoe County Planning and Development Division

1. The following conditions are requirements of the Planning and Development Division, which shall be responsible for determining compliance with these conditions.

Contact Name – Roger Pelham, 775.328.3622, rpelham@washoecounty.us

- a. The applicant shall demonstrate substantial conformance to the plans approved as part of this variance. Modification to the site plan may require amendment to and reprocessing of the variance.
- b. The applicant shall submit complete construction plans and building permits shall be issued within two years from the date of approval by Washoe County. The applicant shall complete construction within the time specified by the building permits.
- c. A copy of the Final Order stating conditional approval of this variance shall be attached to all applications for administrative permits, including building permits, issued by Washoe County.
- d. Prior to issuance of a building permit, the applicant execute Hold Harmless Agreement with the District Attorney's Office for the purposes of road maintenance and snow removal. The applicant shall submit a copy of the recorded document with the building permit application.
- e. The use of straw bales shall be prohibited during construction of the project. A filter-fabric fence or other acceptable alternative shall be utilized for erosion control.

*** End of Conditions ***