

Washoe County Board of Adjustment



COMMUNITY
SERVICES DEPARTMENT

Variance
WPVAR22-0004
(Rushing Variance)

November 3, 2022

27 Somers Loop

APN 123-031-04



Vicinity Map



- Tahoe Area Plan
- Tahoe, Stateline Point (TA_SP)
- Surrounding parcels generally bigger and also developed with single-family dwellings

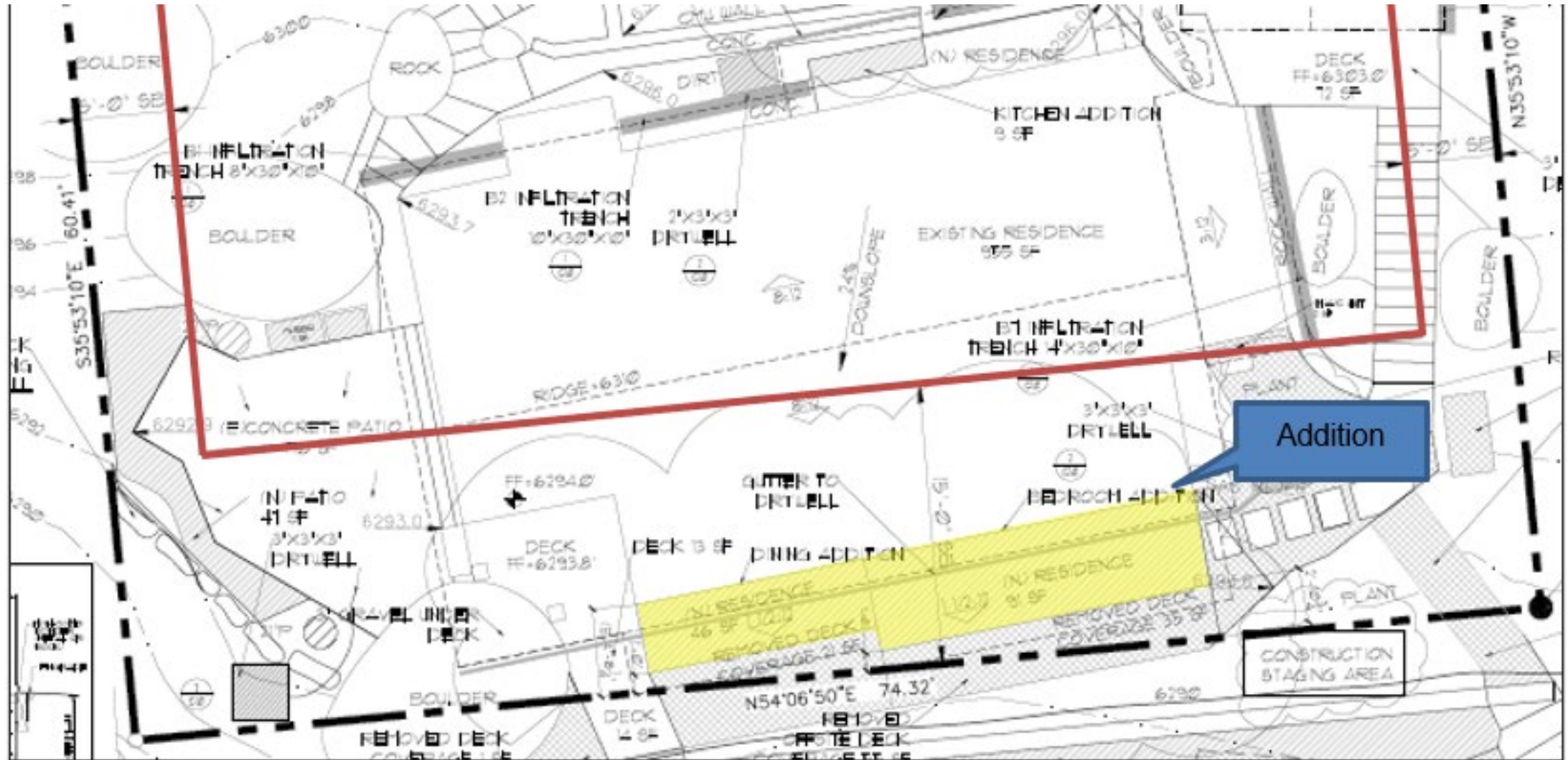


Request



The request is for a reduction of the front yard setback from 15' to 1' to build a 137sf addition to an 864sf main residence that predates and does not conform with the zoning regulations.

Request



Parcel Background

- Subject parcel is zoned Tahoe, Stateline Point and is 0.102 acres.
 - No minimum lot size in the regulatory zone, and therefore is a conforming lot
- 864sf residence built in 1936 with a 223sf guest house built in 1946
 - Both structures are currently in the existing setbacks of 15' from the front, 10' from the back, and 5' from the sides

- WPVAR20-0008 made the same request
 - Heard by BOA on March 4, 2021 and denied 3-0
- Applicant has proposed two other additions that don't require a variance:
 - 9sf addition to the back of the primary residence
 - 51sf addition to the guest house
- A 37sf addition to the back of the primary residence previously approved under WBLD20-104356

Article 804 – Variances

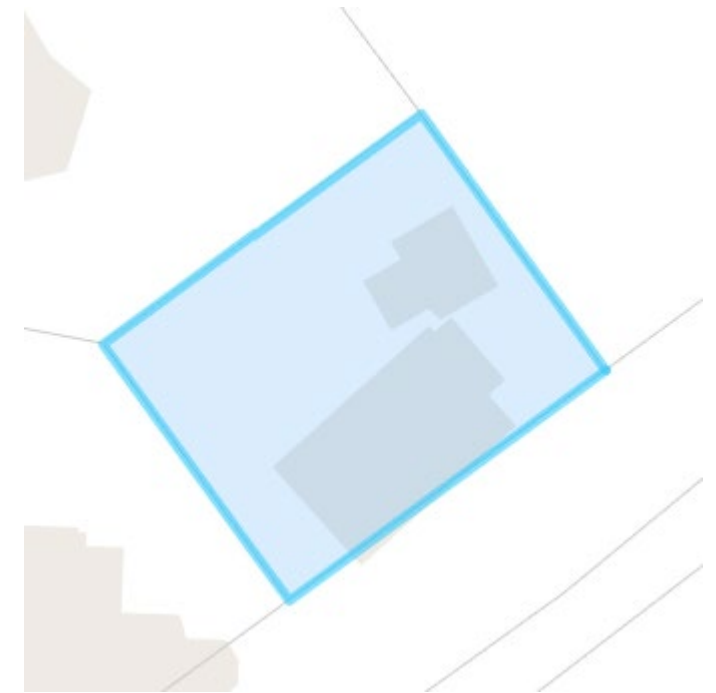
- Variance requires making ALL 5 of the following findings
 1. Special Circumstances
 2. No Detriment
 3. No Special Privileges
 4. Use Authorized
 5. Effect on a Military Installation

Staff is unable to make findings 1 and 3.

Special Circumstances

1. Shape of Property

- This parcel is rectangular and has 2,251.2sf of area to build within the setbacks
- Meets minimum parcel width of 60'

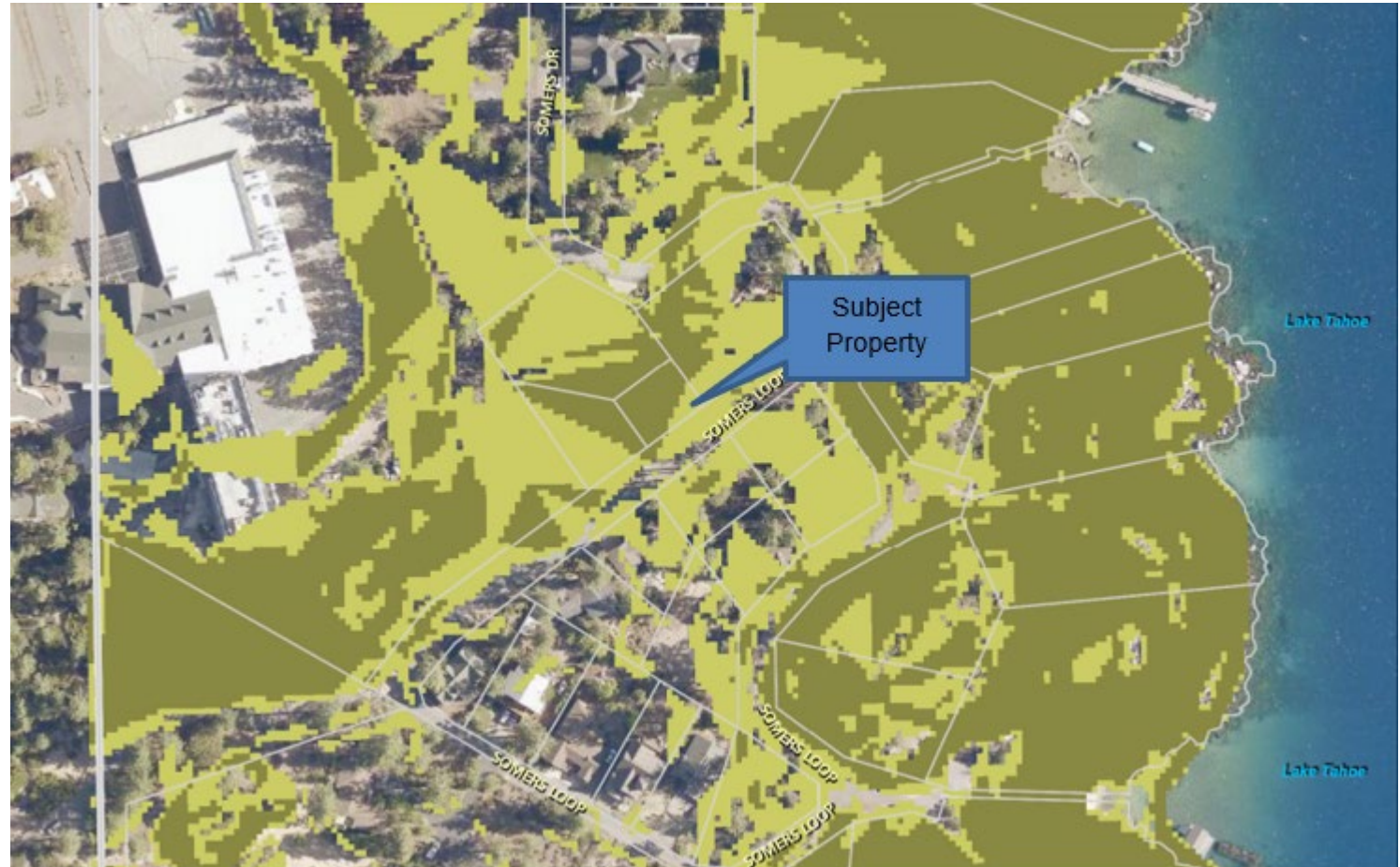


Special Circumstances



2. Topographic Conditions

- There **are** slopes greater than 15% within the setbacks area
- Applicant has already requested to build an expansion in the buildable area under WLBD20-104356 and proposed 51sf expansion of the guest house
- Not exceptional for the area



- Structures can be built up to the front lot line when slopes in the front yard setback exceed 20%
- Must meet set of standards (WCC 110.220.60(a) 1-6)
- Applicant did not meet WCC 110.220.60(a)(5): *The maximum square footage of the portion of the structure designed to encroach on the established setback shall not exceed 25% of the size of the primary structure.*
 - 31% of structure encroaches on setback
- Significant slopes typical in Tahoe Area, Applicant does not use provided flexibility

1. Exceptional Situation

- Non-conforming placement of the house does not preclude the applicant from living in and using their property within the bounds of the development code
 - Property owners have done so since 1936.

- WCC 110.220.75: “Existing setbacks for a home legally constructed prior to 2020 that do not meet the standards established in Section 110.220.55, Yard and Lot Standards, shall be deemed the legal and conforming setbacks for said parcel.”
- Structures can be expanded if, “No further intrusion into the setback is requested” (WCC 110.220.75(c)).
 - All **137sf** of expansion further intrude into setback
 - All other expansions of legal structures not conforming with current setbacks are limited by this provision=> granting the variance constitutes special privileges.

Reviewing Agencies



Sent to 14 agencies for review

| Agencies | Sent to Review | Responded | Provided Conditions | Contact |
|--|----------------|-----------|---------------------|---|
| NV Water Resources | X | X | | Steve Shell, sshell@water.nv.gov |
| Washoe County Building & Safety | X | | | |
| Washoe County Engineering & Capital Projects | X | X | X | Robert Wimer, rwimer@washoecounty.gov |
| Washoe County Water Rights Manager | X | X | | Timber Weiss, tweiss@washoecounty.gov |
| WCHD EMS | X | X | | Sabrina Brasuell, sbrasuell@washoecounty.gov |
| WCHD Environmental Health | X | X | X | James English, jenglish@washoecounty.gov |
| TMFPD | X | | | |
| Regional Transportation Commission (All Apps) | X | | | |
| Washoe-Storey Conservation District (All Apps) | X | X | | Jim Shaffer, shafferjam51@gmail.com |
| Nevada State Historic Preservation | X | | | |
| Incline Village Roads | X | X | X | Rich Thomsen, rthomsen@washoecounty.gov |
| Nevada Tahoe Conservation District | X | X | | |
| North Lake Tahoe FPD | X | X | X | Jennifer Donohue, jdonohue@nltfpd.net; Ryan Sommers, rsommers@nltfpd.net |
| Tahoe Regional Planning Agency | X | | | |

Public Notice



Notice sent to 31 unique property owners within 600 ft



Subject Property

Staff is unable to make findings 1 and 3.

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;
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. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Deny:

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 WPVAR20-0008 for Heath and Amanda Rushing, having been unable to make all five required findings in accordance with Washoe County Development Code Section 110.804.25:

Thank you

Kat Oakley, Planner
Washoe County CSD – Planning Division
koakley@washoecounty.gov
775-328-3628



COMMUNITY
SERVICES DEPARTMENT
