



Board of Adjustment Staff Report

Meeting Date: May 06, 2021

Agenda Item: 8B

VARIANCE CASE NUMBER:

WPVAR21-002 Spencer Front Yard Setback

BRIEF SUMMARY OF REQUEST:

To reduce the required front yard building setback from 20' to 15' to allow for an expansion of a single-family dwelling.

STAFF PLANNER:

Planner's Name:

Courtney Weiche

Phone Number:

775.328.3608

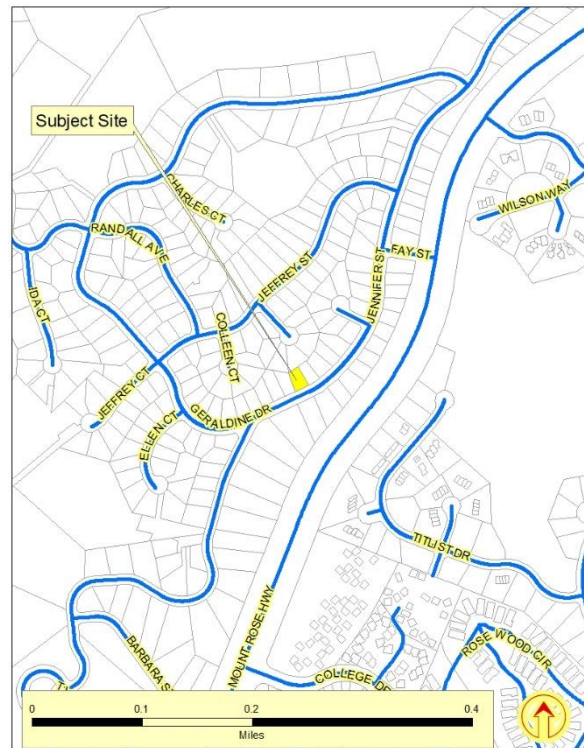
E-mail:

cweiche@washoecounty.us

CASE DESCRIPTION

For hearing, discussion, and possible action to approve a variance to reduce the required front yard building setback from 20' to 15' to allow for an expansion of a single-family dwelling at 842 Jennifer Street (APN 125-221-20) within the High Density Suburban (HDS) regulatory zone, as required by Washoe County Code Section 110.804.25.

Applicant/Property Owner: Gil Spencer & Deidre Toner
Location: 842 Jennifer Street
APN: 125-221-20
Parcel Size: 6,016 sf
Master Plan: Suburban
Regulatory Zone: High Density Suburban
Area Plan: Tahoe
Citizen Advisory Board: Incline Village / Crystal Bay
Development Code: Authorized in Article 804 Variances
Commission District: 1 – Commissioner Hill



Vicinity Map

STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

POSSIBLE 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 WPVAR21-0002 for Gil Spencer and Deidre Toner, being unable to make all required findings in accordance with Washoe County Development Code Section 110.804.25.

Staff Report Contents

Variance Definition

Site Plan.....	4
Elevations	5
Site Photo	6
Project Evaluation.....	6
Incline Village / Crystal Bay Citizen Advisory Board (IV/CB CAB)	7
Reviewing Agencies	8
Staff Comment on Required Findings	8
Recommendation.....	9
Motion.....	9
Appeal Process.....	10

Exhibits Contents

Public Comment Letters (2).....	Exhibit A
Public Notice	Exhibit B
Project Application.....	Exhibit C

Variance Definition

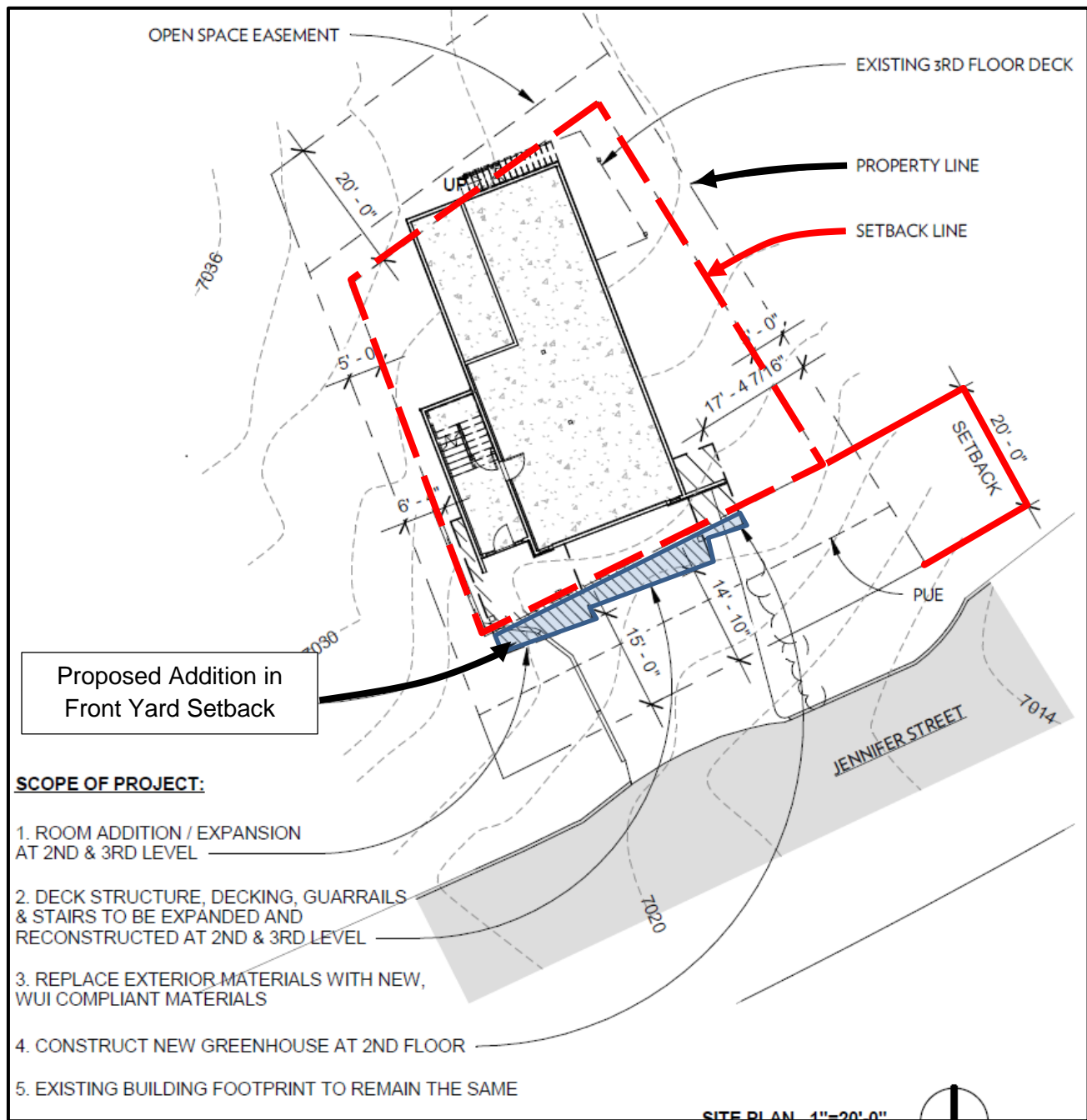
The purpose of a variance is to provide a means of altering the requirements in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique 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. If the Board of Adjustment grants an approval of the variance, that approval is 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.

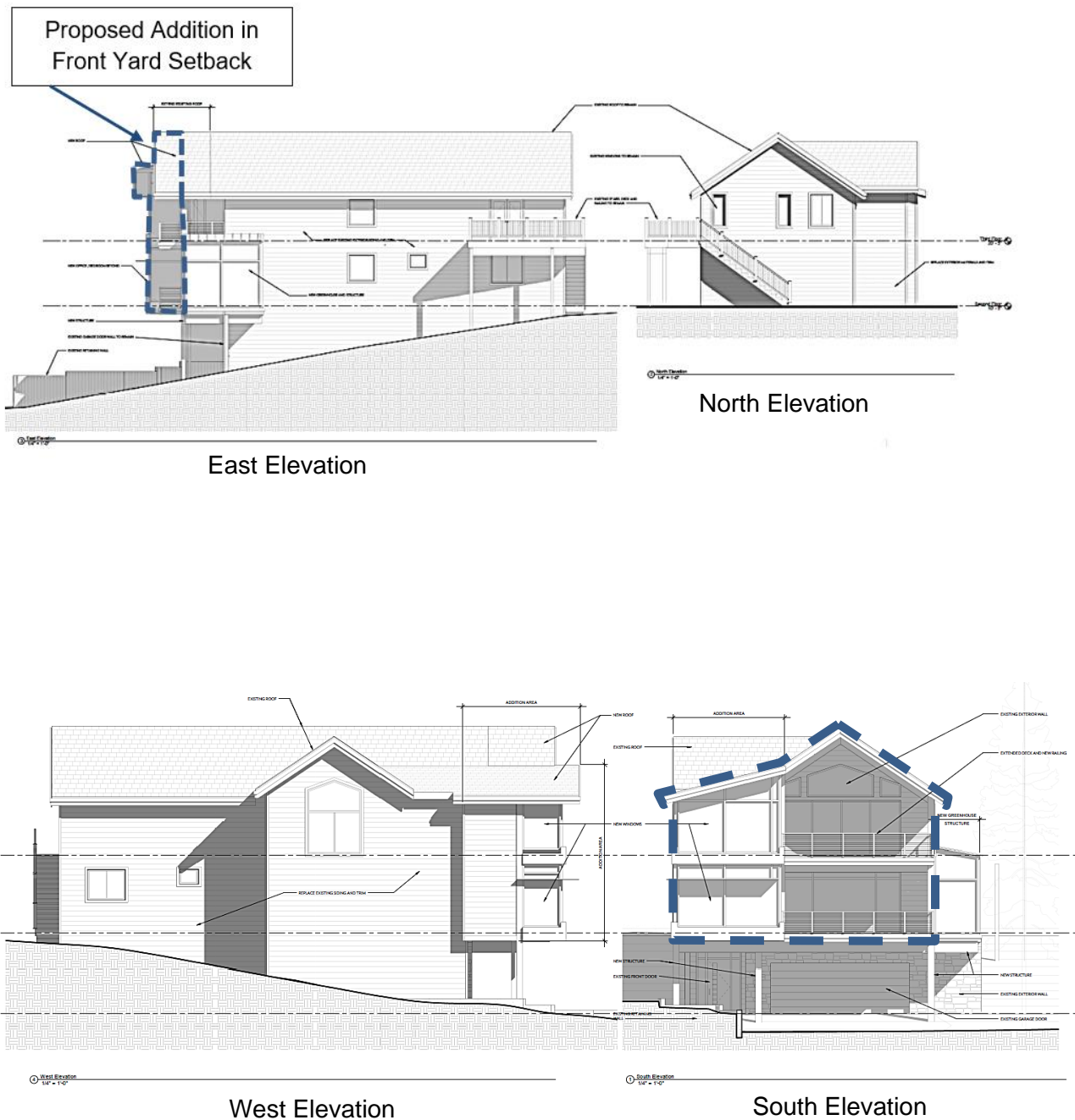
The applicant is seeking a variance on the required front yard setback requirements. The Board of Adjustment will be ruling on this request.

Variance Requested	Relevant Code
Reduced front yard setback	110.406.30

The subject property is approximately 6,041 sq. ft. and is designated as High Density Suburban (HDS). The proposed expansion of the single family dwelling encroaches into the front yard setback by five (5) feet. Variances to setback standards are permissible subject to the provisions of Article 804, Variances, of the Washoe County Development Code. Conditions of approval are not included with this staff report, as denial of the variance has been recommended.

Site Plan

Elevations



Site Photo**Project Evaluation**

The applicant is requesting to reduce the required 20' front yard setback to 15' in order to facilitate the expansion of the existing dwelling. The requested reduction would allow the addition of two rooms at the second and third story level. There is no proposed expansion of the dwelling's footprint, (on the ground/floor level), within the setback. The applicant notes (see Exhibit C, Application) the existing dwelling is 35' from the edge of pavement for Jennifer Street, however County setback requirements are measured from the property line and not the roadway. The dwelling was constructed in 1980, at which time a 20-foot front yard setback was also required.

It is important to recognize that Nevada Revised Statutes (NRS 278.300) limits the power of the Board of Adjustment to grant variances only under particular circumstances. The applicant has the responsibility to demonstrate that the subject property exhibits one or more of the following characteristics to demonstrate a hardship: 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.

It is the opinion of staff that this parcel of land does not demonstrate such circumstances. Analysis of each aspect of a finding of special circumstances follows:

Exceptional Narrowness:

The regulatory zone of the subject parcel of land is High Density Suburban (HDS). The minimum lot dimension for that zone is 60 feet. The subject parcel is approximately 69.96 feet at the front property line, and it is approximately 51.77 feet in width at the rear property line. This results in an average lot width of approximately 60.87 feet.

The subject parcel is not exceptionally narrow.

Exceptional Shallowness:

The minimum lot dimension for this parcel is 60 feet. The western property line is approximately 103.87 feet in length, and the eastern property line is approximately 95.55 feet in length. This results in an average lot depth of approximately 99.71 feet.

The subject parcel is not exceptionally shallow.

Exceptional Shape:

The subject parcel is essentially rectangular, please see the above Site Plan.

The parcel is not exceptionally shaped.

Exceptional Topographic Conditions:

The subject parcel is essentially flat.

The parcel does not contain exceptional topographic conditions, specifically in the areas proposed for development.

Other extraordinary and exceptional situation or condition:

While there are no physical constraints on the parcel of land that inhibit development within the required building setbacks, the Development Code and Nevada Revised Statutes also allows for a variance to be granted if there is, "other extraordinary and exceptional situation or condition of the piece of property and/or location of surroundings". Reduced setbacks for surrounding properties does not create a special circumstance for the subject property.

Staff has not identified any other exceptional conditions of this piece of property.

Incline Village / Crystal Bay Citizen Advisory Board (IV/CB CAB)

The proposed project was presented by the applicants, Gil Spencer and Diedre Toner, at the regularly scheduled IV/CB Citizen Advisory Board meeting on April 5, 2021. In accordance with COVID-19 procedures the meeting was conducted via "Zoom." The CAB voted unanimously to recommend the approval of the variance request.

Reviewing Agencies

The following agencies/individuals received a copy of the project application for review and evaluation.

Agency	Sent to Review	Responded	Provided Conditions	Contact
US Fish and Wildlife	<input checked="" type="checkbox"/>			
US Forest Service – Carson Ranger District	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nevada Dept of Transportation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Washoe County Building & Safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Washoe County Engineering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Washoe County Sherriff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
WCHD- EMS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
RTC Washoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Washoe Storey Conservation District	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
USFS -LTBMU	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tahoe Transportation District	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
TRPA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nevada TCD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nevada State Lands	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Incline Village Improvement District	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
North Lake Tahoe FPD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Staff Comment on Required Findings

Washoe County Development Code Section 110.804.25, Article 804, *Variances*, requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the request. Staff has completed an analysis of the variance 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: As detailed in the Project Evaluation section of this report, staff was not able to identify any 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, as required by NRS and the Washoe County Code.

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: Approval of the variance may be seen to impair the intent and purpose of the Development Code or applicable policies under which the variance is granted, as variances are intended to be granted only when special circumstances are present.

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 special circumstances applicable to the subject site, approval of the requested variance may be seen to grant special privileges to the applicant that are inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone.

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: Expansion of a dwelling within the HDS zone is permissible, subject to compliance with generally-applicable Code provisions.

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.

Staff Comment: There is no military installation within the area required to be provided notice of this request. Therefore, there can be no detrimental effect on the location, purpose or mission of a military installation.

Recommendation

After a thorough analysis and review of the proposed request, staff is recommending denial for Variance Case Number WPVAR21-0002. Staff offers the following motion for the Board 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 WPVAR21-002 to reduce the required front yard building setback from 20' to 15', being unable to make all required 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;
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; and,
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.

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 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 Building Division within 10 calendar days from the date the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

Applicant/Owner: Gil Spencer and Deidre Toner
PO Box 5619
Incline Village, NA 89450
Email: gil@alpinelogic.net

Consultant: Todd Copenhaver
136 Ridge Street
Reno, NV 89501
Email: todd@copenhaverarch.com

Weiche, Courtney

From: Claude Corvino <ccorvino71@gmail.com>
Sent: Friday, April 2, 2021 10:19 AM
To: Weiche, Courtney
Cc: Gil Spencer; Gail Finkenberg
Subject: Set Back Variance (Case # WPVAR21-0002)
Attachments: Exhibit A Set Back Variance.pdf

[NOTICE: This message originated outside of Washoe County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Good Morning Courtney:

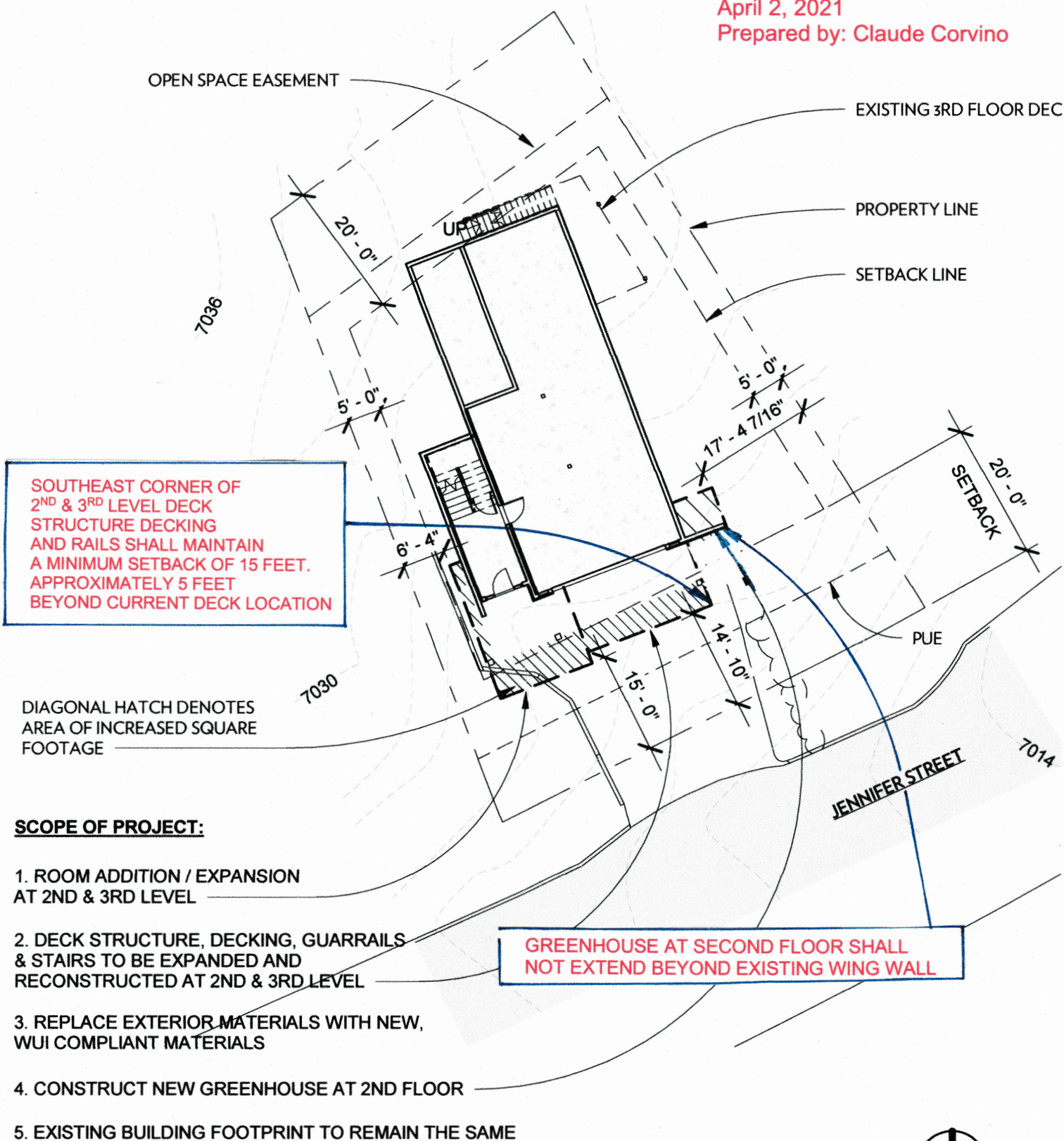
Yesterday I spoke with Gil Spencer (Applicant Setback Variance 842 Jennifer) and discussed our concerns regarding his planned expansion and how the construction would impact our lake view at 844 Jennifer St. Based on our conversation we agreed to the following:

1. The proposed greenhouse on the east side of the property on the second level, was not to extend beyond the existing wing-wall, as depicted in the attached Exhibit A
2. Assuming the setback reduction is granted, the 2nd & 3rd story deck structure shall maintain a minimum 15 ft setback. Based on the current plan, this equates to the southeast corner of the proposed deck be extended approximately 5 feet from its current location. (See Exhibit A)

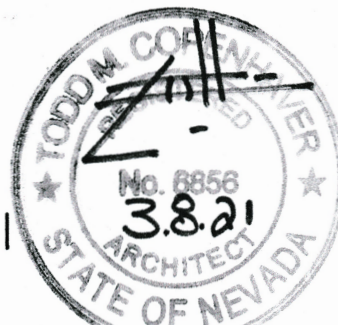
We submit this email, to be included in the public record and for consideration during your evaluation of this application. Please feel free to contact me to discuss any details or to clarify further our current agreement.

Regards

Claude Corvino
(Property Owner-844 Jennifer St)
Cell: 415-515-5352
Email: ccorvino71@gmail.com



SPENCER RESIDENCE
842 JENNIFER STREET
INCLINE VILLAGE, NV 89451
APN: 125-221-20



SITE PLAN 1"=20'-0"



DATE: 3.8.21

T1.0

AFFIDAVIT OF SUPPORT FOR SET BACK VARIANCE 842 Jennifer Street

CASE Number WPVVAR21-0002

To whom it may concern :

Courtesy Notice*
Participate in the Future of Your Neighborhood

March 26, 2021

Dear Property Owner:

The Washoe County Planning and Building Division received an application from one of your neighbors for a variance to reduce the front yard setback from 20' to 15' at 842 Jennifer Street. If you are interested in learning more about the proposed project, the application is available on line at https://www.washoecounty.us/csd/planning_and_development/index.php. Click on the "applications" box and choose the Commission District listed below.

Case Number: WPVAR21-0002, (Spencer Front Yard Setback Reduction)

Commission District: #1

Tentative Date for Incline Village/Crystal Bay Citizen Advisory Board: April 5, 2021

Tentative Public Hearing Date: May 6, 2021, Board of Adjustment

You will receive an official notification when the request is set for a public hearing. For more information, please contact: Courtney Weiche, 775-328-3608, cweiche@washoecounty.us

*This is not a legally required notice, but rather is provided to you as a courtesy to engage you early in the planning process with Planning and Building.

We are in receipt of the above notice and fully support the set back variance requested by Spencer.

Attest:



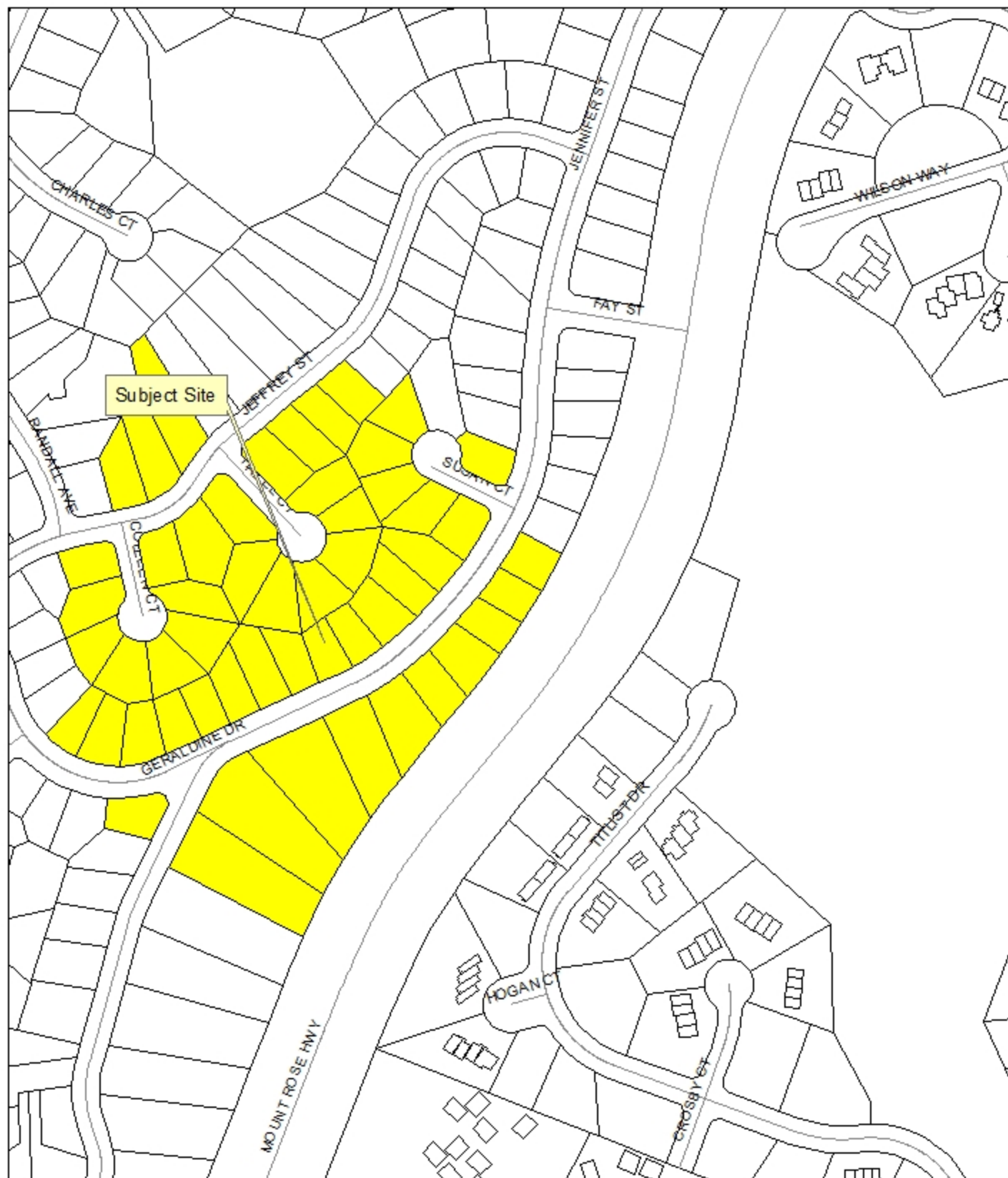
Richard Harkness

860 Susan Court

Incline Village, NV 89451

Mobile phone 916 801-1543

WPVAR21-0002
EXHIBIT A



Mailing and Vicinity Map

WPVAR21-002
53 parcels selected at 375 feet



0 65 130 260
Feet

Community Services
Department

WASHOE COUNTY
NEVADA

1001 E. Ninth St.
Reno, Nevada, 89512 (775) 328-3600

Source: Planning and Building Division, Boards and Commission/Board of Adjustment/GOA Cases/2021 Case/WPVAR21-0002 Front Setback Variance Date: 3/10/2021

WPVAR21-0002

EXHIBIT B

Original

Community Services Department
Planning and Building
VARIANCE APPLICATION



Community Services Department
Planning and Building
1001 E. Ninth St., Bldg. A
Reno, NV 89512-2845

Telephone: 775.328.6100

**WPVAR21-0002
EXHIBIT C**

March 5, 2021

Gil Spencer
PO Box 5619
Incline Village, NV 89450

Community Services Department
Planning and Building
1001 E. Ninth Street, Bldg A
Reno, NV 89512-2845

To: The Planning Commission:

This letter is in regards to a setback variance request for 842 Jennifer Street, Incline Village, NV 89451.
APN: 125-220-20.

We are proposing to add 2 rooms on the 2nd and 3rd story to the front of the existing building. The current building is 35' from the street. The property line shows a setback to the building of 20'. The two rooms on the 2nd and 3rd story that we are proposing are 5' over this setback and 5' from the face of the existing building.

In my naive view of 110.80.25 we find the special circumstances described in (a) to be

1. Exceptional narrowness, shallowness or shape of the specific piece of property

- a) The total width of the lot is only 54.88ft which is a narrow lot
- b) The property line and the setback line are angled at the front of the property relative to the face of the house.

2. By reason of exceptional topographic conditions

The defining characteristic of this neighborhood are the views of Lake Tahoe. These rooms are our only option for maximizing the view potential of the site and the livability of the house.

3. Other extraordinary and exceptional situation or condition of the property and/or location of surroundings

The house is set back much further than most of the neighbors' houses with a much longer driveway. We measure 35' from the house to the edge of paving on the road. When we look at the existing surveys and recorded property maps, we measure 20' from the actual property line to the house. We are proposing to go an additional 5ft forward from the front of the building (only on the 2nd and 3rd story) which would bring the property to 30' from the road and 15ft from the recorded property line.

Thank you for reviewing this application. Please call or email if there is anything that I can add or do.

Regards,



Gil Spencer
gil@alpinellogic.net
(408) 204-6561

**WPVAR21-0002
EXHIBIT C**

Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Building staff at 775.328.6100.

Project Information		Staff Assigned Case No.: _____	
Project Name:			
Project Description:			
Project Address:			
Project Area (acres or square feet):			
Project Location (with point of reference to major cross streets AND area locator):			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No.(s):	Parcel Acreage:
Indicate any previous Washoe County approvals associated with this application: Case No.(s).			
Applicant Information (attach additional sheets if necessary)			
Property Owner:		Professional Consultant:	
Name:		Name:	
Address:		Address:	
Zip:		Zip:	
Phone:	Fax:	Phone:	Fax:
Email:		Email:	
Cell:	Other:	Cell:	Other:
Contact Person:		Contact Person:	
Applicant/Developer:		Other Persons to be Contacted:	
Name:		Name:	
Address:		Address:	
Zip:		Zip:	
Phone:	Fax:	Phone:	Fax:
Email:		Email:	
Cell:	Other:	Cell:	Other:
Contact Person:		Contact Person:	
For Office Use Only			
Date Received:		Planning Area:	
County Commission District:		Master Plan Designation(s):	
CAB(s):		Regulatory Zoning(s):	

Property Owner Affidavit

Applicant Name: _____

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 Building.

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

Assessor Parcel Number(s): _____

Printed Name _____

Signed _____

Address _____

Subscribed and sworn to before me this
_____ day of _____, _____.

(Notary Stamp)

Notary Public in and for said county and state

My commission expires: _____

*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)

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

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?

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?

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.)?

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

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

7. How is your current water provided?

8. How is your current sewer provided?

OPEN SPACE EASEMENT

EXISTING 3RD FLOOR DECK

PROPERTY LINE

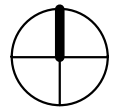
SETBACK LINE

DIAGONAL HATCH DENOTES
AREA OF INCREASED SQUARE
FOOTAGE

SCOPE OF PROJECT:

1. ROOM ADDITION / EXPANSION
AT 2ND & 3RD LEVEL
2. DECK STRUCTURE, DECKING, GUARRAILS
& STAIRS TO BE EXPANDED AND
RECONSTRUCTED AT 2ND & 3RD LEVEL
3. REPLACE EXTERIOR MATERIALS WITH NEW,
WUI COMPLIANT MATERIALS
4. CONSTRUCT NEW GREENHOUSE AT 2ND FLOOR
5. EXISTING BUILDING FOOTPRINT TO REMAIN THE SAME

SITE PLAN 1"=20'-0"



DATE: 3.8.21



SPENCER RESIDENCE
842 JENNIFER STREET
INCLINE VILLAGE, NV 89451
APN: 125-221-20

T1.0
WPVAR21-0002
EXHIBIT C