



WASHOE COUNTY

Integrity Communication Service

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STAFF REPORT BOARD MEETING DATE: January 24, 2017

CM/ACM	_____
Finance	_____
DA	_____
Risk Mgt	N/A
HR	N/A
Comptroller	_____

DATE: December 28, 2016

TO: Board of County Commissioners

FROM: Roger Pelham, Senior Planner, Planning and Development Division, Community Services Department, 328-3622, rpelham@washoecounty.us

THROUGH: Dave Solaro, Arch., P.E., Director
Community Services Department, 328-3600, dsolaro@washoecounty.us

SUBJECT: Hearing and possible action to affirm, modify, or reverse the Board of Adjustment's denial of Variance Case Number VA16-005 (Thomas Lypka), which sought approval of variances: 1) reducing the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback. The variances were requested to facilitate the expansion of the existing dwelling.

The property is located at 755 Judith Court at the southeast corner if its intersection with Harper Court in Incline Village and within Section 9, Township 16 North, Range 18 East, MDM. The Assessor's Parcel Number is 125-231-19. The parcel is 6,460 square feet in size. The Master Plan Category is Suburban Residential and the zoning is High Density Suburban (HDS). (Commission District 1.)

SUMMARY

The appellant is seeking approval of variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback. The variances were requested to facilitate the expansion of the existing dwelling.

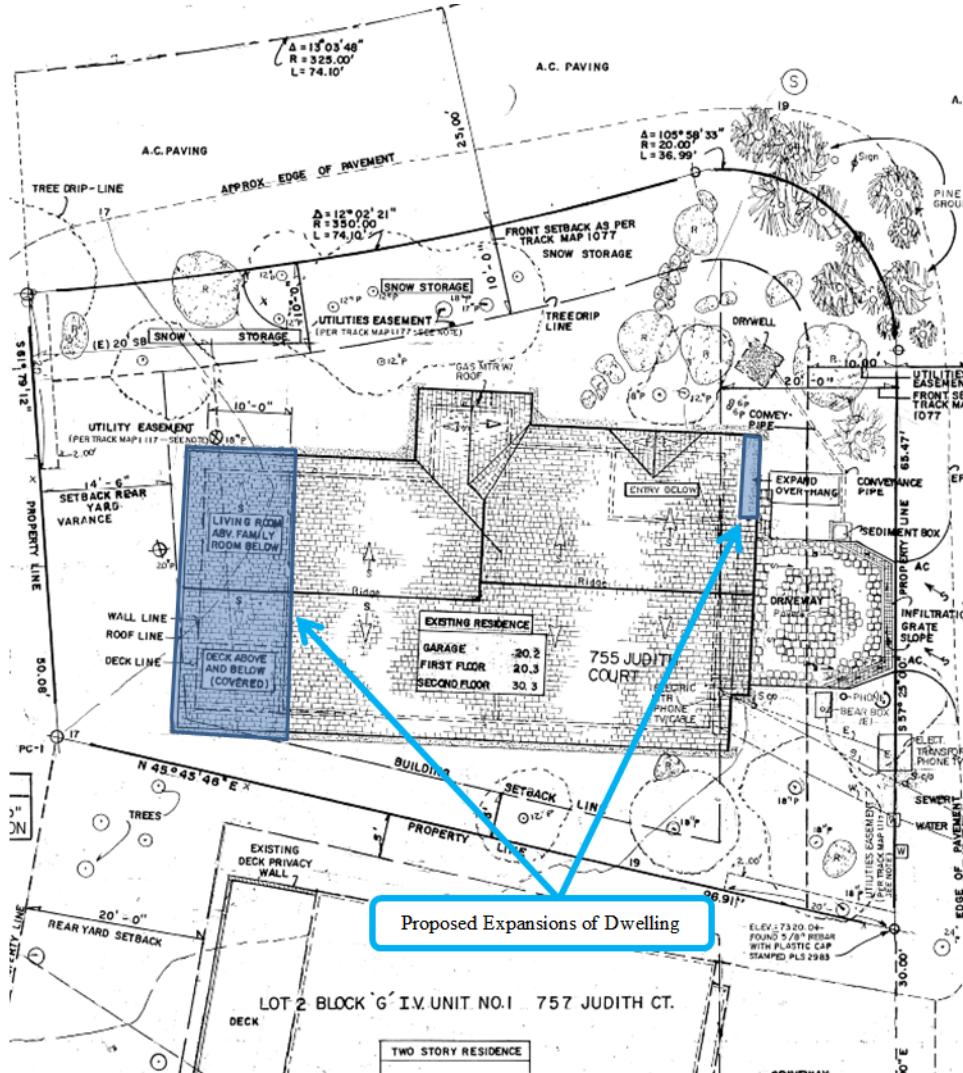
Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

On December 1, 2016 the Washoe County Board of Adjustment (BOA) held a duly noticed public hearing on Variance Case Number VA16-005 (Thomas Lypka). The Board of Adjustment denied that Variance, being unable to make the findings of fact required by Washoe County Code Section (WCC) 110.804.25, Variances.

BACKGROUND

The applicant requested to reduce the required front yard and rear yard setbacks to facilitate expansion of the existing dwelling. The expansion was proposed to consist of additional living area on two levels in the rear as well as expanding the overhang in the front an additional 2 feet 6 inches to a total of 4 feet 6 inches.



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 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 be made 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.

Evaluation of the request to vary standards by the BOA followed the criteria as required above.

1) Special Circumstances:

Exceptional Narrowness: The parcel is located within the High Density Suburban (HDS) regulatory zone. The minimum lot size in that zone is 5,000 square feet. The subject parcel is 6,460 square feet in size. The minimum lot width in that zone is 60 feet. The subject parcel is approximately 65 feet in width at the front property line on Judith Court and is approximately 74 feet in width at the front property line on Harper Court. There are approximately 37 additional feet of frontage in an arc at the corner of the two streets. The shape of the parcel is generally rectangular, although slightly wider on one end, the lot width is consistent with the regulatory zone in which it is located.

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

Exceptional Shallowness: The depth of the property from Judith Court to the opposite property line is approximately 95 feet. The depth of the property from Harper Court to the opposite property line is approximately 68 feet.

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

Exceptional Topographic Conditions: The subject parcel is essentially flat with a change in elevation of two feet across the 95 feet of the parcel depth.

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 BOA did not identify any characteristic of the property that creates an extraordinary or exceptional situation or condition. The applicant presented the lot sizes of many other parcels and makes the assertion that this parcel, being smaller than “average” in this area is therefore exceptional. The subject parcel is 6,460 square feet in size, as noted previously. The minimum lot size in the High Density Suburban (HDS) regulatory zone is 5,000 square feet so the parcel contains approximately 29% more area than the minimum for the zone. The minimum lot size for the next larger regulatory zone, Medium Density Suburban (MDS) is 12,000 square feet. Thus, any parcel size between 5,000 and 12,000 square feet is appropriate in the HDS zone.

The BOA did not find that the size of the parcel is extraordinary or exceptional.

2) No Detriment:

As the BOA did not find any identifiable special circumstances, granting the 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 variance 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 in the vicinity of the proposed variance; therefore this finding is not required to be made.

The appeal application and explanation is included at Attachment B to this report. The Appellant asserts that the variance should be granted because the BOA hearing did not take place within the required time allowed by the Code. This was due to an error in noticing of the surrounding property owners and the appellant agreed to that delay, as shown below:

From: Wayne Ford [mailto:waynefordresidentialdesigner@yahoo.com]
Sent: Thursday, September 29, 2016 1:32 PM
To: Pelham, Roger
Cc: tlypka@gmail.com; DAG; Webb, Bob; Whitney, Bill
Subject: RE: VA16-005 (Thomas Lypka) Variance Notice to Property Owners notsent out correctly.

Roger Pelham ; Based on discussions with my client Mr. Lypka we are requesting that the scheduled hearing for VA16-005 on October 6,2016 be given a continuance until the hearing date of December 1st. It is understood this was because of a legal deficiency in the legal notices sent out by Washoe County to the property owners, who needed to know about our request.

Wayne Ford Residential Design

The appellant further asserts that the appeal should be approved for other reasons including:

- 1) The variance was recommended for approval by the Citizen Advisory Board.
- 2) The shape of the parcel is a “funnel.”
- 3) Issues involving freezing of exits.
- 4) Impact of snow storage.
- 5) That other variance requests have been approved in the area and this denial equates to unequal treatment.

Again, the appeal application and explanation is included at Attachment B to this report.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

Staff recommends that the Board of County Commissioners affirm the decision of the BOA and deny Variance Case Number VA16-005 (Thomas Lypka) which sought approval of variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback. The variances were requested to facilitate the expansion of the existing dwelling. The denial is based upon the inability to make the findings required by WCC Section 110.804.25, Variances.

POSSIBLE MOTIONS

Should the Board agree with staff's recommendation, a possible motion would be: “I move that the Board of County Commissioners affirm the decision of the BOA and deny Variance Case Number VA16-005 (Thomas Lypka) which sought approval of variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6

inches, into the front yard setback. The variances were requested to facilitate the expansion of the existing dwelling. The denial is based upon the inability to make the findings required by WCC Section 110.804.25, Variances.”

Should the Board of County Commissioners disagree with the BOA the following motion is provided: “I move that the Board of County Commissioners reverse the decision of the BOA and approve Variance Case Number VA16-005 (Thomas Lypka) which sought approval of variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback, subject to the Conditions of Approval included at Attachment D to the staff report. The variances facilitate the expansion of the existing dwelling. The approval is based upon the following findings 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 9/15/2016

Attachment B: Appeal Application dated 12/12/2016

Attachment C: Board of Adjustment Meeting Minutes of 12/1/2016

Attachment D: Possible Conditions of Approval



Board of Adjustment Staff Report

Meeting Date: December 1, 2016

Subject: Variance Case Number VA16-005
Applicant: Thomas Lypka
Agenda Item Number: 8C
Project Summary: Request for variances reducing in the rear yard setback from 20 feet to 14 feet, 6 inches and increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches
Recommendation: Denial
Prepared by: Roger D. 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 VA16-005 (Thomas Lypka) – Hearing, discussion, and possible action to approve variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback. The variances are requested to facilitate the expansion of the existing dwelling.

- Applicant/Property Owner: Thomas Lypka
PO Box 6683
Incline Village, NV 89450
- Location: 755 Judith Court at the southeast corner of its intersection with Harper Court
125-231-19
- Assessor's Parcel Number: 6,460 square feet
- Parcel Size: Suburban Residential (SR)
- Master Plan Category: High Density Suburban (HDS)
- Regulatory Zone: Tahoe
- Area Plan: Incline Village/Crystal Bay
- Citizen Advisory Board: Authorized in Article 804, Variances
- Development Code: 1 – Commissioner Berkbigler
- Commission District: Section 9, T16N, R18E, MDM, Washoe County, NV
- Section/Township/Range:

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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:

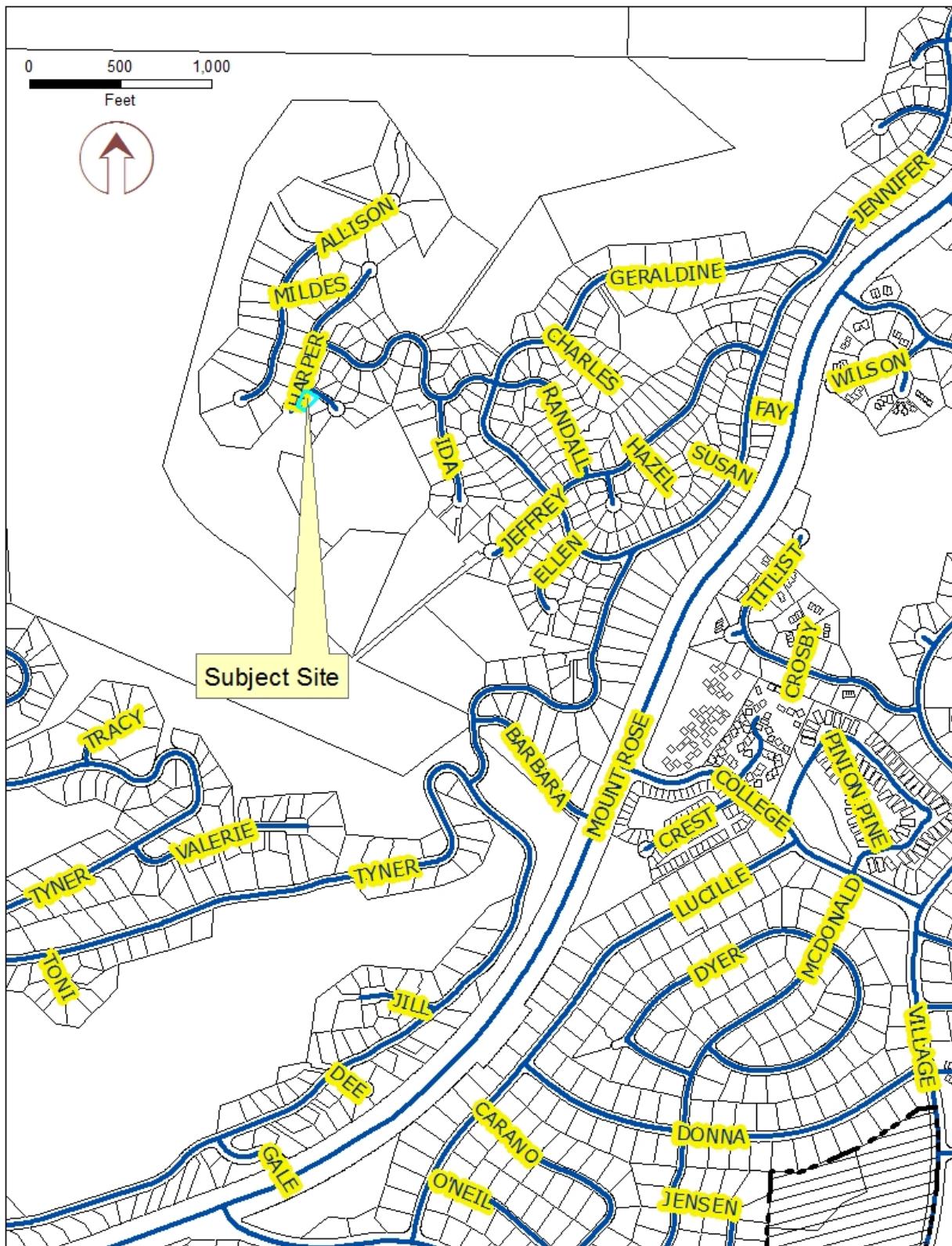
Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application 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 WCC Section 110.804.25, the Board must make four findings which are discussed below.

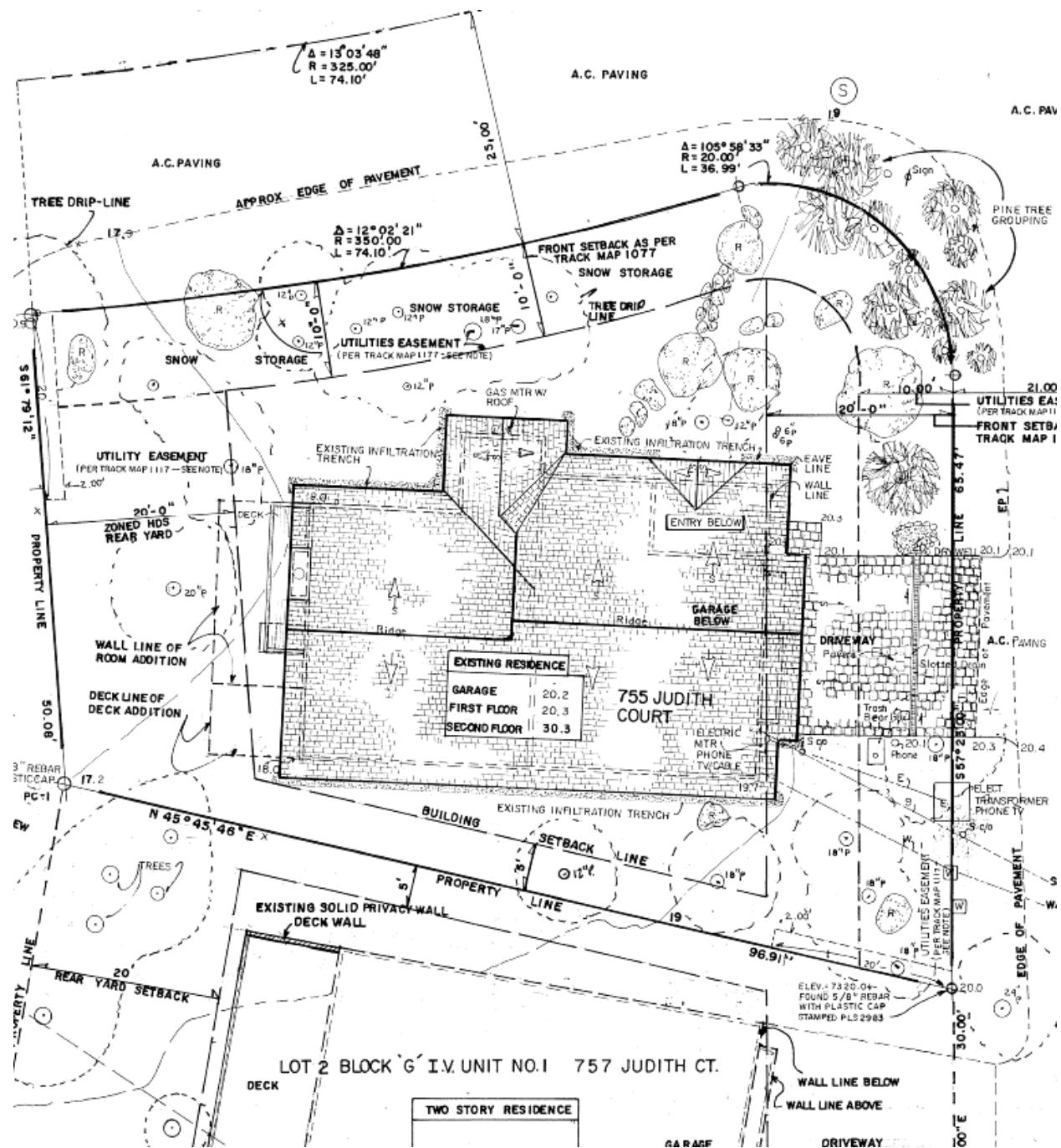
If the Board of Adjustment grants an approval of the Variance, that approval may be subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

- 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.

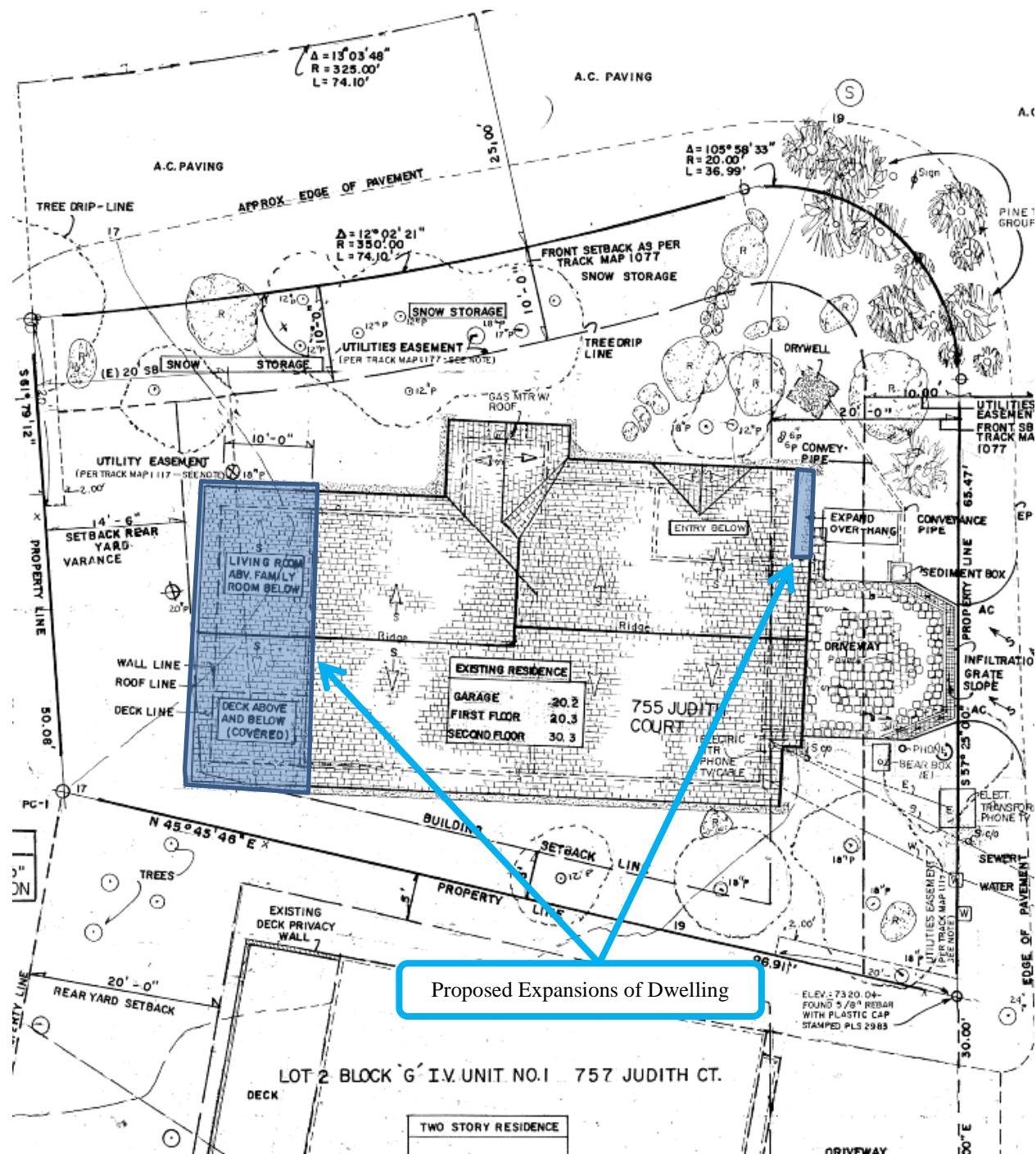
Since a recommendation of denial has been made, there are no Conditions of Approval attached. Should the Board find that special circumstances exist and approve the requested variance; staff will provide Conditions of Approval at the public hearing.



Vicinity Map



Existing Site Plan



Proposed Site Plan

Project Evaluation

The applicant is requesting to reduce the required front yard and rear yard setbacks to facilitate expansion of the existing dwelling. The expansion is proposed to consist of additional living area on two levels in the rear as well as expanding the overhang in the front an additional 2 feet 6 inches to a total of 4 feet 6 inches.

It is important to recognize that the approval of any variance is jurisdictional, that is to say that Nevada Revised Statutes (NRS) 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 be made 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.

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

Exceptional Narrowness: The parcel is located within the High Density Suburban (HDS) regulatory zone. The minimum lot size in that zone is 5,000 square feet. The subject parcel is 6,460 square feet in size. The minimum lot width in that zone is 60 feet. The subject parcel is approximately 65 feet in width at the front property line on Judith Court and is approximately 74 feet in width at the front property line on Harper Court. There are approximately 37 additional feet of frontage in an arc at the corner of the two streets.

The subject parcel is not exceptionally narrow.

Exceptional Shallowness: The depth of the property from Judith Court to the opposite property line is approximately 95 feet. The depth of the property from Harper Court to the opposite property line is approximately 68 feet.

The subject parcel is not exceptionally shallow.

Exceptional Topographic Conditions: The subject parcel is essentially flat with a change in elevation of just two feet across the 95 feet of the parcel depth. In the following overhead photo the distance between the yellow contour lines represent a change in elevation of two feet.

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 applicant presents the lot sizes of many other parcels and makes the assertion that this parcel, being smaller than "average" in this area is therefore exceptional. The subject parcel is 6,460 square feet in size, as noted previously. The minimum lot size in the High Density Suburban (HDS) regulatory zone is 5,000 square feet so the parcel contains approximately 29% more area than the minimum for the zone. The minimum lot size for the next larger regulatory zone, Medium Density Suburban (MDS) is 12,000 square feet.

Thus, any parcel size between 5,000 and 12,000 square feet is appropriate in the HDS zone. The size of the parcel is neither extraordinary nor exceptional.

The existing dwelling, according to Washoe County Assessor's records, contains 2,388 square feet of living space and includes a two-car garage. Denial of the variance does not deprive the property owner of any reasonable use or enjoyment of the property.

Staff recommends denial of the variance requests being unable to make the necessary findings of fact as required by both NRS and the Washoe County Development Code.

Incline Village/Crystal Bay Citizen Advisory Board

The proposed project will be presented by the applicant(s) or the applicant's representative at the regularly scheduled Citizen Advisory Board meeting on September 26, 2016. Because the staff report is required to be finished prior to that date, staff will provide any comments made by the CAB to the Board of Adjustment at the public hearing.

Public Comment

One letter in support of the variance request was received from Pete Todoroff, and is attached to this report as Attachment D.

Reviewing Agencies

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

- Washoe County Community Services Department
 - Planning and Development
 - Engineering and Capital Projects
 - Traffic
- Washoe County Health District
 - Air Quality Management Division
 - Vector-Borne Diseases Division
 - Environmental Health Division
- Regional Transportation Commission
- Washoe County Regional Animal Services
- Washoe-Storey Conservation District
- Incline Village General Improvement District
- Nevada Tahoe Conservation District
- North Lake Tahoe Fire Protection District
- Tahoe Transportation District
- US Forest Service

Four out of the fourteen above listed agencies/departments responded that they had no comments on the proposed variance.

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 abandonment request. Staff has completed an analysis of the application and has determined that the proposal is not 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 noted previously, there are no identifiable special circumstances, as required by Code, that results in any hardship.

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: As there are no identifiable special circumstances, 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.

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: As 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.

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 in the vicinity of the proposed variance; therefore this finding is not required to be made.

Recommendation

After a thorough analysis and review, due to the lack of any special circumstances applicable to the property that result in any exceptional or undue hardships upon the owner of the property, Variance Case Number VA16-005 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 VA16-005 for Thomas Lypka, being unable to make the four applicable findings in accordance with Washoe County Development Code Section 110.804.25:

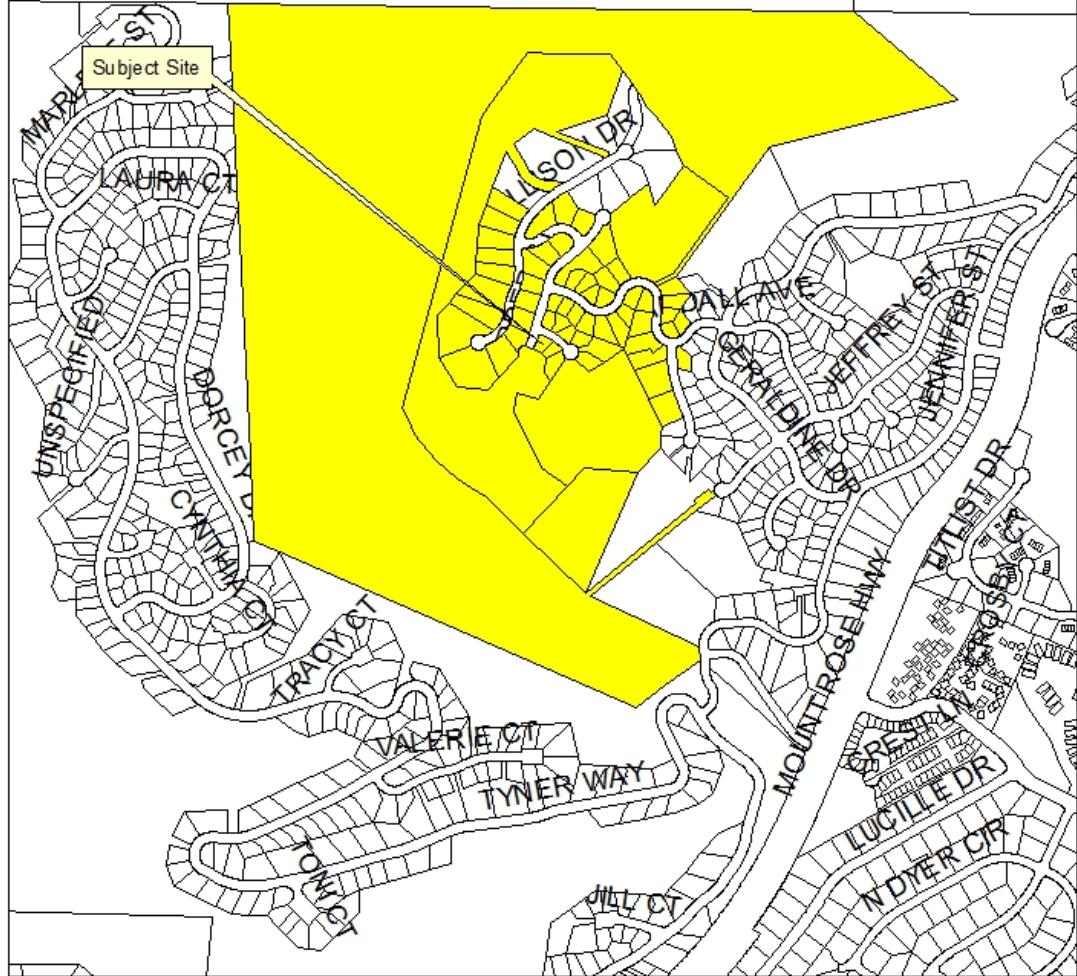
1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location 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 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 original applicant.

xc: Property Owner: Thomas Lypka
PO Box 6683
Incline Village, NV 89450

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



Mailing Label Map

**Variance Case No VA16-005
Thomas Lypka Front and Rear Yard Setback Reduction**

62 Parcels selected at 700 feet.

Source: Planning and Development Division



Community Services
Department
Planning and
Development Division
**WASHOE COUNTY
NEVADA**
Post Office Box 11120
Reno, Nevada 89520
(775) 325-3800

Date: August 2016

**VA16-005
EXHIBIT A**

Community Services Department
Planning and Development
**VARIANCE
APPLICATION**



Community Services Department
Planning and Development
1001 E. Ninth St., Bldg A
Reno, NV 89520

Telephone: 775.328.3600

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: Lypka Remodel and Addition			
Project Description: Expand living area on south side of residence. Add deck south side of residence Two story Add/ Add to front eave of roof ovhg.			
Project Address: 755 Judith Court			
Project Area (acres or square feet): Parcel area 6,460 SF			
Project Location (with point of reference to major cross streets AND area locator): Corner of Harper Court and Judith Court Incline Village, NV.			
Assessor's Parcel No(s): 125-231-19	Parcel Acreage: 0.148 Acre	Assessor's Parcel No(s):	Parcel Acreage:
Section(s)/Township/Range: Lot 1 Block G IV No.1			
Indicate any previous Washoe County approvals associated with this application: Case No.(s).			
Applicant Information (attach additional sheets if necessary)			
Property Owner: Thomas Lypka		Professional Consultant:	
Name: Thomas Lypka		Name: Wayne Ford	
Address: P.O.Box 6683 - Incline Vill. Nv. Zip: 89450		Address: P.O.Box 4775 Incline Vill. Nv. Zip: 89450	
Phone: (408) 460-4722 Fax: Na.		Phone: (775) 772-2495 Fax: Na	
Email: tplyka@gmail.com		Email: waynefordresidentialdesigner@yahoo.com	
Cell: Same Other: Na		Cell: Same Other: Na	
Contact Person: Thomas Lypka		Contact Person: Wayne Ford	
Applicant/Developer:		Other Persons to be Contacted:	
Name:		Name:	
Address:		Address:	
Zip:		Zip:	
Phone:		Fax:	
Email:		Email:	
Cell: Other:		Cell: Other:	
Contact Person:		Contact Person:	
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: Thomas Lypka

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, THOMAS P LYPKA
(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): 125-231-19

Printed Name Thomas Lypka

Signed Thomas Lypka

Address 755 Judith Court

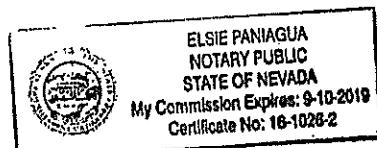
Incline Village NV 88451

Subscribed and sworn to before me this
18 day of July, 2016

(Notary Stamp)

Elsie Panagua
Notary Public in and for said county and state

My commission expires: 9-10-2019



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

- Owner
- Corporate Officer/Partner (Provide copy of recorded 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?

SEE ATTACHED

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?

SEE ATTACHED

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?

SEE ATTACHED

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.)?

SEE ATTACHED

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

SEE ATTACHED

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.
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7. What is your type of water service provided?

<input type="checkbox"/> Well	<input checked="" type="checkbox"/> Community Water System IVGID
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8. What is your type of sanitary waste disposal?

<input type="checkbox"/> Individual Septic System	<input checked="" type="checkbox"/> Community Sewer System IVGID
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THOMAS LYPKA VARIANCE 755 JUDITH COURT INCLINE VILLAGE NV.

1. Rear Yard Setback . Existing is 20 feet Per Washoe County Development Code. Parcel is HDS. Reduce rear yard setback from 20 feet to 14 feet 6 inches, for the expansion of the rear of the residence. Add first and second level decks on rear of residence.

Vary : Washoe County Development Code 110.406.30 Front Yards Architectural Features may extend into front yard not to exceed 2 feet. Request is to allow for architectural feature, eave to be allowed to extend 4 feet 6 inches .

2. The shape of the parcel is the hardship. The parcel is small as compared to other parcels in the same regulatory zone . A study was done and it was found that in the review of 96 parcel in the same area and the same regulator zone the average parcel size was 9,652 SF. The parcel at 755 Judith Court is 6,461 Square feet. (see exhibit 4).

The added restriction is the parcel is a corner lot. The setbacks further restrict the parcel and the area of allowed for development, thus the need to reduce the rear yard setback.

The neighbors parcel is at 757 Judith Court is 6,201 sf and has a allowed area to build in of 3,081 sf. The applicants parcel at 755 Judith Court has a lot area of 6,461 Sf yet due to the corner parcel and the setbacks only has a allowed building area of 2,787 Sf. This is some 294 square feet less area to build in on the parcel, than the next door neighbor to the east.

The variance request is only asking for 203 +- square feet to expand the allowed building area to offset the loss of area due to the small corner parcel.

The small parcel and the shape of the area to building within created by the current setbacks have created a hardship.

When the maps for this area were recorded in 1968, no rear yard setbacks were put on this parcel. That was based on the fact that the property owner to the south is IVGID land and will never have development on it.

The street of Harper Court also has added impacts on the parcel . When snow is removed and plowed from Harper Court it is pushed into the front yard on the parcel at 755 Judith Court. This area that has some room to expand has a recorded 10 foot setback, yet is area that if built on would greatly limit the snow storage even more for the County.

The area we have selected will keep the snow removal as available as it has been sense the home was built in 2001. It should be noted that this area is known for very heavy snows due to the topography of the area .

3. The neighbor at 757 Judith Court understands the hardship due to the restricted building area on 755 Judith Court. He presently has a similar home and has a rear deck off the rear. In looking at any impacts that could take place for this request non was found due to the neighbor having any loss or privacy or loss of view.

The owner at 757 Judith Court has submitted a letter supporting the request being made to reduce the rear yard from 20 feet to 14 feet 6 inches at 755 Judith Court. (See exhibit 1 for site plans of both parcels and locations of current development.

By not building on the Harper side of the parcel we will maintain the existing safety for snow storage off of the street. Thus keeping as safe a travel rout for Harper to other homes and not reducing any safety.

4. The proposed expansion is on the end of the residence. The area of where this takes place will maintain the same volume of the home. The expansion is a modest one of only 10 feet on the upper level and a deck of 12 feet. The total homes area now is 2388 SF with a two car garage of 460 SF. The addition on the second level is 185 SF / the lower floor is addition is 129 SF = 314 added living area. The new total for the residence will be 2702 SF. The added deck area for both levels will be 228 SF. Keeping the same ridge line and development width will allow for the existing room , living and family room to have the proper depth . Keeping all the glass facing south will make the existing architecture of the home the same. This will keep the scale of the home the same as most homes in the neighbor hood which have parcels that are much larger , yet in the same regulator zone (HDS) .

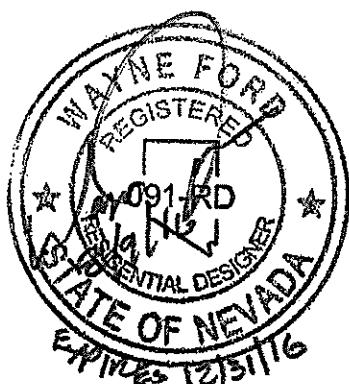
Note : The current deck is only a small balcony and has no ability to be used due to a vent system for the fireplace that encroaches into the hear room for the deck. A chair cannot even be place on the deck for there is not room.

The new covered decks will allow for a use that other in the area enjoy for home that have more allowed building area due to not being on a corner parcel .

5. See question 4 for other areas that currently the neighbors have and this residence does not. The current home meets the off street parking needs due to the 20 foot setback on Judith Court. Then there is a two car garage of 460 SF.

The rest of the residence is modest in size as it is built from the north to the south. What was eliminated due to the 20 foot rear yard setback was proper depth for the family and living rooms. Along with this is no deck area on the upper or lower levels. By making a small change to the rear yard setback the home will now have what other owners have for homes of similar size , yet build on parcels with more area to develop.

WAYNE FORD RESIDENTIAL DESIGN
P.O.BOX 4775
INCLINE VILLAGE, NV. 89450
LIC NO. 091-RD
(775) 772-2495
EMAIL ; waynefordresidentialdesigner@yahoo.com



THOMAS LYPKA VARIANCE 755 JUDITH COURT.

Note : Add to front overhang. The current drip from the jog in the roof falls over the entry walk . It causes ice and a dangerous situation when it freezes . Attempts have been made to install a heated gutter system , yet the location being on the North Side of the residence the area gets very little sun . Gutters do not work.

The final solution needs to be to expand the roof so no drip will take place at this location. To move the path below is not possible for this is the most efficient use of coverage, which is very limited on the site.

Coverage: The current parcel is limited to 1800 square feet. Due to the new coverage program for making sure the BMPs are up to date, some coverage credits now can be gotten with a new pervious driveway system.

To: Thomas Lypka
755 Judith Court
Incline Village, NV, 89451

From: Tom Annese
757 Judith Court
Incline Village, NV, 89451

Date: July 16, 2016

Subject: Comments on addition to rear of 755 Judith Court

My name is Tom Annese and I live next door to Thomas Lypka.

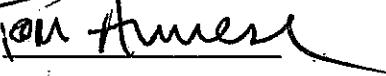
On Thursday, July 14, 2016, Thomas Lypka showed me the architectural drawings for a proposed extension of approximately 8 feet to the rear of his house at 755 Judith Court. This is the side that faces the IVGID land and has a view of Lake Tahoe.

This proposed extension does not have any affect my own view of the IVGID lands.

In fact, I support this extension because it blocks part of my view of Harper Court giving me more privacy.

Thus, I support this extension and any variance necessary for Mr. Lypka to build according to the proposed architectural drawings.

Sincerely,



Tom Annese

THOMAS LYPKA VARIANCE : 755 JUDITH COURT INCLINE VILLAGE , NEVADA

CHECK OF PARCLE AREA FOR HDS ZONING IN INCLINE VILLAGE NO 1.

CHECK 96 PARCELS FOR AVERAGE SIZE OF PARCEL IN HDS ZONING NEAR AND AROUND
PARCEL : Lot 1 block "G" Incline Village No 1.

List of Parcels

APN	Square Footage	Address
125-231-19	6,461	755 Judith Ct.
125-231-18	6,197	757
125-231-17	10,879	759
125-231-15	9,744	764
125-231-14	14,985	762
125-231-13	7,865	760
125-231-12	6,627	758
125-231-11	7,744	756
125-231-10	6,539	752 Harper
125-253-01	7,318	753
125-253-02	6,882	757
125-253-03	8,320	759 Randall
125-253-04	10,149	761
125-231-09	14,443	763
125-231-08	14,734	765
125-253-05	9,017	767
125-253-06	10,542	769
125-253-07	9,496	771
125-253-08	14,505	773
125-231-21	(17,885)	775 Not used
125-231-22	18,413	779 Ida
125-231-05	30,143	781
125-231-04	23,954	783
125-231-03	10,701	789
125-231-02	11,169	791
125-232-26	9,911	793
125-232-22	12,980	794
<hr/>		
total	263,044 SF	
125-232-27	14,944	792 Ida
125-232-20	13,201	790
125-232-19	10,235	788
125-232-18	9,102	786
125-232-17	8,345	784
125-232-16	8,665	782
125-232-15	9,381	780
125-232-14	6,815	779

Review Continued page 2

125-232-12		-not used
125-232-13	7,012	785 Ida
125-232-11	13,629	799 Geraldine
125-232-10	11,018	803
125-232-09	11,516	805
125-232-08	11,932	807
125-232-07	11,842	809
125-232-06	14,040	811
125-232-28	6,849	818 Jeffery
125-232-29	11,163	816
125-232-03	10,796	814
125-232-24	10,343	812
125-232-25	11,192	810
125-223-32	10,309	807
125-223-31	11,187	809
125-223-30	10,050	811
125-223-29	8,056	813
125-223-28	7,041	815
125-223-27	6,432	817

total 265,095 SF

125-223-26	6,554	819 Jeffery
125-223-25	6,936	819 Geraldine
125-223-24	7,274	821
125-223-23	6,429	831 Ellen Ct.
125-223-22	6,014	830
125-223-21	6,192	828
125-223-20	9,995	826
125-223-19	8,469	824
125-223-18	9,000	822
125-223-17	10,107	820
125-223-16	9,810	818
125-223-15	13,159	815
125-223-14	9,757	819
125-223-13	13,604	821
125-223-12	9,187	823
125-223-11	7,334	825
125-223-10	7338	829
125-223-09	7,800	831
125-223-08	6,763	825 Geraldine
125-223-07	8,068	827
125-223-06	7,176	829
125-223-05	8,131	828 Jennifer
125-223-04	8,235	826
125-223-03	7,388	824

125-223-02	9,133	822 Jennifer
125-223-01	11,588	820
<hr/>		
total	221,441 SF	
<hr/>		
125252-07	8,886	754 Randall
125-252-06	8,712	756
125-252-05	7,405	758
125-252-04	9,017	760
125-252-03	12,981	762
125-252-02	11,892	764
125-251-14	12,240	770
125-251-13	11,238	772
125-251-12	7,654	774
125-251-11	7,449	778
125-251-10	7,884	782
125-251-09	9,583	784
125-251-08	14,418	786
125-251-07	10,890	793 Geraldine
125-251-04	10,498	787
125-251-02	12,676	783
125-251-01	13,591	781
<hr/>		
total	177,014 SF	

totals 263,044

265,095

221,441

177,014

total 926,594 SF / 96 Properties = 9,652 Square foot average for a parcel in this area of HDS Zoning

Property Tax Reminder Notice

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

PIN: 12523119
AIN:

Balance Good Through:	08/10/2016
Current Year Balance:	\$5,004.40
Prior Year(s) Balance: (see below for details)	\$0.00
Total Due:	\$5,004.40

AUTO
:894513:

THOMAS P LYPKA
755 JUDITH CT
INCLINE VILLAGE NV 89451

Description: SubdivisionName INCLINE VILLAGE 1
Block G Lot 1

Situs: 755 JUDITH CT
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
12523119	2016	2016098241	1	08/15/2016	1,668.14	0.00	0.00	1,668.14	0.00
12523119	2016		2	10/03/2016	1,668.14	0.00	0.00	0.00	1,668.14
12523119	2016		3	01/02/2017	1,668.13	0.00	0.00	0.00	1,668.13
12523119	2016		4	03/06/2017	1,668.13	0.00	0.00	0.00	1,668.13
Current Year Totals					6,672.54	0.00	0.00	1,668.14	5,004.40

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

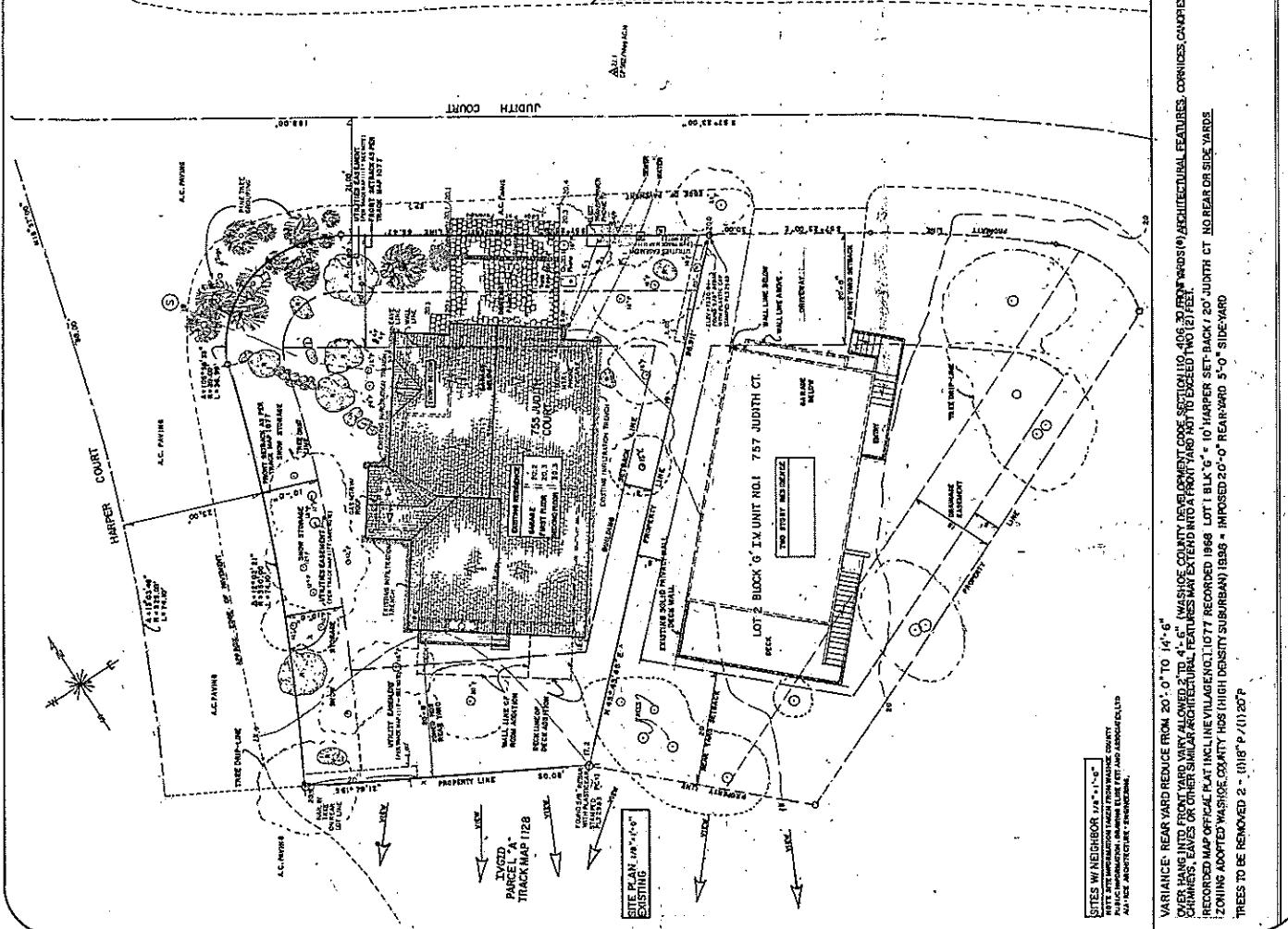
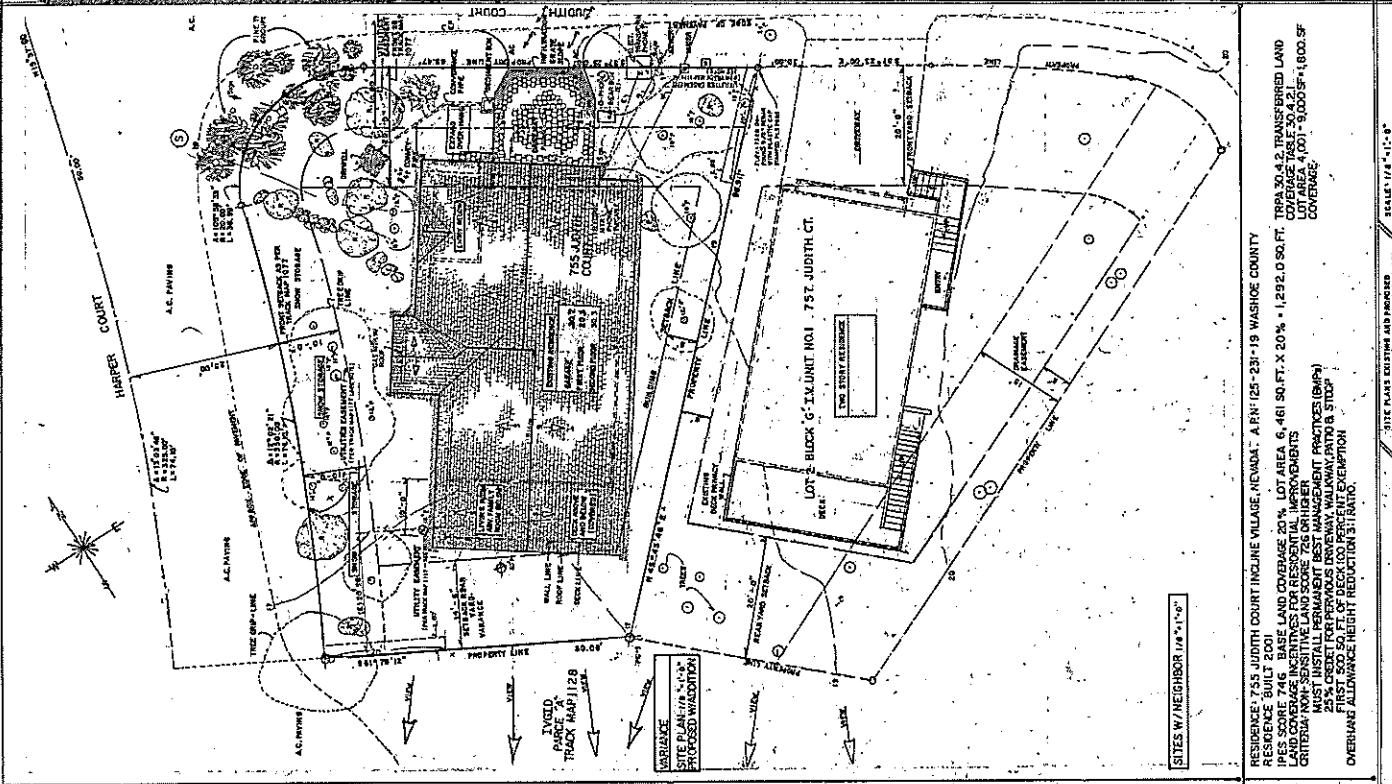


PROJECT ROOM AND DECK ADDITION NEW PREVIOUS PAPER DRIVEWAY
EXTEND FROTH ROOF LINE

51

三

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VA16-005
EXHIBIT B



OWNER: THOMAS R. WEKKA
PROJECT LOCATION: 7255 JEWEL COURT
AR#N-125-231-19 WINSLOW CENTER
PRODUCT-GETRUE AND DECk ADDITION, NEW PREVIOUSLY PAVER DRIVEWAY.
LEGAL: Lot 1, Block 4, Av. Union Rd, Township 16, Range 18

2
1574

Lancaster Land Survey

AS-BUILT SURVEY MAP

Lot 1, Block 1, Incine Village, Lancaster County, PA

APN: 125-323-19 / Wmches County

100' Grid, 10' Contours, 10' Building Footprint, 10' Roads

Surveyor: [Signature]

Scale: 1:1000

Map of Incine Village

Site Location Map

Audit Court

Utilities Coverage Note:

The following table provides a summary of utility coverage for the lots shown on the map:

Lot Area	Utilities Coverage
6,481.30 ft ² 0.1483 Acres	Water, Sewer, Gas, Electric, Phone, Broadband
1,441.50 ft ² 0.0343 Acres	Water, Sewer, Gas, Electric, Phone
54 ft ² 0.00013 Acres	Water, Sewer, Gas, Electric, Phone
12 ft ² 0.00003 Acres	Water, Sewer, Gas, Electric, Phone
23 ft ² 0.00005 Acres	Water, Sewer, Gas, Electric, Phone
400 ft ² 0.00009 Acres	Water, Sewer, Gas, Electric, Phone
12 ft ² 0.00003 Acres	Water, Sewer, Gas, Electric, Phone
2,044.50 ft ² 0.0464 Acres	Water, Sewer, Gas, Electric, Phone
12 ft ² 0.00003 Acres	Water, Sewer, Gas, Electric, Phone

Legend:

- Survey Lines
- Roads
- Utilities

Note: The above map is a survey map and does not represent the actual physical location of the property. It is intended to provide a general overview of the property's location and boundaries. Actual property lines may differ from the lines shown on this map.

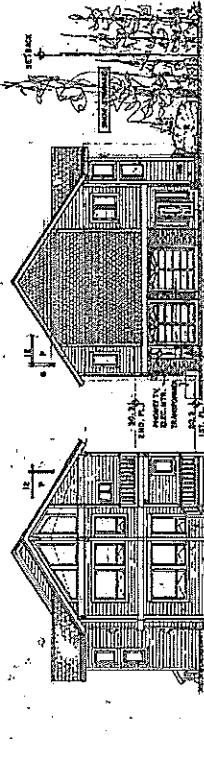
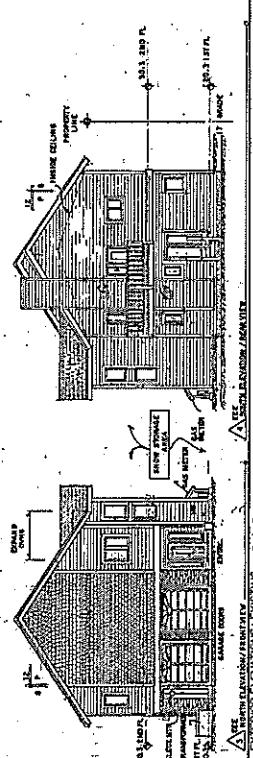
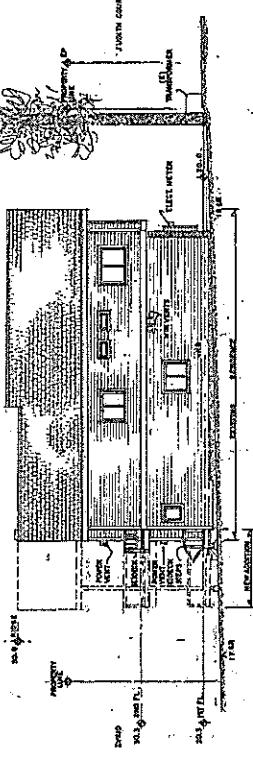
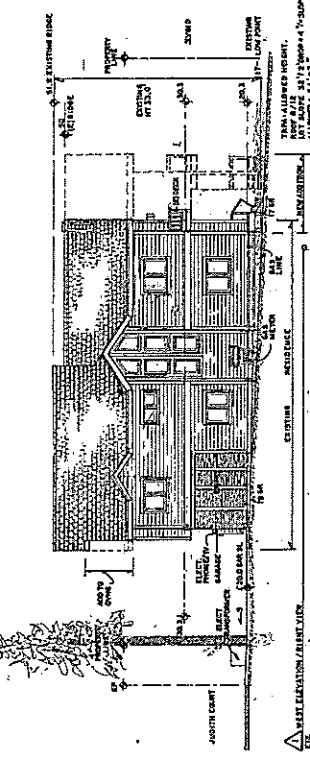
VA16-005
EXHIBIT B



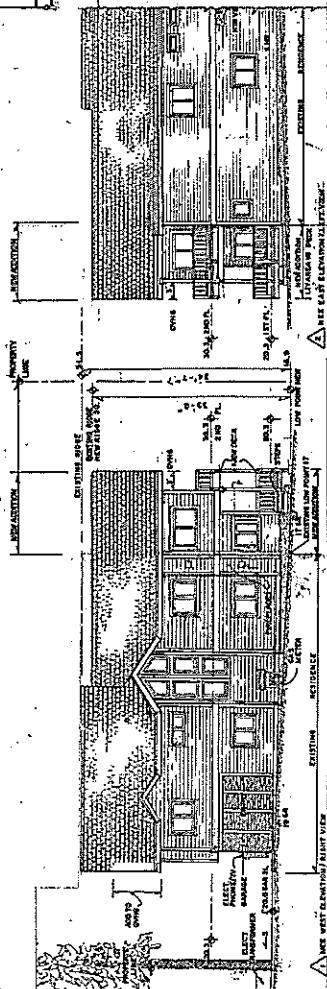
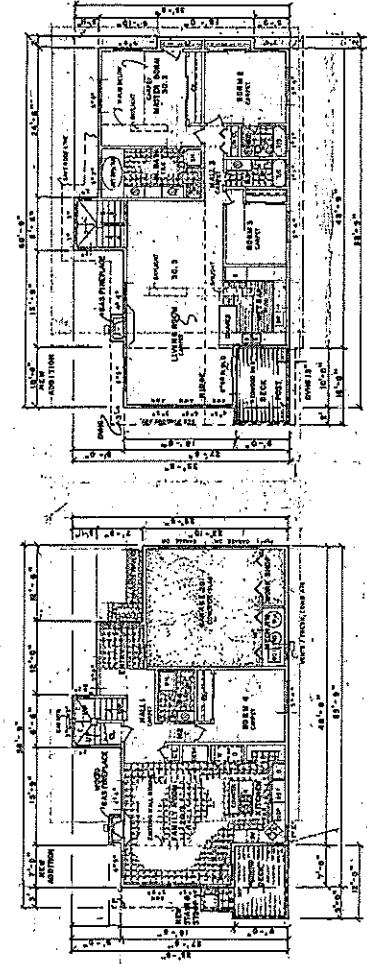
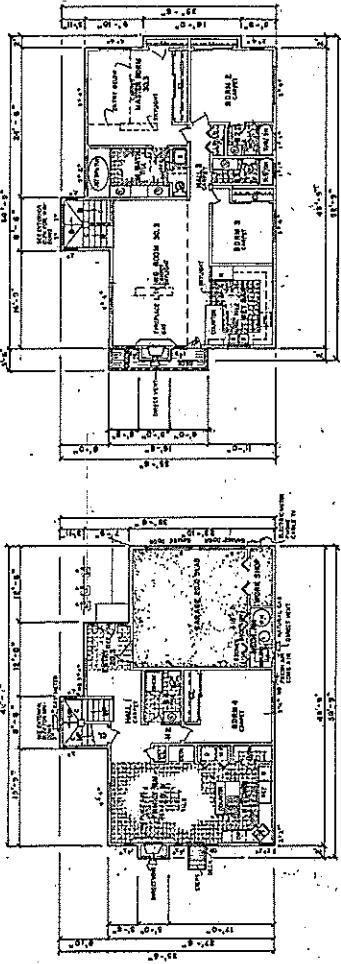
PROJECT: EXISTING FRONT ROOF LINE, NEW PERVIOUS DRIVEWAY
OWNER: THOMAS L YERKA
ADDRESS: 8200-A 23rd Street, Las Vegas, NV 89118
PRODUCT: EXISTING FRONT ROOF LINE, NEW PERVIOUS DRIVEWAY
ARN-123-23-19 WASHDOWN COUNTRY
DRAWN BY: JEFFREY L. HARRIS
DATE: 10/12/2016
SCALE: 1/4" = 1'-0"



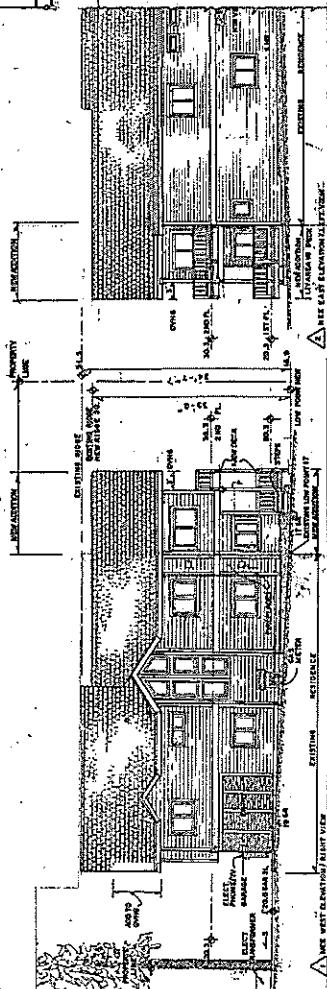
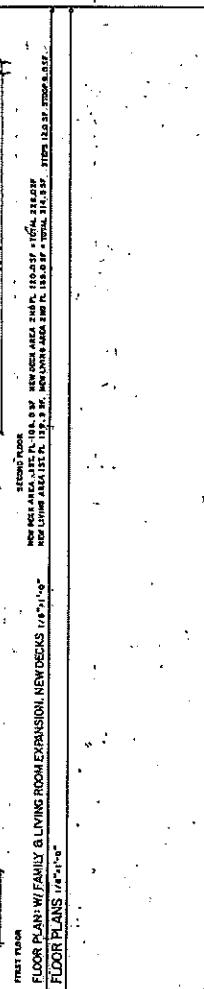
VA16-005
EXHIBIT B



EXTERIOR ELEVATIONS: EXISTING / ADDITIONAL LIVING AREA



EXTERIOR ELEVATIONS: ADDITIONAL LIVING AREA



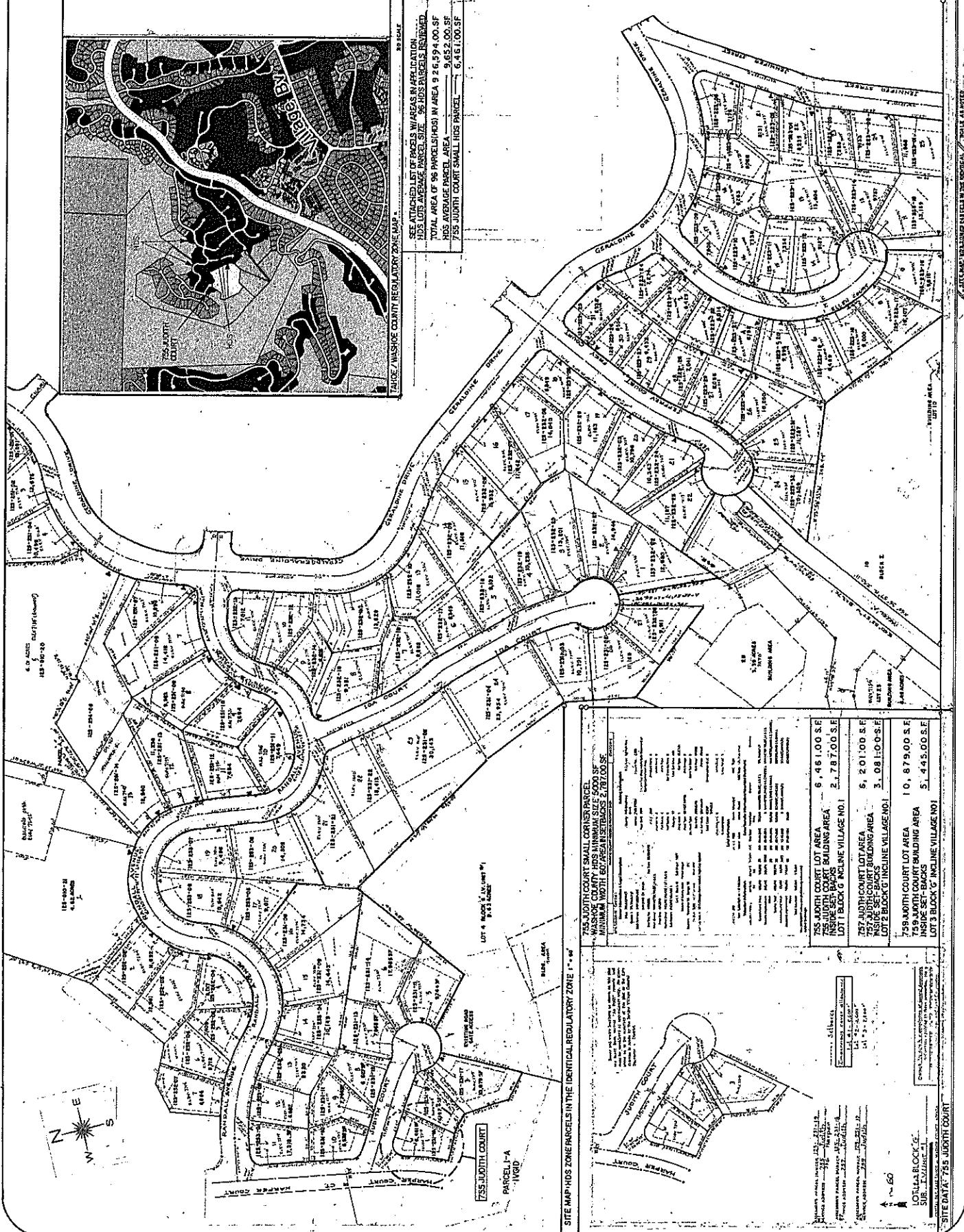
EXTERIOR ELEVATIONS: ADDITIONAL LIVING AREA

EXTERIOR ELEVATIONS: ADDITIONAL LIVING AREA



OWNER-THONAS P. KREKA
PROJECT LOCATION: 7531 UNDUTY COURT
APN: 1125-231-19 WASHOE COUNTY
PROJECT NUMBER: 94-451
APRIL 15, 1994
PROJECT NUMBER: 94-451
PROJECCT TEAM AND PERMIT HOLDER
PROJECT TEAM AND PERMIT HOLDER NEW PARADISE PLATINUM
EGGERT, LOT 1 BLOCK 6, 111 UNDUTY COURT 16 RANGE 18
EGGERT, LOT 1 BLOCK 6, 111 UNDUTY COURT 16 RANGE 18

100581



VA16-005
EXHIBIT B

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

August 22, 2016

Roger Pelham
Washoe County Community Services Department
1001 E. Ninth Street, Bldg. A
Reno, NV 89512

Dear Mr. Pelham:

I received your email dated August 19, 2016, requesting a review of the August Agency Review Memo III regarding the variance application (Item 2).

Based on the submitted documentation, it is anticipated that there will be minimal impacts concerning EMS responses to the residential parcel. Additionally, it is not anticipated that there will be impacts concerning access to healthcare services and facilities. Should you need a complete Environmental Impact Assessment, please contact the Washoe County Health District's Division of Environment Health Services at (775) 328-2434.

Advanced Life Support (ALS) fire and ambulance services are provided by the North Lake Tahoe Fire Protection District. The closest station to the residential parcel is approximately 1 mile away.

There is also a hospital within proximity to the Judith Court site, should residents require such services. The Incline Village Community Hospital is approximately 2.5 miles away from the residence. There are also several other acute care hospitals and healthcare resources available in Washoe County.

It is recommended the residential structure has the house number clearly marked on the curb and the dwelling so the residents can be quickly located by public safety agencies.

Please feel free to contact me if you have any questions.

Sincerely,



Christina Conti
EMS Program Manager
cconti@washoecounty.us
(775) 326-6042

From: Corbridge, Kimble
Sent: Tuesday, August 23, 2016 3:35 PM
To: Pelham, Roger
Cc: Vesely, Leo; Smith, Dwayne E.
Subject:VA16-005 Thomas Lypka

Roger,
I have reviewed the referenced variance for Engineering and have no conditions or comments.
Thx,
Kimble



Development Review Status Sheet

Date: 8-25-16

Attention: Roger Pelham

RE: Variance Case Number VA16-005
APN: 125-231-19
Address: 755 Judith
Owner: Thomas Lypka

Phone: Fax: Email:
Mailing Address: N/A

Hearing, discussion, and possible action to approve: 1) a reduction in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) to allow and increase at the front eaves of the existing dwelling to extend 4 feet, 6 inches, from the existing 2 feet, into the front yard setback. The variances are requested to facilitate the expansion of the existing dwelling.

Applicant: Thomas Lypka PO Box 6683 Incline Village, NV 89450
Property Owner: Thomas Lypka PO Box 6683 Incline Village, NV 89450
Location: 755 Judith Court at the southeast corner of its intersection with Harper Court
Assessor's Parcel Number: 125-231-19
Parcel Size: 6,460 square feet
Master Plan Category: Suburban Residential (SR)
Regulatory Zone: High Density Suburban (HDS)
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 9, T16N, R18E, MDM, Washoe County, NV
Staff: Roger Pelham, MPA, Senior Planner Washoe County Community Services Department Planning and Development Division
Phone: 775-328-3622

Comments: 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. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you receive this communication in error, please notify us immediately by telephone and return the original to us at the above address via US Postal Service. We will reimburse you for your postage. Thank you.



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

August 24, 2016

FR: Chrono/PL 183-16

Mr. Chad Giesinger, AICP, Senior Planner
Community Services Department
Washoe County
P.O. Box 11130
Reno, NV 89520

**RE: SB16-004 (Verizon Arrowcreek Golf Course)
VA16-005 (Thomas Lypka)
VA16-006 (Eget Residence)**

Dear Mr. Giesinger,

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

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

Sincerely,

A handwritten signature in black ink that reads "Rebecca Kapuler".

Rebecca Kapuler
Planner

RK/jm

Copies: Bill Whitney, Washoe County Community Services
Roger Pelham, Washoe County Community Services
Trevor Lloyd, Washoe County Community Services
Daniel Doenges, Regional Transportation Commission
Julie Masterpool, Regional Transportation Commission
Tina Wu, Regional Transportation Commission
David Jickling, Regional Transportation Commission

Washoe County no comment 080716

Washoe County Citizen Advisory Boards

CAB Member Worksheet



Citizen Advisory Board: Incline Village / Crystal Bay Nevada

Meeting Date (if applicable): September 20, 2016

Topic or Project Name (include Case No. if applicable): VA16-006

Please check the appropriate box:

My comments were (or) were not discussed during the meeting.

Identified issues and concerns:

SEE WORD ATTACHMENT

Suggested alternatives and/or recommendations:

SEE WORD ATTACHMENT

Name Pete Todoroff Date: 08/29/2016
(Please Print)

Signature: Pete Todoroff

This worksheet may be used as a tool to help you take notes during the public testimony and discussion on this topic/project. Your comments during the meeting will become part of the public record through the minutes and the CAB action memorandum. Your comments, and comments from other CAB members, will and shall not collectively constitute a position of the CAB as a whole.

If you would like this worksheet forwarded to your Commissioner, please include his/her name.

Commissioner's Name: _____

Use additional pages, if necessary.

Please mail, fax or email completed worksheets to: Washoe County Manager's Office
Attention: CAB Program Coordinator
Post Office Box 11130, Reno, NV 89520-0027
Fax: 775.328.2491
Email: stone@washoecounty.us

Lypka Variance Request 755 Judith Court Incline Village NV.

Request to vary the rear yard set back from 20 feet too 14 feet 6 inches to construct a remodel to the rear living room and family room. Add a deck on the first and second floor.

Request to vary the W. C. Development Code Section 110.406.30 to allow for addition overhang into the front yard to prevent the dripping and freezing of water below on the entry walk.

To deny the rear yard variance would deprive the property owner of privileges enjoyed by other properties with the identical regulatory zone because of the constraints unique to the property.

In reviewing the site data submitted of the review of over 96 parcels in the same regulatory zone the applicant found that the average parcel size is 9,652 square feet and on a corner with the restriction of the corner lot setbacks needs to be allowed to vary the rear yard to have the building area like other parcels in that regulatory zone.

It was submitted that even though the neighbors parcel is 6,201 square feet, smaller than the applicants the neighbor to the east has a 294 square foot more area to build in because of not being a corner parcel.

The modest size home now is set on the parcel and has the 20 foot setback at the garage that now allows for two covered parking spaces and two off – street spaces. This is at the current sacrifice of not having any rear yard area for decks and the normal area for a family room and living room.

In addition to this restraint where some parcel area appears available on the west side the area is used by Washoe County for snow storage from Harper Court.

I support the request for there are no impacts that affect the neighbors which are to the east. The parcel to the south is who's owner is IVGID and will not have any development on it in the future. The neighbor Tom Annese supports the request. The parcel is restrained due to the small size and corner lot set backs which come from the County Zoning of HDS and the recorded track

map 1077. There is a demonstrated hardship because of the small side of the parcel and the corner lot setbacks imposed.

Request to allow for more overhang in front yard. The site is restricted in coverage only allowing for 1800 Square Feet. The walk cannot be moved to avoid this drip for there is no coverage left to make it longer. Due to safety I support the request.

Pete Todoroff Chairman of the CAB.

Angres & Axelrod, Ltd.
Attorneys and Counsellors at Law
2650 Friesian Ct., Reno, NV 89521
Facsimile: (888) 840 2736

Robert J. Angres, Esq.
Licensed in Nevada, California
United States Supreme Court
Tel. (775) 852 5244
Email: rjangres@gmail.com

Irina Axelrod-Angres, Esq.
Licensed in Nevada
United States Supreme Court
Tel. (775) 852 5211
Email: angreslaw@gmail.com

**NOTICE OF APPEAL TO COUNTY COMMISSION
FROM DENIAL OF VARIANCE 16-005/755 Judith Court**

Thomas P. Lypka is the aggrieved party lodging this Appeal as a result of the denial by the Board of Adjustment of his request for Variance VA16-005 which was heard on December 01, 2016, the decision of which was transmitted (mailed/filing date) as of December 05, 2016.

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

It is asserted that Appellant is entitled to the grant of his variance on both a compelling statutory/procedural basis and an even more compelling, substantive basis:

This Appeal is arguably unnecessary on the procedural statutory basis that the Board of Adjustment's determination to deny the variance request is void and *ultra vires* as having followed a hearing which failed to comply with the mandatory procedures set forth in WCC 110.804.15(c) which dictates that a hearing must be held within 65 days of the acceptance of a completed application. The consequence of such failure, per WCC 110.804.15(e) is that the variance application is deemed approved. The problem arose because the County, after properly sending out notices of the CAB hearing, entirely fumbled the required notices to neighboring properties by sending such notices to persons in different counties! When the applicant was notified of this County error and that the Board of Adjustment was ready to hear the variance case in a context which would be useless because it could be challenged by any third party with standing due to the county error, Mr. Lypka requested that the hearing be postponed to permit proper statutory notice. Thus it can be clearly seen that staff implicitly

misled the CAB, committed significant, inexplicable error in its notice procedures and intended to move the applicant to a defective hearing using the applicant's unwillingness to participate as some sort of estoppel from challenging the failure under WCC110.804(c). The WCC has no provision for the failure of a timely hearing other than a "deemed" approval. It specifically does not recite that if the County makes a serious error, but is willing to railroad the applicant into a defective hearing, that the provisions of WCC110.804(c) and (e) are somehow waived.

Assuming, *arguendo*, that these manifest procedural defects were later judicially determined to be somehow not dispositive of the matter, there are numerous substantive errors in the analysis, presentation of staff findings and demonstrable failure to accord equal treatment with other variance applications that will make palpable the need for the County Commission to reverse the findings of the Board of Adjustment and grant the relatively modest variance request of the Appellant.

ERRORS IN BOARD OF ADJUSTMENT DETERMINATION

The areas of substantive error resulting in inadequacy of the findings made by the Board of Adjustment include and are aggravated by the staff's failure to properly and timely communicate its determination/recommendation that the variance should be denied:

1. While giving palpably insincere lip service to the input of the Incline Village Crystal Bay Advisory Board (CAB) (as "the experts") Roger Pelham attended their meeting after already drafting his staff report recommending denial! Mr. Pelham avoided all contact with CAB members (and appellant and his representative which is his prerogative) however he was disingenuous with the CAB members by failing to reveal and discuss his predetermination of denial of the cause they unanimously championed. He further delayed transmitting his report to any third party until the very last minute contrary to established procedure. It should be noted for the record that the CAB unanimously supported granting of the variance and

that neighbors wrote the Board of Adjustment to voice their unequivocal support.

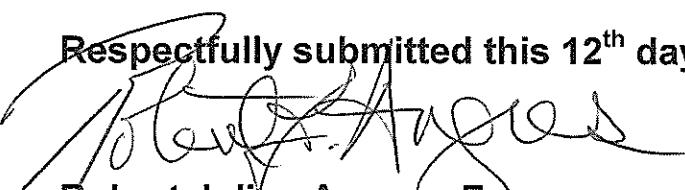
2. Once at the fatally delayed hearing, Mr. Pelham mischaracterized the shape of the lot owned by Appellant in a manner which directly impacted the proper analysis of the critical issue of hardship. Mr. Pelham represented to the Board that the lot was a rectangle, even when presented with the dimensions proving it was trapezoidal, and well under the minimum requirements of 60 feet where the proposed construction was located, that it had the smallest buildable area of any lot in the subdivision and was significantly burdened by its funnel shape at that key and only location available for building. This alone can be seen as a fatal, substantive defect in the inappropriate and inaccurate effort to support a denial of the modest variance.
3. Appellant's representative properly presented the manifest life/safety issues driving the variance request pertaining to freezing moisture, significant danger to occupants, first responders and pedestrians, and clear potential for fire-exit danger. One Board member's comment of "live with it" would not be so objectionable if the issues were not actually possible matters of life and death.
4. Moreover, issues of the impact of county snow storage, setback issues and other factors militating towards the obvious need for the variance, were each ignored by the Board under the inappropriate presentation of the staff.

The most obvious and overarching defect in the determination rests with the unequal treatment manifested by the denial. Other adjacent neighboring properties have the necessary decks with coverage to achieve the safety purposes requested; others have received variances to achieve even lesser goals. The undersigned has a file replete with necessary failures of equal protection suffered by Incline residents at the hands of the staff and Board of Adjustment. This is yet another case of such failure to accord equal treatment. Head scratching gives way to upset and with the mount-

ing passage of time, enduring another winter with unsafe conditions with no rational basis for the denial and the increasing costs of pursuing a modest variance, anger smolders on its way to outrage.

It is submitted that a cursory review of the record reveals this to be another instance where justice was not accorded to a taxpayer/constituent and it is urged that the Commission simply determine and swiftly acknowledge that the procedural defects in the process, notice and conduct of the timing of the hearing are subject to the regulatory remedy that the variance is deemed approved and hence order its issuance with normal conditions. If such a determination is not forthcoming in a timely fashion and the appeal hearing is set, a more detailed brief will be filed in support of the appeal and counsel will attend such hearing and advocate the substantial legal case for the Commission reversing the determination of the Board of Adjustment in this case, or, in the alternative, exercising its powers to hear the matter *de novo*.

Respectfully submitted this 12th day of December, 2016.



Robert Julian Angres, Esq.
Attorney for Thomas P. Lypka



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Kim Toulouse, Chair
 Clay Thomas, Vice Chair
 Kristina Hill
 Brad Stanley
 Lee Lawrence
 William Whitney, Secretary

Thursday, December 1, 2016
1:30 p.m.

**Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV**

The Washoe County Board of Adjustment met in regular session on Thursday, December 6, 2016, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Toulouse called the meeting to order at 1:32 p.m. The following members and staff were present:

Members present:

Kim Toulouse, Chair
 Clay Thomas, Vice-Chair
 Kristina Hill **
 Lee Lawrence
 Brad Stanley

Members absent:

None

Staff present:

Trevor Lloyd, Senior Planner, Planning and Development
 Eric Young, PhD, Planner, Planning and Development
 Chad Giesinger, Senior Planner, Planning and Development
 Nathan Edwards, Deputy District Attorney, District Attorney's Office
 Donna Fagan, Recording Secretary, Planning and Development

2. *Pledge of Allegiance

Member Stanley led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards recited the Ethics Law standards.

4. *Appeal Procedure

Mr. Whitney recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

Chair Toulouse opened the public comment period. Garth Elliott stated as a Board member of the Sun Valley General Improvement District (SVGID) he knew his function and he knew this Board's function. He stated there was a situation where the County had been working on a sign code for two years and not one time did they consider the wishes of the 25,000 people making up Sun Valley. He said they were not asked to be part of it until it was too late and the decisions had been made. He reported the people had a problem with the six-foot height requirement and electronic part of it. He noted there was a sign located in Sun Valley that they had to manually open up and place the letters or numbers on it and they needed a faster way to do that. With an electronic sign they could change it immediately, which they needed for emergency purposes.

Chair Toulouse closed the public comment period.

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of December 6, 2016. The motion was seconded by Member Lawrence, which carried unanimously with Member Hill absent.

7. Approval of October 6, 2016 Draft Minutes

Member Thomas moved to approve the minutes of October 6, 2016 as written. The motion was seconded by Member Lawrence, which carried unanimously with Member Hill absent.

8. Public Hearings

C.Variance Case Number VA16-005 (Thomas Lypka) – Hearing, discussion, and possible action to approve variances: 1) reducing in the rear yard setback from 20 feet to 14 feet, 6 inches; and 2) increasing the allowed overhang of the front eaves of the existing dwelling from 2 feet to 4 feet, 6 inches, into the front yard setback. The variances are requested to facilitate the expansion of the existing dwelling.

- | | |
|-----------------------------|--|
| • Applicant/Property Owner: | Thomas Lypka
PO Box 6683
Incline Village, NV 89450 |
| • Location: | 755 Judith Court at the southeast corner of its intersection with Harper Court
125-231-19 |
| • Assessor's Parcel Number: | 6,460 square feet |
| • Parcel Size: | Suburban Residential (SR) |
| • Master Plan Category: | High Density Suburban (HDS) |
| • Regulatory Zone: | Tahoe |
| • Area Plan: | Incline Village/Crystal Bay |
| • Citizen Advisory Board: | Authorized in Article 804, Variances |
| • Development Code: | 1 – Commissioner Berkbigler |
| • Commission District: | Section 9, T16N, R18E, MDM, |
| • Section/Township/Range: | Washeoe County, NV |
| • Staff: | Roger Pelham, MPA, Senior Planner
Washeoe County Community Services Department
Planning and Development Division |
| • Phone: | 775.328.3622 |
| • Email: | rpelham@washoecounty.us |

Chair Toulouse opened the public hearing. Mr. Pelham identified the property and presented his Staff Report. Chair Toulouse opened discussion to the Board. Hearing none, he opened discussion to the Applicant.

Wayne Ford, Residential Design, stated he was the Applicant's representative. He gave his presentation to the Board and said they felt the request for a Variance was well within the privy of the Board to grant it based on the fact that the lot was narrow, shallow and had an issue of shape. He stated the residence was a simple home, two-story and did not need front yard setbacks; it had a two-car garage and two off-street parking spaces. He noted that approximately 43 percent of the lot's area was left for building and 57 percent of it was restricted. He said they wished to add 336 square feet to the home and from 20 feet to 14 feet, 6 inches was only for one portion of the rear yard setback. Mr. Ford continued with his presentation stating the minimal lot width in this zoning was 60 feet and that was their problem; if it had remained 60 feet as a rectangle they would not have to make this request. He believed the narrowing of the lot lines represented a hardship especially with the setbacks. He showed the Board photos of the property and snow storage which restricted addition. He said this was a small lot under TRPA Guidelines and Development Code because they allowed for additional coverage to be transferred in.

Mr. Ford stated the backyard was a small portion of the property and they were just asking for a 14 foot, 6 inch setback on one side. He noted their neighbor had no objection and wrote a letter of support. He said the proposal would alleviate dangerous ice formations on the sidewalk in front. He showed the snow that happened last year and how much got pushed down the side of the home.

Mr. Ford said they tried gutter systems, heat tape and it was found to be better if the eave would be allowed to come down and drain the water and ice away from the walkway. He stated this would allow the Applicant to have the uses that the other neighbors had, such as the deck expansion. He noted the NRS stated by reason of exceptional narrowness, which this parcel had, or shape of a specific piece of property of which the lot was not a rectangle, the strict application of any regulation under this Code would result in difficulties and undue hardship. Based on those facts and findings, they were requesting the approval of the setback change. He reiterated this would not impact any other neighbors and because of the shape of the property they could make the finding that the shape of the property was the primary hardship of this request.

Chair Toulouse opened questions to the Board. Member Thomas asked how long had the Applicant been residing at this address. Mr. Ford stated about a year and a half. Thomas Lypka, 755 Judith Court, stated he purchased the property in June 2015 and after going through the first winter he discovered how the ice formed in the front and the danger of trying to walk on the ice. He discovered he could not go out the back door because it was frozen. He said he would have to take a sledge hammer to the glass door to get out, which he believed would be the only way out in a fire. He said the back extension was only so they could turn it and stop the weather from hitting it directly and freezing it shut. Member Thomas said it appeared the front of the house was covered and it was not until he got out on to the driveway before he would experience ice and snow. Mr. Lypka said that was correct but he showed the Board how the ice and snow formed closer to the house. He said water came down from Judith Court and it funneled into his area and the Nubian piece would stop that water from coming in and take care of the roof problem.

Member Hill asked if it would be possible to move the sliding glass door to the other wall without doing the expansion. Mr. Ford stated it did not solve the problem; it would just go from being iced up and frozen to a bad headache. He said going to the west side was real close to the neighbor and they would walk right underneath the shed of the roof and all the snow would come off from above. That was the side that Mr. Lypka had to put plywood up on the east side to protect the windows during the heavy snow. He said the west side was where the County shoveled all the snow and he would walk right out the door into that. Member Hill asked why the Applicant needed this expansion to alleviate the issue with the sliding glass door. Mr. Ford showed the Board the door and the deck explaining how the roof did not protect the door. He explained where the neighbor's house was and where the addition would be located. He said the only encroachment was in the corner and they would stay within the five feet requirement. Member Hill stated it looked like the neighbor's home was smaller. Mr. Ford stated it was about the same size but he had a drainage easement and more building area. Mr. Lypka stated he has already had to put the plywood up this year due to the County moving the snow.

Chair Toulouse opened public comment. Hearing none, he brought it back to the Board for discussion. Member Lawrence asked about dedicated snow storage and he wondered if it was measurable and could be

found as a hardship. Mr. Pelham said he did not know the answer but he understood that unless there was a snow storage easement, it was not legally encumbered. Dwayne Smith, County Engineer, said it appeared by the map that there was a snow storage easement along the edge of the property. He noted it was not uncommon for the area as they needed places to put volumes of snow for traffic safety. Member Lawrence asked if an easement such as a snow storage easement constituted a special circumstance. Mr. Whitney stated no because a special circumstance was exceptional narrowness, shallowness and shape of the parcel.

Member Thomas stated NRS 278.301.c identified the requirements that the Board of Adjustment must find to grant the Variance. He said there was testimony earlier that said protection from the snow, but when you live in Incline Village you were going to get snow. He said the Applicant wanted to expand the deck because the neighbor had a deck and the Applicant wanted to be out back and enjoy it, but that did not constitute a hardship.

Member Stanley said he knew Mr. Pelham wanted to work with the Applicants to find compromises and he wondered if any suggestions were made to work around this. Mr. Pelham stated he did not make any suggestions. He said as in most situations, Staff did not have the luxury of helping with the design, but rather they were limited to evaluation of what was submitted. Member Stanley asked if the Applicant was aware that Staff was going to recommend denial. Mr. Pelham stated they were and noted there was an error made on the part of the County in noticing or this would have been heard about two months ago.

Member Hill said she was having a hard time finding that it was a hardship. She lived in Incline Village and got a lot of snow, but she thought it might be prudent to allow him to extend the roof over the walkway. However, she did not see that the rear addition was necessary or that there was a hardship if the Applicant did not get it.

Chair Toulouse stated he found it difficult to find a hardship for something that commonly occurred in Incline Village and if the Board granted the Variance it would be granting a special privilege. 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 VA16-005 for Thomas Lypka, being unable to make the four applicable findings in accordance with Washoe County Development Code Section 110.804.25. Member Lawrence seconded the motion, which carried unanimously.

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.

Mr. Whitney explained the denial procedures for the record.

9. Chair and Board Items

***A.** Future Agenda Items.

There were none.

***B. Requests for Information from Staff.**

There were none.

10. Director's Items and Legal Counsel's Items

***A. Report on Previous Board of Adjustment Items.**

Mr. Whitney reported that at the October meeting the Board approved the Variance for the Eget residence on Tuscarora and Wassau in Crystal Bay. It was appealed by the neighbors to the County Commissioners, but it had not yet been heard. He said it would be coming back to this Board because the notification of the original Variance was not correct regarding a half bathroom.

***B. Legal Information and Updates.**

Mr. Edwards stated he had nothing to provide.

11. *General Public Comment

There was no response to the call for public comment.

12. Adjournment

The meeting adjourned at 5:15 p.m.

Respectfully submitted by

Jaime Della, Independent Contractor

Approved by Board in session on _____, 2017

William H. Whitney
Secretary to the Board of Adjustment



ATTACHMENT D

Conditions of Approval

Variance Case Number: VA16-005

The project approved under Variance Case Number VA16-005 shall be carried out in accordance with the Conditions of Approval granted by the Board of County Commissioners on January 24, 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 ***