



# WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM \_\_\_\_\_  
Finance \_\_\_\_\_  
DA \_\_\_\_\_  
Risk Mgt.\_N/A  
Clerk \_\_\_\_\_  
Comptroller \_\_\_\_\_

## STAFF REPORT BOARD MEETING DATE: October 27, 2015

**DATE:** September 21, 2015

**TO:** Board of County Commissioners

**FROM:** Eva M. Krause, AICP, Planner, Planning and Development Division  
Community Services Department, 328.3628, [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

**THROUGH:** William H. Whitney, Division Director, Planning and Development  
Community Services Department, 328-3617, [bwhitney@washoecounty.us](mailto:bwhitney@washoecounty.us)

**SUBJECT:** Hearing, discussion, and possible action on Case No. AX15-003 (Barry and Lori Nudelman), an appeal of the Board of Adjustment's decision to deny Variance Case No. VA15-004, which requested a reduction of the required front yard setback from 20 feet to 3 feet (inclusive of the roof overhang if approved) to allow for the construction of a covered entry way on the existing house at 557 Dale Drive in the Incline Village/Crystal Bay area. The Board of County Commissioners may take action to confirm the Board of Adjustment's denial; reverse the Board of Adjustment's denial and issue the Variance; or modify the Variance's Conditions and issue the Variance. (Commission District 1).

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### **SUMMARY**

Confirmation, reversal, modification, or remand of the Board of Adjustment's denial of Variance Case No. VA15-004, requesting to reduce the required front yard setback from 20 feet to 3 feet to allow for the construction of a new covered entry way on the existing house.

Washoe County Strategic Objective supported by this item: Safe, secure, and healthy communities.

### **PREVIOUS ACTION**

August 6, 2015, Board of Adjustment. After conducting a public hearing, taking public testimony and discussing the proposed variance, the Board of Adjustment denied variance VA15-004. The vote was unanimous.

July 27, 2015, Incline Village/Crystal Bay Citizen Advisory Board (CAB). The CAB discussed the requested variance at its regularly scheduled meeting. The CAB voted unanimously to recommend approval of the request.

### **BACKGROUND**

The Nudelmans own a home at 557 Dale Drive. Washoe County Assessor's record indicates that the residence was built in 1968. When constructed the residence was built

**AGENDA ITEM # \_\_\_\_\_**

approximately eleven feet from the front property line. In 1984 a garage was added, and was located twelve feet from the front property line.

Prior to 1990, setback standards were not well regulated in Incline Village and Crystal Bay. There are many instances of homes built in the setbacks. The result was that when a property owner requested an as-built survey and an error was discovered, the property owner requested a variance to clear the title of the property. This resulted in numerous variance cases being approved by the Board of Adjustment. To alleviate this problem, the County did two things; first the Building Department started requiring a letter from a surveyor affirming that footings conform to the approved plans; and second, a Tahoe Modifier was created as part of the Development Code that made structures located in a setback, built prior to 1990, legal and conforming as long as no further intrusion into the setback were proposed. Making these structures legally conforming not only cleared the title, it also allows a property to be remodeled and enlarged as long as the building foot print in the setback was not increased.

In 1995, a building permit was issued for 557 Dale Drive, for “Interior remodel 2 floor levels, new entry/utility + reroof”<sup>1</sup>. The new entry and storage area was achieved by enclosing the existing covered front porch. Since the front porch was part of the house built in 1968, enclosing the porch to create the new front entry and storage area did not involve a further intrusion into the setback, so a variance was not required.

### **VARIANCE STANDARDS**

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.

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<sup>1</sup> Description from Building Permit 95-4771

The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under Washoe County Code Section 110.804.25, the Board must make five 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 make all five findings and approve the requested variance, staff will provide Conditions of Approval at the public hearing.

### **VARIANCE REQUEST**

The Nudelmans (homeowners) purchased the home located at 557 Dale Drive in 2014. They have requested a variance to 1) to further reduce the front yard setback from the existing 11 feet to 6 feet from the front property line (measured from the foot of the proposed structure), and 2) to vary the allowable roof overhang into an approved setback from two feet to three feet. The roof overhang would be located three feet from the front property line.

Staff analyzed the proposed variance and found that while a new front entry may enhance the home, there are no special circumstances related to the property that created an undue hardship. The lot does have a steep slope, but the front yard setback was already reduced by default when the house was built eleven feet from the front property line. The slope from the road to the house was resolved by a driveway and entry way deck that creates a reasonably level entrance to the house.

The applicant’s consultant gave a presentation on the history of the home, stating that there was a 30 foot recorded setback and the County allowed the house to be located in the setback because the slope of the lot created a hardship. The consultant went on to state that because the County permitted the house and garage in the front yard setback, the County recognized that there is a hardship of the land, so this variance should be approved because of the steep slope.

The homeowner’s legal counsel (Mr. Angres) opined about the approval of a home “last year on Dale Drive” stating it was approved for a zero setback. The case he was referring to was for 547 Dale Drive (VA13-004), and a variance was approved for an eight foot setback for the residence and to increasing the roof overhang to three feet. The approval resulted in the roof overhang being 5-1/2 feet from the property line and 24 feet from the edge of the street. If granted the Nudelman’s variance would result in the roof overhang being 3 feet from the property line and approximately 12 feet from the edge of the street.

Staff does not support Mr. Angres's comparison of 557 Dale Drive request to what was approved for 547 Dale Drive. The different circumstances between the two cases illustrate that staff's recommendations are based upon an impartial evaluation of the unique or extraordinary situation or condition of each individual parcel.

In addition to reviewing the board of adjustment's substantive decision to deny the requested variance on the basis of the variance standards set forth above, the Nudelmans have also asserted another challenge to the proceedings below. In the appellants' application they summarize the basis for their appeal as being a violation of due process. There are specific standards applicable to a claim of a due process violation that should be considered in dealing with this challenge.

Due process is a term of art in legal parlance. There are essentially two steps to the general analysis. The first step focuses on whether there has even been a deprivation of a constitutionally protected property interest. *Cleveland Bd. of Education v. Loudermill*, 470 U.S. 532, 538 (1985). If so, the second step then focuses on whether, in essence, the proceedings being challenged allowed for notice and an opportunity to be heard "at a meaningful time and in a meaningful manner." *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976).

Step one: due process does not apply in a vacuum; before a litigant can assert a due process challenge, he or she must first demonstrate that a constitutionally protected right has been deprived. This could be a property right and is defined by the applicable law creating or defining the right. However, the "procedural component of the Due Process Clause does not protect everything that might be described as a 'benefit': 'To have a property interest in a benefit, a person clearly must have more than an abstract need or desire' and 'more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.'" *Town of Castle Rock, Colorado v. Gonzales*, 545 U.S. 748, 756 (2005) (internal citations omitted). And case law has recognized that "a benefit is not a protected entitlement if government officials may grant or deny it in their discretion." *Id.*

The "right" allegedly denied here consists of a variance to enable the appellants to further encroach the front yard setback on their property. This possibility is created by statute (see NRS 278.300 et. seq.) and is further implemented by the Development Code. But the appellants must demonstrate more than an abstract need or desire for the variance and more than a unilateral expectation of a variance. They must demonstrate entitlement to the variance. And as noted case law has recognized that a benefit is not an entitlement if the government may grant or deny it in their discretion. Variances are discretionary and may be granted or denied based on the circumstances of a particular case and the findings applicable in NRS and the Development Code.

Step two: if there were a deprivation of a constitutionally protected property "right," the next inquiry would be whether there was notice and an opportunity to be heard in a meaningful manner. In the proceedings below, the appellants were given an opportunity for a full hearing at which they presented their case to the Board of Adjustment. They had advance notice of the hearing and made no claim below that they did not have adequate time to prepare. At the hearing, they submitted any materials they desired to present to be considered in addition to their application. Furthermore, they were

represented by a technical expert (Wayne Ford) and legal counsel of their own choosing (Robert Angres). Together, they participated in extensive discussions of the various issues before the Board of Adjustment that pertained to their application. Ultimately, however, they were not successful in obtaining the variance they sought. But disagreeing with the outcome does not equate with a violation of due process. And before a violation of due process can be found, this Board must first analyze whether the procedures that were made available to the appellants gave them adequate notice and an opportunity to be heard.

To summarize, in analyzing the appellants' claim that their due process rights were violated, this Board should regard these legal parameters and decide (1) if this variance is a "right" for purposes of due process analysis and, if so, (2) whether the decision to deny the variance was made after giving the appellants notice and an adequate opportunity to be heard. Unless both prongs of this test favor the appellants, there is no due process violation.

Even if there is no due process violation, that does not end the inquiry. The Board still must decide whether the Board of Adjustment correctly or incorrectly applied the variance standards in this case based on the evidence in the record.

### **FISCAL IMPACT**

None

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners confirm the Board of Adjustment's decision to deny Variance Case No. VA15-004.

### **MOTION**

Should the Board agree with the Board of Adjustment's motion to deny Variance VA15-004, staff offers the following motion:

"Move to confirm the Board of Adjustment's decision to deny Variance Case No. VA15-004, which proposes reducing the required 20 foot front yard setback to 3 feet. This denial is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the findings made by the Board of Adjustment."

### **OTHER POSSIBLE MOTIONS**

Should the Board not agree with Board of Adjustment's denial of VA15-004, staff offers the following possible motions:

#### **1. Possible Motion to REVERSE the Board of Adjustment's denial of the Variance.**

"Move to reverse the Board of Adjustment's denial and approve Variance Case Number VA15-004, subject to the conditions stated in Attachment G of this staff report, based on the applicant's proposal to reduce the required 20 foot front yard setback to 3 feet for the construction of a new front entryway. This reversal is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation that all four required findings can be made in accordance with Washoe County Development Code Section 110.804.25."

2. **Possible Motion to MODIFY the Variance.**

“Move to approve Variance Case Number VA15-004, subject to the conditions stated in Attachment G, with modifications, based on this Board’s review of the written materials and oral testimony at the public hearing and this Board’s interpretation of the findings required to be made for such approval. (Please state the proposed modifications that are being recommended).

3. **Possible Motion to REMAND the Variance.**

“Move to remand Variance Case No. VA15-004 for further proceedings consistent with the hearing on the appeal before the Board of County Commission.”

Attachments:

- A. Variance application VA15-004
- B. July 17, 2015, Board of Adjustment staff report and attachments
- C. August 4, 2015, Incline Village/Crystal Bay Citizen Advisory Board Memorandum
- D. Board of Adjustment staff PowerPoint presentation
- E. August 6, 2015, Except from the draft minutes Board of Adjustment meeting
- F. August 11, 2015, Board of Adjustment Action Order
- G. Conditions of Approval
- H. Appeal Application

xc. Property Owner: Barry and Lori Nudelman, 557 Dale Drive, Incline Village NV 89451

Representatives: Wayne Ford, P.O. Box 4775, Incline Village NV 89540

VIA 15-004

ORIGINAL

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.

<b>Project Information</b>		Staff Assigned Case No.: _____	
Project Name: Nudelman Single Family Residence. Barry and Lori			
Project Description: Add a new entry system to existing single family residence			
Project Address: 557 Dale Drive Incline Village, Nv.			
Project Area (acres or square feet): 18,254 SF			
Project Location (with point of reference to major cross streets AND area locator): 557 Dale Drive Incline Village, Nv. APN: 122-132-09			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No(s):	Parcel Acreage:
122-132-09	.4191		
Section(s)/Township/Range: Lt9/ Blk 4/ Ponderosa 5/Township 16 Range 18			
<b>Indicate any previous Washoe County approvals associated with this application:</b>			
Case No.(s). Built 1968 Garage added 1984 Permit No 47325			
<b>Applicant Information</b> (attach additional sheets if necessary)			
<b>Property Owner:</b>		<b>Professional Consultant:</b>	
Name: Mr. and Mrs. Nudelman		Name: Wayne Ford Res. Design	
Address: 557 Dale Drive		Address: P.O.Box 4775 Incline	
Incline Village, Nv Zip: 89451		Village, Nv. Zip: 89450	
Phone: 925-577-5625 Fax:		Phone: 775-772-2495 Fax:	
Email: bnudelman@processmaterials.com/lnudelman@process		Email: waynefordresidentialdeisgner@yahoo.com	
Cell: materials.com Other:		Cell: same Other:	
Contact Person: Both		Contact Person: Wayne Ford	
<b>Applicant/Developer:</b> Same		<b>Other Persons to be Contacted:</b>	
Name:		Name: Same	
Address:		Address:	
Zip:		Zip:	
Phone: Fax:		Phone: Fax:	
Email:		Email:	
Cell: Other:		Cell: Other:	
Contact Person:		Contact Person:	
<b>For Office Use Only</b>			
Date Received: Initial:		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 Development.

**(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 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

Property Owner Affidavit

Applicant Name: Nudelman, Lori

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, Lori Nudelman (please print name)

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

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

Assessor Parcel Number(s): 122-132-09

Printed Name Lori Nudelman

Signed Lori Nudelman

Address 557 Dale Drive

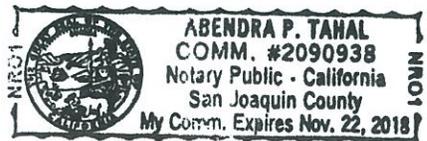
Incline Village, NV 89451

Subscribed and sworn to before me this 29th day of May, 2015.

(Notary Stamp)

Livermore, Alameda Co, CA
Notary Public in and for said county and state

My commission expires: Nov. 22, 2018



\*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?

Reduce the front yard set-back from 15 feet to 6 feet. The existing residence was built in 1968. It has a 11 foot set-back front yard. (grandfathered under 110.220.40). The garage was built in 1984 with permit. (no47325) Both existing development was made legal under 110.220.40 Under 110.406.3(b) the existing MDS zoned parcel has a 15 foot front yard setback. This then is the basis for the 6 foot set-back being requested to be reduced from 15 feet.

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

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

The slope of the parcel is over 29%.+--. This is likely why the residence was built as it exists today at a 11 feet from the front property line. Slope is one of the hardships and contributed to the home being moved close to the front property line to likely help meet TRPA height code. Even if the residence was taken down the same height restrictions would be in place. True there is a new code for stepping down slopes for a new design. Yet doing so will cause a greater deal of disturbance and will likely impact a old growth tree(24") Our proposal will impact no trees. In fact we are protecting a small cedar in front of the home. Safety: The existing entry roof does not protect the use of the front door. In heavy snow years the snow and ice over run the roof and cause a safety issue at the front door. This is all on the north side of the home. ( No sun in winter). The new entry will correct this safety issue. Even in the light snow years we have had ice. This been a problem because of the unprotected entry.

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?

There are no impacts that can be seen for any views to be blocked. The entry roof is going to be below the existing roof of the residence. (See neighbor support letters). No pedestrian traffic will be impacted. The fact is that it will allow for a safer access to the front door for someone entering the home will not have to cross the driveway, where cars park for the only off street parking.

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.)?

Many, if not most homes in the area have distinctive entry systems to the residence. In looking at 8 homes near and next to this residence 6 have had a variance granted for the front yard set-back. All these homes have distinctive and architectural pleasing entries. The granting of this variance will add one more home that will help enhance the look of the street. In fact it will help towards what TRPA wants in design having articulation which breaks up large flat areas of a residence. This creates shadow values to the design of the home and helps it blend in with the natural environment. (This is also a goal for the County Development Code.).

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

The homes in the area have protected entry systems. This is true for almost all of the homes on the south side of Dale Drive. (North side of homes). To not grant the variance would deny the owners of 557 Dale Drive what is common to other properties in the area. These homes have a safe entry system and for the most part are not subject to only having access from one way. It is also apparent that these homes were also granted a variance because of the extreme slope on the parcel of which this parcel also has the same slope.

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
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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
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APPLICATIONS	DEPARTMENT FEES							
	Planning			District Health Department				
	PLANNING	Noticing	ENGINEERING	ENVIRON.	VECTOR	PARKS	WATER	TOTAL
TRUCKEE MEADOWS REGIONAL PLANNING AGENCY NOTICING FEE	See Note 4							
VARIANCE - RESIDENTIAL/COMMERCIAL/INDUSTRIAL								
Not Tahoe	\$1,060	\$200	\$65	\$71	\$155	-	\$26	\$1,577
Tahoe	\$1,060	\$200	\$65	\$71	\$155	-	-	\$1,551

NOTE 1: \$5,000 deposit on time and materials. Additional \$5,000 increments may be required.

NOTE 2: \$750 fee capped by NRS for Division of Land into Large Parcels only.

NOTE 3: \$50 per hour after first 1/2 hour for Planner, \$20 per hour after first 1/2 hour for Clerk, Public Records Research/Copying.

NOTE 4: Fee to be established by Truckee Meadows Regional Planning Agency.

NOTE 5: The Engineering Department will require a separate check for technical map fee. Please check with Engineering for the current fee amount.

NOTE 6: Separate checks are required for the Nevada Departments of Environmental Health and Water Resources. See Submittal Requirements.

In accordance with Nevada Revised Statutes, application fees must be deposited the day of receipt.

This does not guarantee the application is complete.

\*The following are major permit applications: bed and breakfast inns; commercial animal slaughtering; convention and meeting facilities; destination resorts; eating and drinking establishments; gasoline sales and service stations - convenience and full service; gaming facilities; limited and unlimited, hostels; hotels and motels; liquor sales on premises; lodging services; major public facilities; recycling centers: full service and remote collection and residential hazardous substances; vacation time shares. All other uses constitute minor permits.



**NOTICE OF TAXES  
WASHOE COUNTY, NEVADA**

TAMMI DAVIS TREASURER  
tax@washoecounty.us  
Annual - Real

279634  
www.washoecounty.us/treas  
PHONE 775-328-2510  
FAX 775-328-2500  
06/10/2015 2:22 pm

OFFICE LOCATION:  
1001 E NINTH ST-BLDG D RM140  
RENO, NV

TAX YEAR	PIN	NAME	PROPERTY LOCATION AND DESCRIPTION
2014	12213209	NUDELMAN 2011 REVOCABLE TRUST NUBELMAN TRUSTEES, BARRY L & LORI A	557 DALE DR BLOCK 4 TOWNSHIP 16 LOT 9 SUBDIVISIONNAME PONDEROSA SUBDIVISION 5 RANGE 18 SECTION
AREA	TAX RATE		
5200	3.4450000000		
ASSESSED VALUATION			EXEMPTION VALUES
LAND VALUE		147,000	EXEMPTION VALUE 0.00
IMPROVEMENT VALUE		91,051	
TOTAL ASSESSED VALUE		238,051	

**2014 ACCOUNT SUMMARY**

GROSS AD VALOREM TAX	8,200.90
ABATEMENT AMOUNT	0.00
*ABATEMENT APPLIED LIMITS INCREASE TO 3.0%*	
RECAPTURE TAX	0.00
NET AD VALOREM TAX	8,200.90
EXEMPTION AMOUNT	0.00
SPECIAL ASSESSMENTS	830.00
PENALTIES	0.00
FEES	0.00
INTEREST	0.00
<b>TOTAL AMOUNT BILLED</b>	<b>9,030.90</b>
LESS PAYMENTS APPLIED	9,030.90
<b>BALANCE REMAINING</b>	<b>0.00</b>
PRIOR YEAR DELINQUENCIES	0.00
<b>TOTAL BALANCE OWING</b>	<b>\$0.00</b>
Amount good through 06/10/2015	

**2014 BILLING DETAIL**

TAXING AGENCY	RATE	AMOUNT	SPEC. ASSESSMENTS	RATE	AMOUNT
N LAKE TAHOE FPD2	0.629100000	1,497.58	BEACH FACILITY FEE		100.00
STATE OF NEVADA	0.170000000	404.69	RECREATION FACILITY FEE		730.00
SCHOOL DEBT	0.388500000	924.83			
SCHOOL GENERAL	0.750000000	1,785.38			
COUNTY GENERAL	1.355200000	3,226.10			
COUNTY DEBT	0.006500000	15.47			
ANIMAL SHELTER OP	0.030000000	71.42			
INCLINE VILLAGE	0.115700000	275.43			

IF PROPERTY IS PROTECTED BY BANKRUPTCY, THIS IS FOR YOUR INFORMATION. DO NOT CONSIDER THIS AS AN ATTEMPT TO COLLECT.

PAYMENTS RECEIVED WILL BE APPLIED TO THE OLDEST CHARGES FIRST.  
TO AVOID LATE CHARGES, PAYMENTS MUST BE POSTMARKED BY THE DUE DATE.  
ALL DELINQUENT AMOUNTS ARE DUE IMMEDIATELY.

PLEASE INCLUDE APPROPRIATE STUBS  
WITH PAYMENT TO ASSURE PROPER  
CREDIT.

12213209  
NUDELMAN 2011 REVOCABLE TRUST  
557 DALE DR  
INCLINE VILLAGE NV 89451

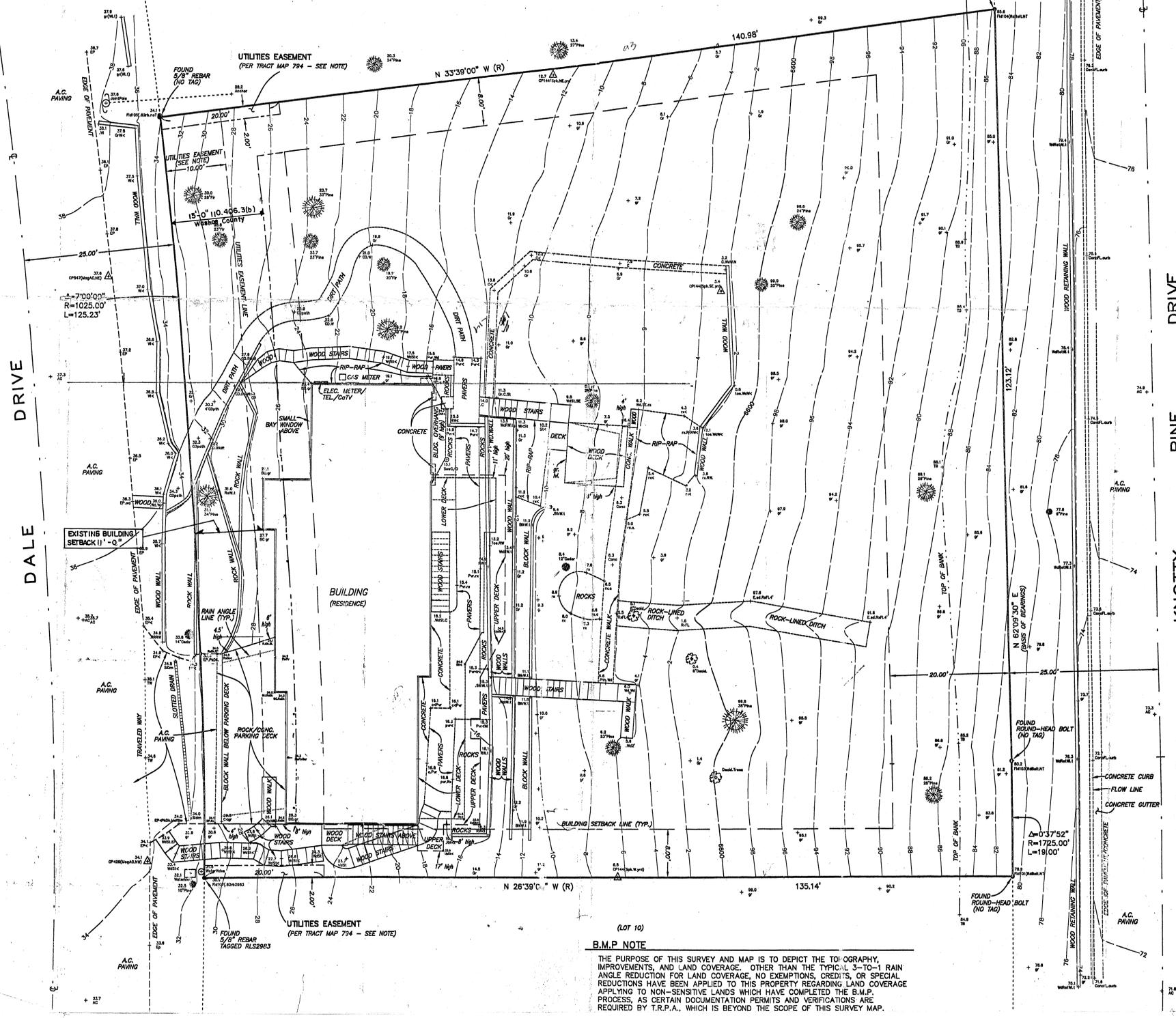
MAKE REMITTANCES PAYABLE TO:  
WASHOE COUNTY TREASURER  
P O BOX 30039  
RENO NV 89520-3039

SEE REVERSE FOR INFORMATION.



**UTILITIES EASEMENT NOTE:**

(PER TRACT MAP 794)  
 THE SIERRA PACIFIC POWER COMPANY AND THE BELL TELEPHONE COMPANY OF NEVADA RESERVE THE RIGHT TO TRIM AND REMOVE TREES, TREE LIMBS AND BRUSH FROM THE FRONT TEN FEET OF ALL LOTS IN THIS SUBDIVISION THAT TWO FEET ON BOTH SIDES OF ALL SIDE LOT LINES EXTENDING TWENTY FEET FROM THE FRONT LOT LINE OF ALL LOTS BE GRANTED AS A PUBLIC UTILITY EASEMENT FOR OVERHEAD GUYS AND UNDERGROUND ANCHORS.



DALE DRIVE

PINE DRIVE  
 KNotty DRIVE

**UTILITIES EASEMENT**  
 (PER TRACT MAP 794 - SEE NOTE)

**UTILITIES EASEMENT**  
 (PER TRACT MAP 794 - SEE NOTE)

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**SETBACK NOTE**  
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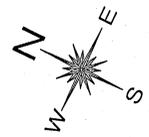
**SYMBOL LEGEND**

	Survey Control Point
	Tree: Dia. (in inches) & Species (Pine/Fir/Cedar)
	Found Monument, As Noted
	Deciduous Tree
	Sewer Manhole
	Utility Lid/Vault, as noted
	Radial bearing
	Centerline
	Joint Utility Pole

**LOT AREA**  
 18,254 SQ. FT.  
 0.4191 ACRES

**IMPERVIOUS SURFACE AREA (Coverage)**

Building (Residence)	1,731 SQ. FT.
Wood Decks/Stairs/Walks	528
Concrete/Paver Walks	630
A.C. Paving	63
Parking Deck	292
Rocks/Rip-Rap	704
Compacted Dirt Path	246
<b>TOTAL</b>	<b>4,194 SQ. FT.</b>
(3:1 Rain angle reduction applied)	



**Michael Baker Jr., Inc.**  
 A Company of Michael Baker Corporation  
 3740 Lakeside Dr. #101, Reno, NV 89509  
 email: Roger.Lancaster@michaelbakerinc.com

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**Topographic As-Built Survey**  
 Lot 9, Block 4, PONDEROSA SUBDIVISION No. 5  
 A.P.N. 122-132-09 / Washoe County  
 557 Dale Drive, Incline Village, Nevada  
 (Drawn: 10/20/14)

SITE PLAN: EXISTING 1/8" = 1'-0"

SITE DATA

- SERVICE ADDRESS 557 DALE DRIVE INCLINE VILLAGE, NV
- ASSESSORS PARCEL NUMBER 122-132-09 WASHOE COUNTY
- LEGAL: LOT 9 BLOCK 4 PONDEROSA SUBDIVISION 5
- WASHOE COUNTY ZONING M.D.S.
- T.R.P.A. PLAN AREA 036
- YEAR BUILT 1968
- EXISTING LIVING AREA 2,886.SF GARAGE 498.SF

INDEX

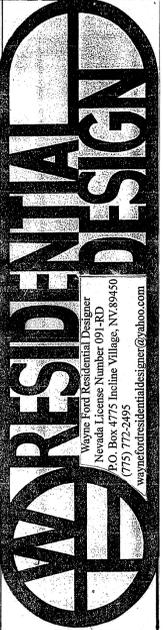
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- EXISTING SITE PLAN W/ PROPOSED ENTRY LOCATION
- SITE PLAN W/ NEW ENTRY / FUTURE EXPANSION
- EXISTING FLOOR PLANS AND EXTERIOR ELEVATIONS. NEW ENTRY SYSTEM AND FUTURE EXPANSION LOCATION
- PROPOSED FLOOR PLANS / SQUARE FOOTAGE FRONT/ NEW ENTRY W/ NEW SETBACK 6
- EXTERIOR ELEVATION W/ ADDITION NEW ENTRY AND FUTURE EXPANSION

EXISTING SITE PLAN

SCALE: 1/8" = 1'-0"

PROJECT: MAJOR ADDITION  
 REMODEL TO SINGLE  
 FAMILY RESIDENCE

OWNERS: BARRY AND LORI INDELMAN  
 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.



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- LEGAL: LOT 9 BLOCK 4 PONDEROSA SUBDIVISION 5
- WASHOE COUNTY ZONING M.D.S.
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- EXTERIOR ELEVATION W/ ADDITION NEW ENTRY AND FUTURE EXPANSION

6 / 15

**UTILITIES EASEMENT NOTE:**

(PER TRACT MAP 794)  
 THE SIERRA PACIFIC POWER COMPANY AND THE BELL TELEPHONE COMPANY OF NEVADA RESERVE THE RIGHT TO TRIM AND REMOVE TREES, TREE LIMBS AND BRUSH FROM THE FRONT TEN FEET OF ALL LOTS IN THIS SUBDIVISION THAT TWO FEET ON BOTH SIDES OF ALL SIDE LOT LINES EXTENDING TWENTY FEET FROM THE FRONT LOT LINE OF ALL LOTS BE GRANTED AS A PUBLIC UTILITY EASEMENT FOR OVERHEAD GUYS AND UNDERGROUND ANCHORS.

**UTILITIES EASEMENT**

(PER TRACT MAP 794 - SEE NOTE)

**UTILITIES EASEMENT**

(PER TRACT MAP 794 - SEE NOTE)

(LOT 9)

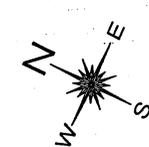
(LOT 10)

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DALE DRIVE

PINE DRIVE  
 KNOTTY DRIVE



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	Survey Control Point
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	Found Monument As Noted
	Deciduous Tree
	Sewer Manhole
	Utility Lid/Vault, as noted
	Radial bearing
	Centerline
	Joint Utility Pole

**LOT AREA**  
 18,254 SQ. FT.  
 0.4191 ACRES

1 INCH = 8 FEET

SITE PLAN: EXISTING 1/8" = 1'-0"

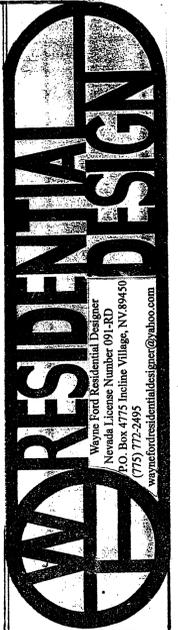
EXISTING SITE PLAN W/ PROPOSED ENTRY LOCATION SCALE: 1/8" = 1'-0"

**Michael Baker Jr., Inc.**  
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 Roger B. Lancaster, PLS  
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 Lot 9, Block 4, PONDEROSA SUBDIVISION No. 5  
 A.P.N. 122-132-09 / Washoe County  
 657 Dale Drive, Incline Village, Nevada  
 89451

Sheet 1 of 1



PROJECT: MAJOR ADDITION  
 REMODEL TO SINGLE  
 FAMILY RESIDENCE

OWNERS: BARRY AND LORI NIDELMAN  
 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
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	Found Monument As Noted
	Deciduous Tree
	Sewer Manhole
	Utility Lid/Vault, as noted
	Radial bearing
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**LOT AREA**  
 18,254 SQ. FT.  
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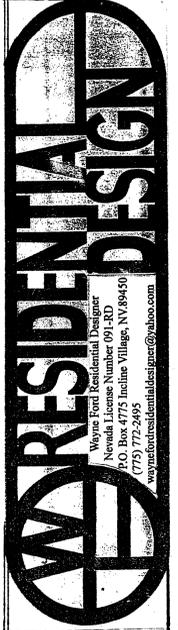
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 557 Dale Drive, Incline Village, Nevada  
 8/27/2014  
 Sheet 1 of 1



**CHANGES**

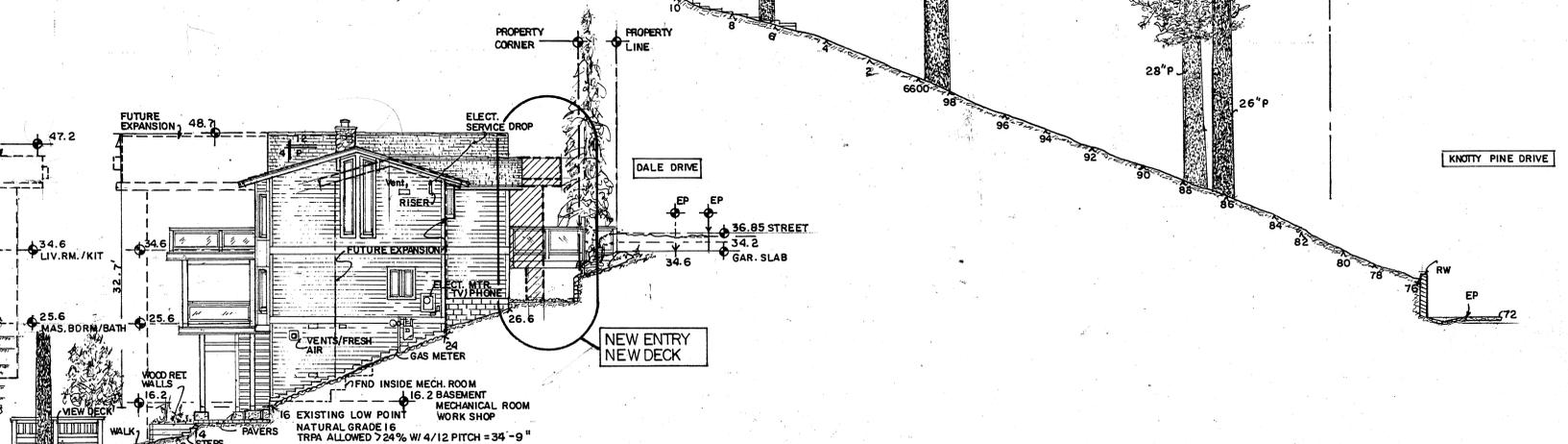
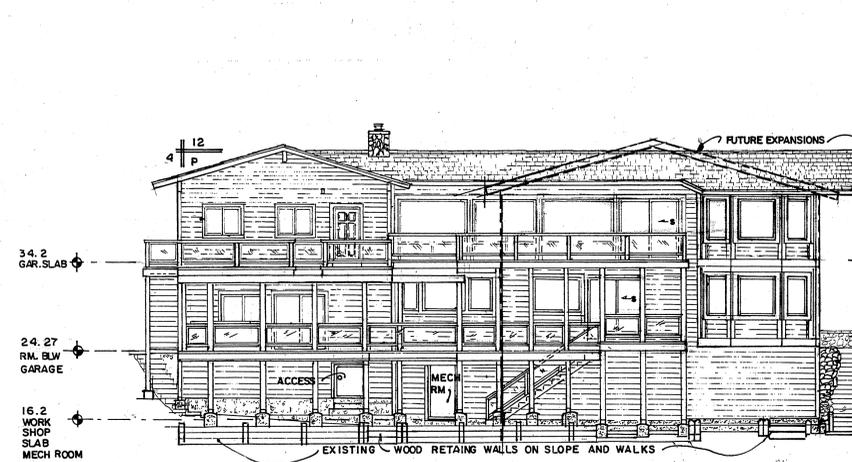
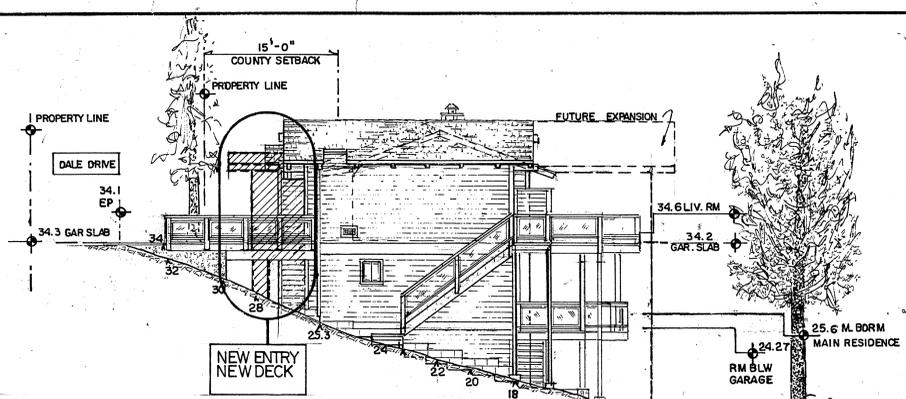
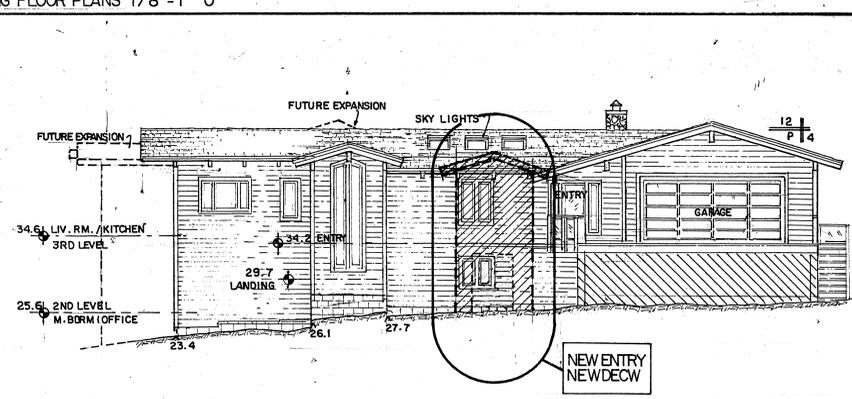
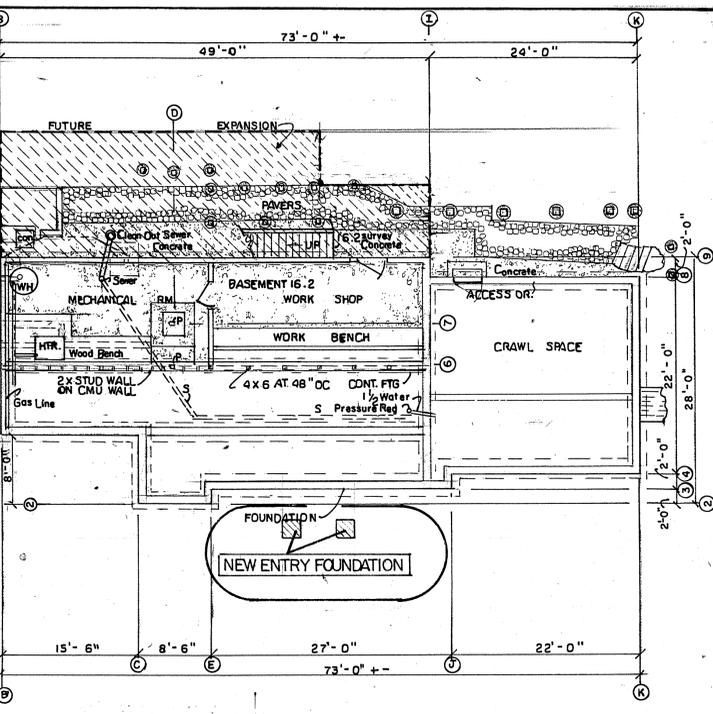
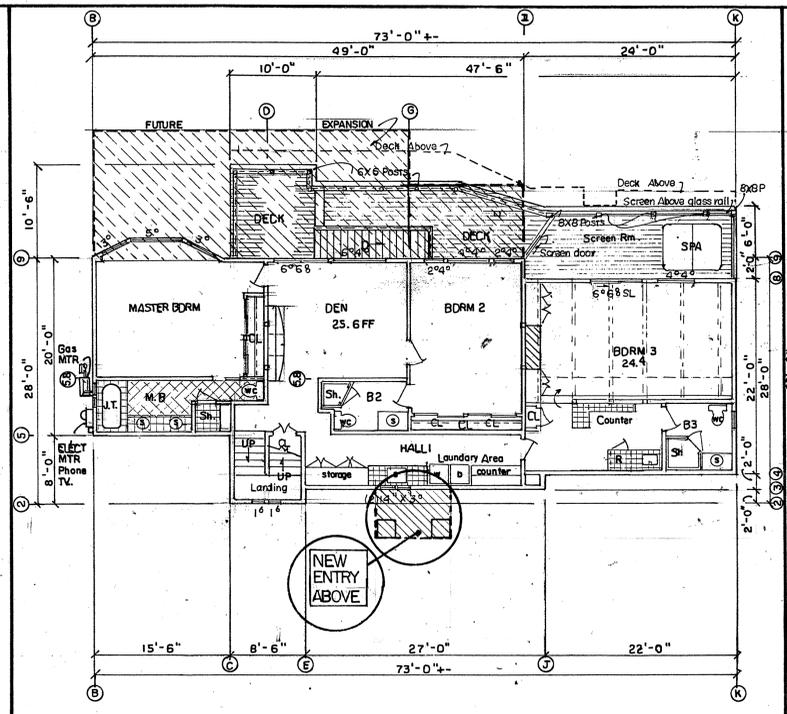
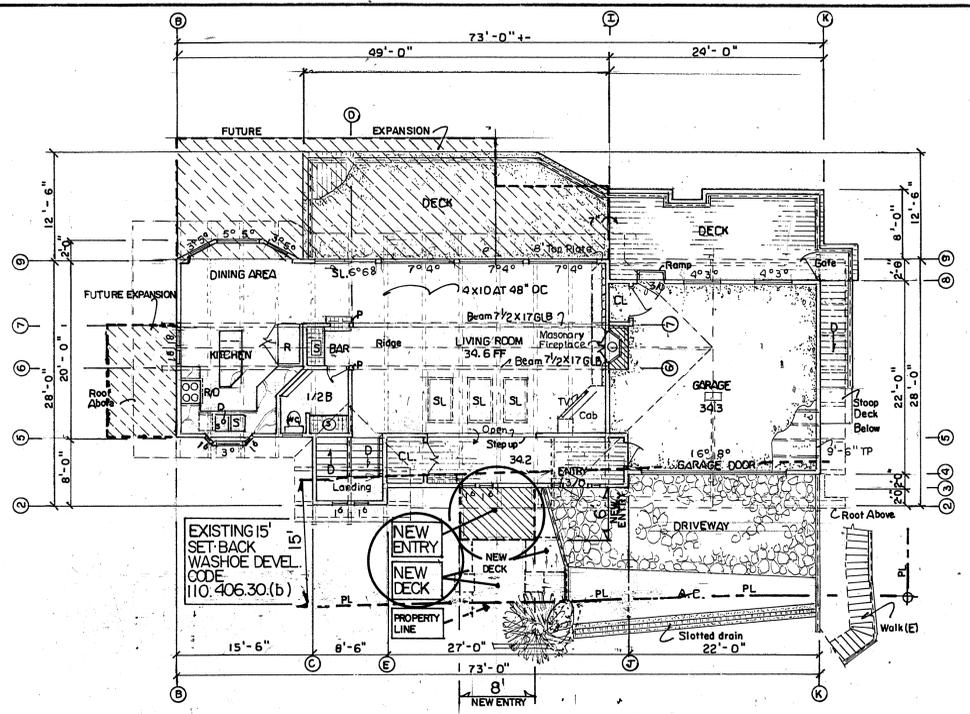
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 FAMILY RESIDENCE

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 INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.

SITE PLAN: W/ NEW ENTRY 1/8" = 1'-0"

SITE PLAN W/ NEW ENTRY

SCALE: 1/8" = 1'-0"



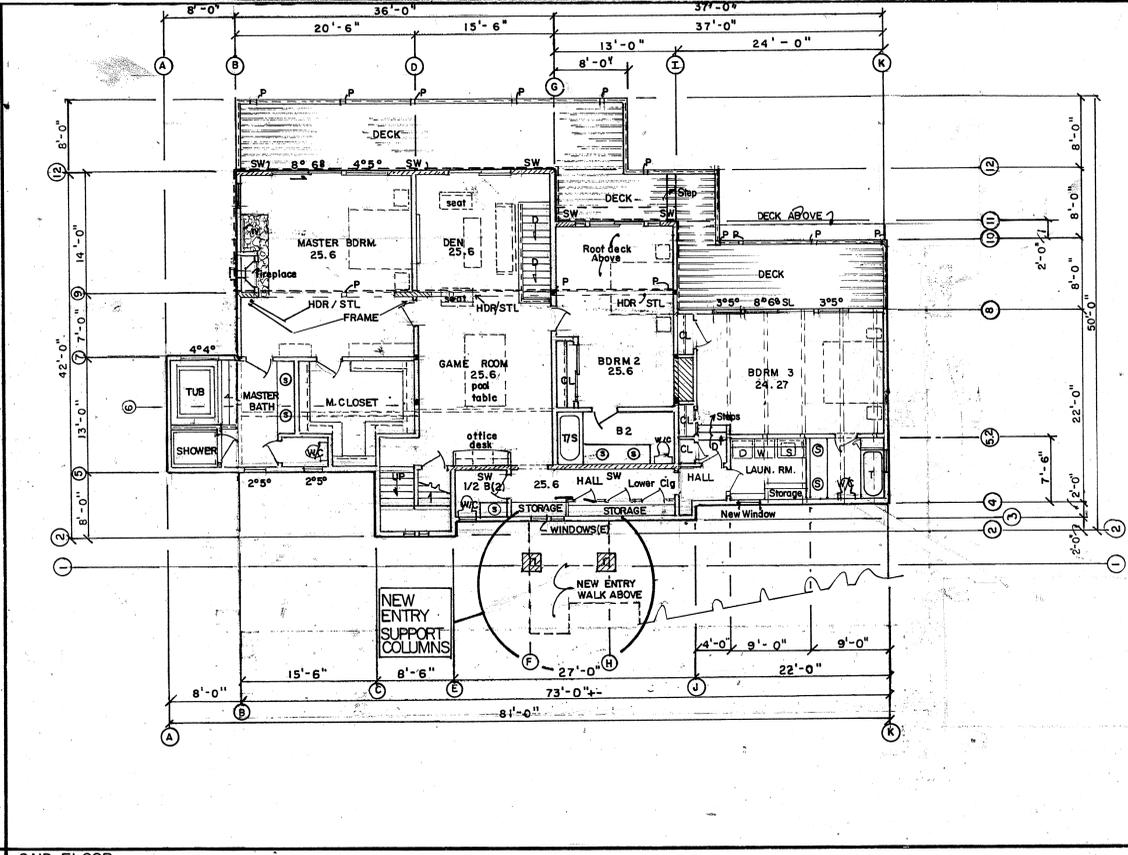
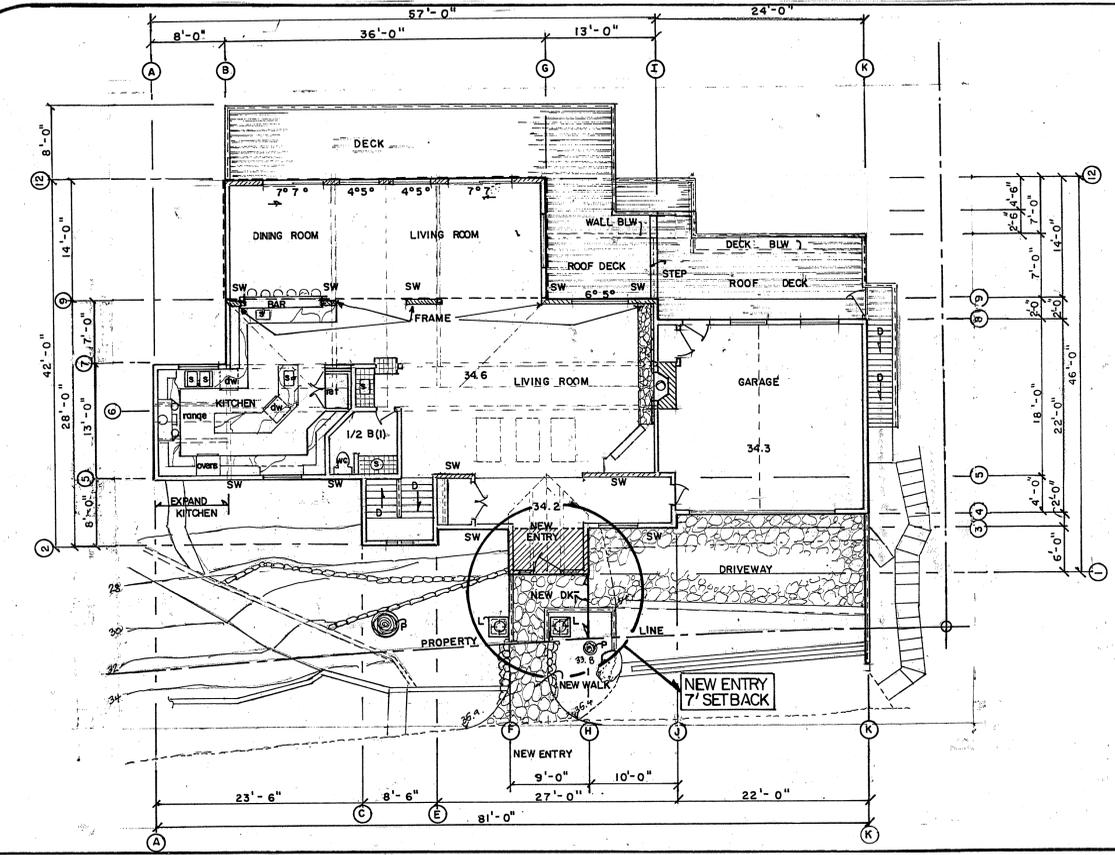
EXISTING EXTERIOR ELEVATIONS 1/8" = 1'-0" EEE = EXISTING EXTERIOR ELEVATIONS

CHANGES

PROJECT: MAJOR ADDITION  
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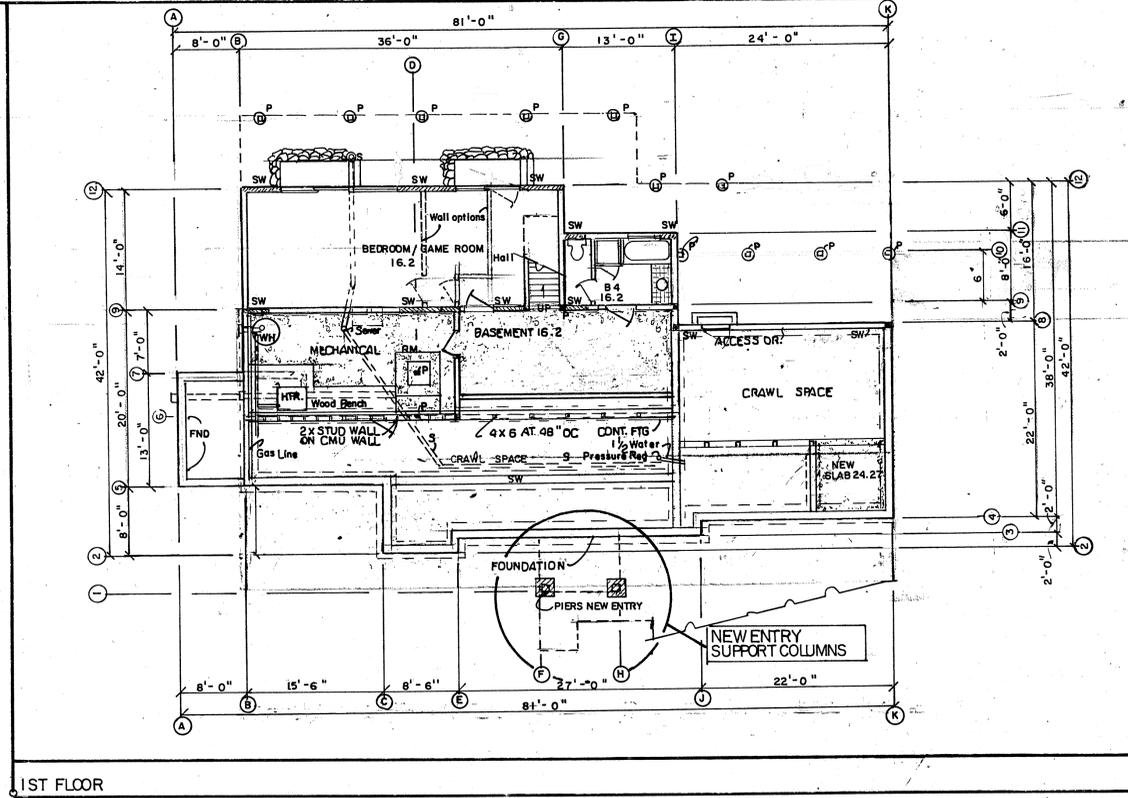
PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.



SQUARE FOOTAGE PROPOSED AND EXISTING

1ST FLOOR	STORAGE	168.00 SF
	EXISTING SHOP/MECHANICAL RM	538.00 SF
	NEW LIVING AREA	608.00 SF
2ND FLOOR	EXISTING LIVING AREA	1,734.00 SF
	NEW LIVING AREA	608.00 SF
	DECKS/NEW	469.00 SF
3RD FLOOR	EXISTING LIVING AREA	664.00 SF
	NEW LIVING AREA	662.00 SF
	GARAGE	518.00 SF
	DECKS/NEW	791.00 SF
TOTAL EXISTING LIVING AREA		2,936.00 SF
PROPOSED NEW LIVING AREA		2,182.00 SF
TOTAL PROPOSED LIVING AREA		5,451.00 SF
GARAGE ATTACHED EXISTING		518.00 SF
TOTAL STRUCTURE AREA		5,969.00 SF
TOTAL DECK AREA		1,260.00 SF

FLOOR PLANS W/ NEW LIVING AREA 1/8" = 1'-0"

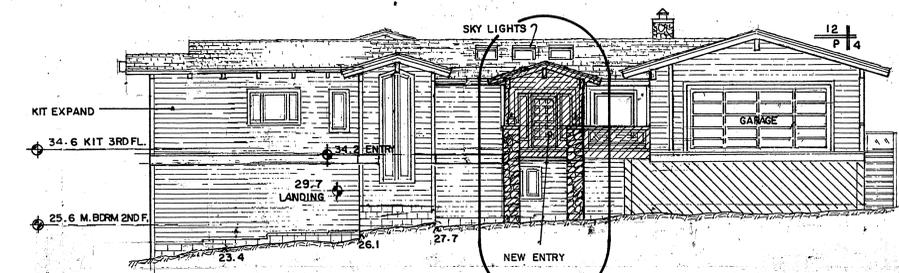


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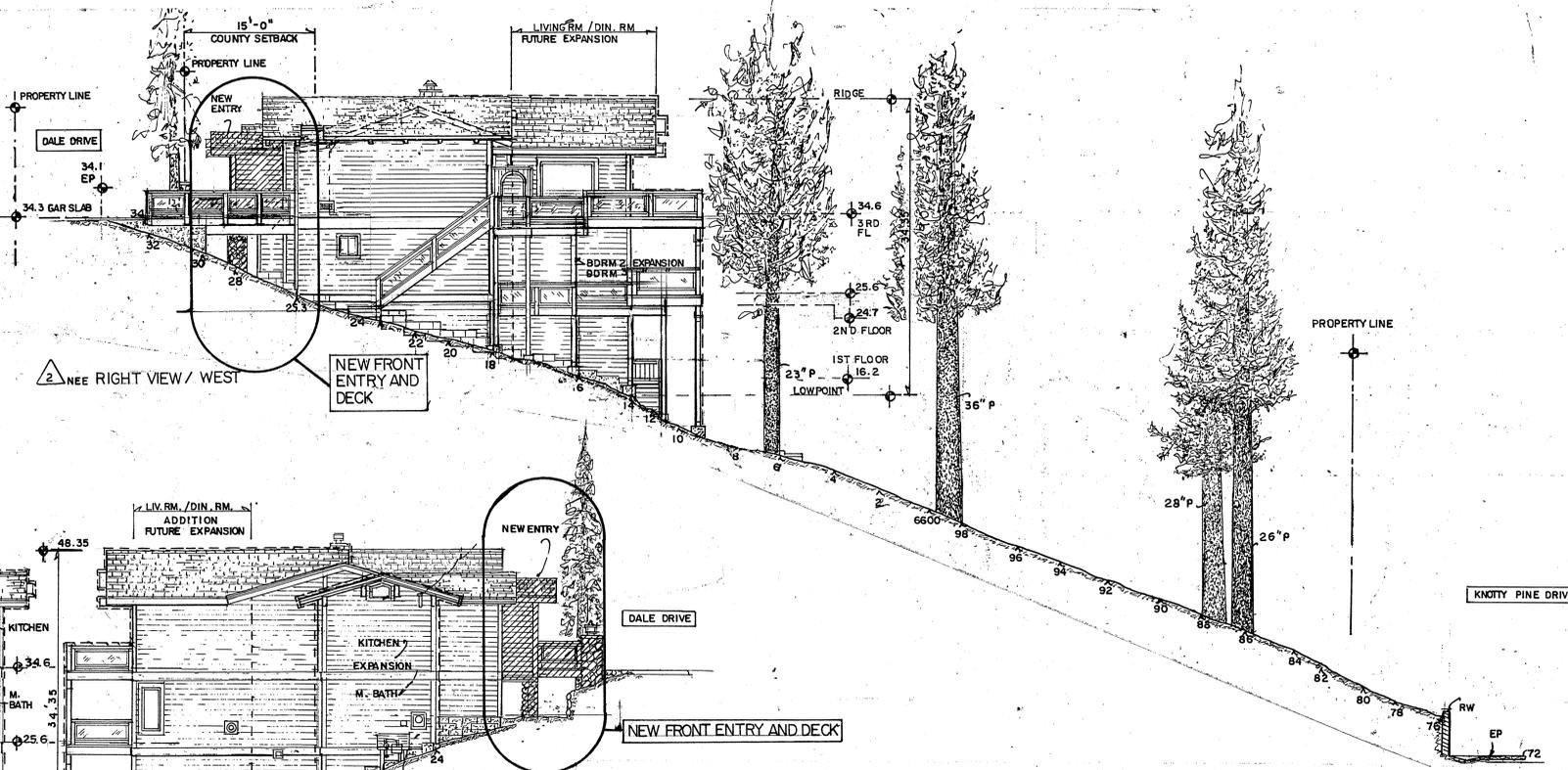
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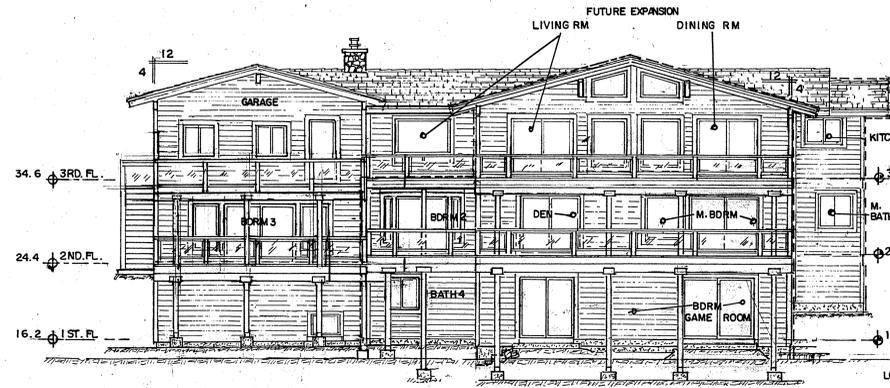
1 NEE FRONT VIEW / NORTH

NEW FRONT ENTRY AND DECK

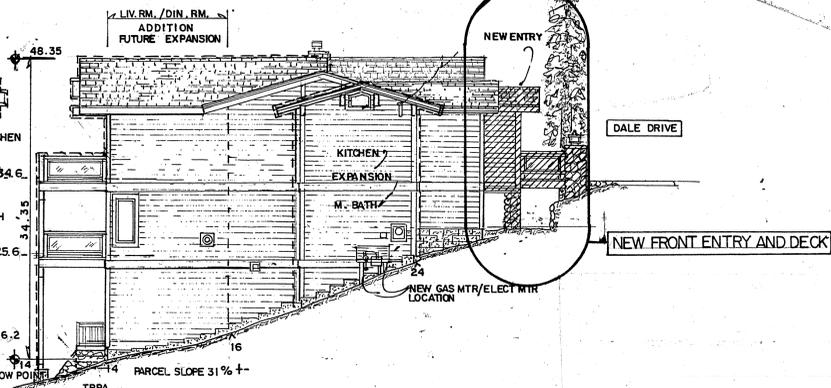


2 NEE RIGHT VIEW / WEST

NEW FRONT ENTRY AND DECK



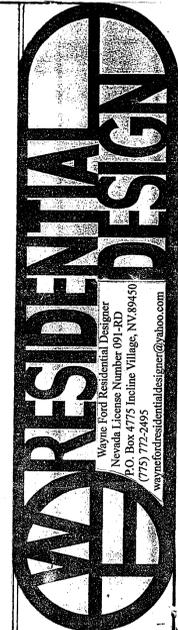
3 NEE REAR VIEW / SOUTH



4 NEE LEFT VIEW / EAST

NEW FRONT ENTRY AND DECK

PROPOSED EXTERIOR ELEVATIONS 1/8" = 1'-0" NEE = NEW EXTERIOR ELEVATIONS



OWNERS: BARRY AND LORI NUDELMAN  
 557 DALE DRIVE INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.

PROJECT: MAJOR ADDITION REMODEL TO SINGLE FAMILY RESIDENCE



# Board of Adjustment Staff Report

Meeting Date: August 6, 2015

Subject: Variance Case Number: VA15-004

Applicant: Barry and Lori Nudelman

**Agenda Item Number: 8D**

Project Summary: Reduce the front yard setback from 20 feet to 3 feet to construct a covered front entry

**Recommendation: Denial**

Prepared by: Eva M. Krause - AICP, Planner  
Washoe County Community Services Department  
Planning and Development Division

Phone: 775.328.3796  
E-Mail: [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

---

## Description

**Variance Case Number VA15-004 (Nudelman)** – Hearing, discussion, and possible action to approve a variance reducing the front yard setback from 20 feet to three feet to construct a covered entryway on the existing house.

- Applicant: Barry and Lori Nudelman
- Property Owner: Barry and Lori Nudelman
- Location: 557 Dale Drive
- Assessor's Parcel Number: 122-132-09
- Parcel Size: 0.42 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler
- Section/Township/Range: Section 17, T16N, R18E, MDM, Washoe County, NV

**Staff Report Contents**

Description ..... 1

Staff Report Contents..... 2

Exhibits Contents ..... 2

Variance Definition ..... 3

Vicinity Map ..... 4

Site Plan ..... 5

Project Evaluation ..... 6

Incline Village/Crystal Bay Citizen Advisory Board ..... 10

Reviewing Agencies..... 10

Staff Comment on Required Findings ..... 11

Recommendation ..... 12

Motion ..... 12

Appeal Process ..... 12

**Exhibit Contents**

Public Comment Letters (3)..... Exhibit A

Engineering and Capital Projects ..... Exhibit B

Building and Safety ..... Exhibit C

Public Notice ..... Exhibit D

Project Application ..... Exhibit E

## **Variance Definition**

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

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

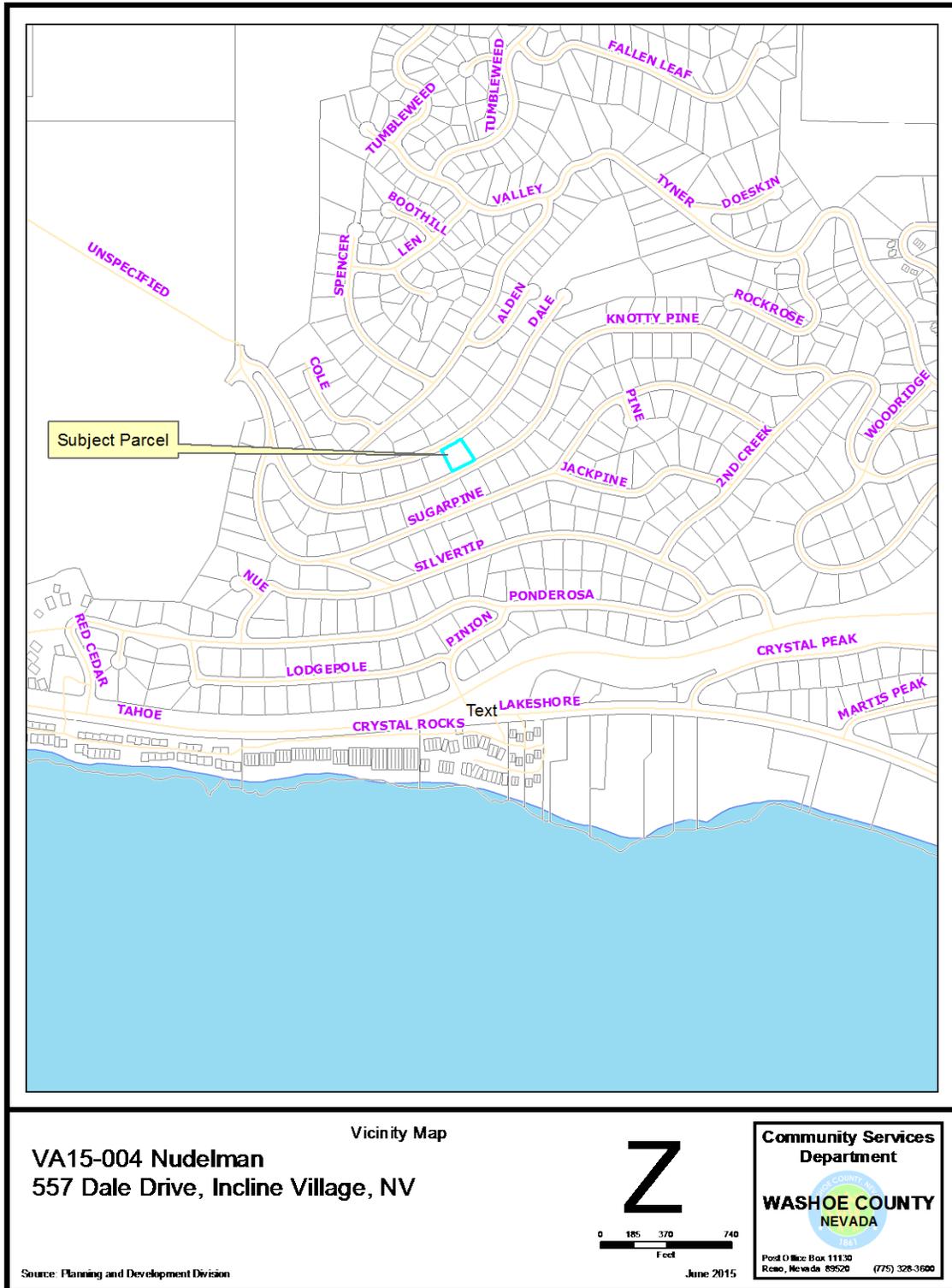
Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application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

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

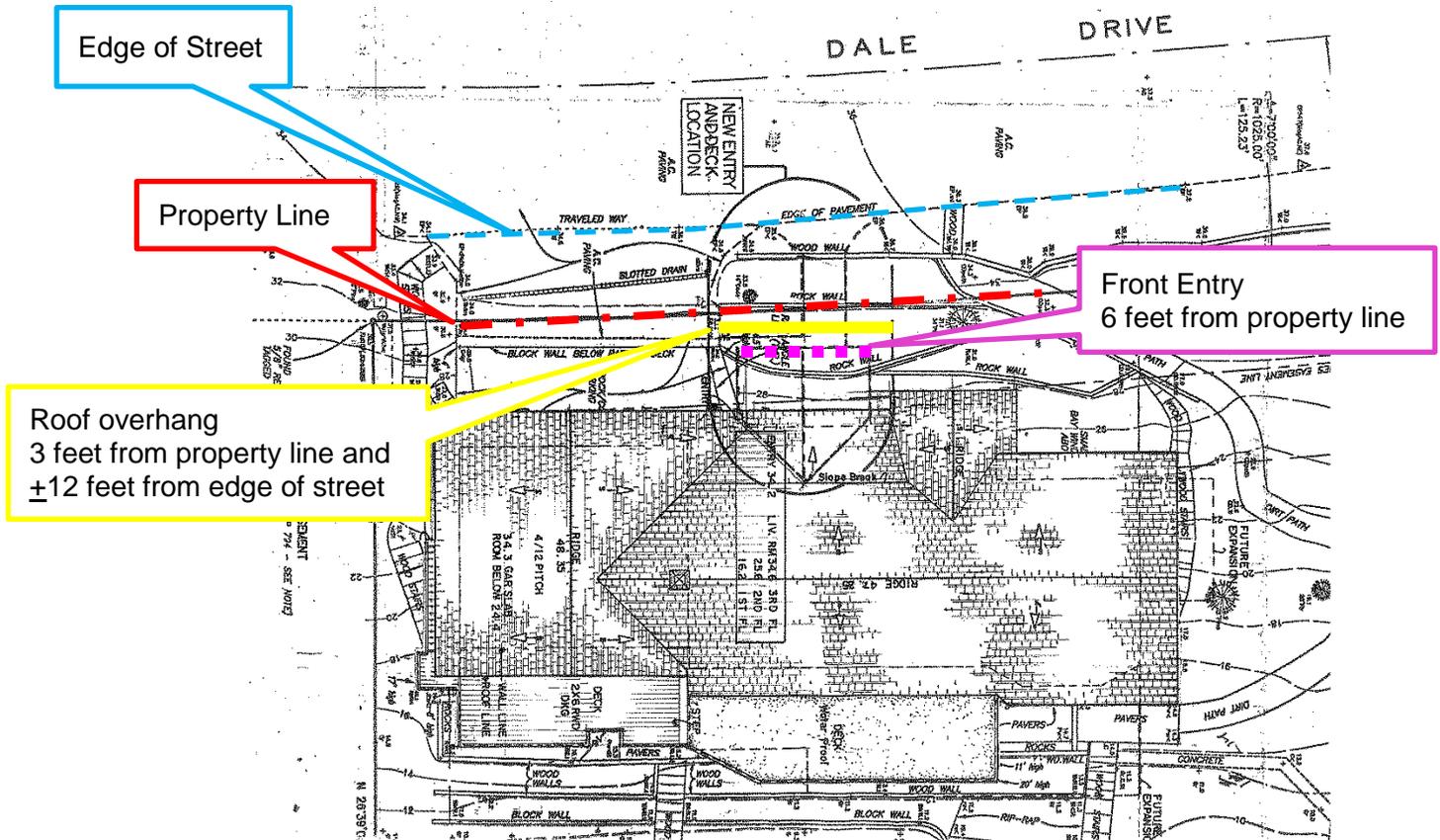
- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as “Operational 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 make all five findings and approve the requested variance, staff will provide Conditions of Approval at the public hearing.



**Vicinity Map**





**Detail**

**Project Evaluation**

The existing house encroaches into the front yard setback by nine feet. The applicant is requesting to construct a new front entry which will encroach an additional five feet and the overhang will encroach an additional three feet. The result will be that the front door will be 6 feet from the front property line, and the roof overhang will be within three feet of the property line.

The existing house was built in c.1968 within eleven feet of the front property line. Prior to 1990 many homes in the Tahoe area were built without being properly surveyed, which resulted in many homes being built within their setbacks. Therefore, the Board was processing numerous variances to correct the error. To reduce the number of variance cases heard for this situation, a Tahoe code modifier was adopted to make homes built within-in the setbacks before 1990, with permits, legal and conforming. Therefore, the eleven foot setback is legal for what exists, but does not further additions within the setback.

**Section 110.220.40 Conformance of Setbacks on Existing Residences.** The existing setbacks for a home constructed prior to 1990 shall be legal and conforming when:

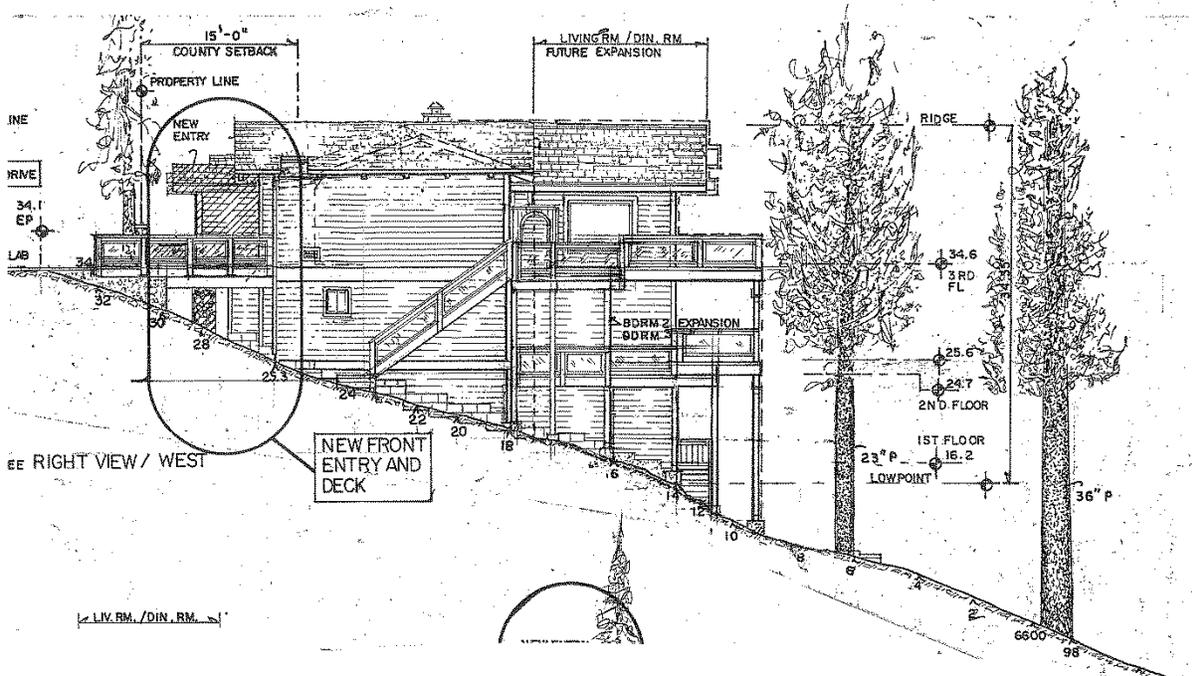
- (a) The building pad is not delineated on the final subdivision map;
- (b) The home was constructed with all required permits prior to 1990;

- (c) No further intrusion into the setback is requested; and
- (d) The Engineering Division is able to determine that County snow removal operations will not be impeded and/or the County has been held harmless from liability resulting from its snow removal operations.



557 Dale Drive (Subject property). The front door on the left extending two feet beyond the garage face.

The existing house has an attached garage and a front entry which is covered by a small overhang. The roof overhang sheds snow on to the walkway which can become icy. The applicant is proposing to extend the front entry out five feet and then extend the roof overhang an additional three feet to create an enclosed and protected entrance to the home. The development code allows for two-foot overhangs into a setback. If approved, the roof overhang would be three feet from the front property line, and approximately 12 feet from the edge of the road.



**West elevation**

The applicant states the steep slope of the lot creates a hardship. Staff is not able to make that finding because there is an existing residence that is similar in size and quality with other homes in the neighborhood, and the front walkway and driveway are not steeply sloped. Therefore the slope of the lot does not create a situation where the strict application of the regulations deprives the property of privileges enjoyed by other properties with the identical regulatory zone.

The applicant also states that there have been several variances for other homes near this home. Staff reviewed the variances granted for homes on Dale Drive. Of the 25 homes on Dale Drive, there have been 6 applications for variances, of which 4 were approved. Each variance was approved based on the conditions of the property, rather than how another property was developed.

The applicant also states that other homes in the neighborhood have safe enclosed entrances. Staff observed the neighboring properties and while several of the homes do have covered entries, most were either recessed into the front of the home or attached along to the side of the house or garage.

Of all the reasons stated in the application for why the variance should be granted, the applicant has not demonstrated a condition which results in an undue hardship that is inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.



558 Dale Drive, across the street from subject property. The front entry is recessed.



551 Dale Drive. No Garage. Front entry is recessed and does not intrude into front yard setback.



559 Dale Drive. The front entry is recessed from the front of the garage and does not intrude into the front yard.

### **Incline Village/Crystal Bay Citizen Advisory Board**

The proposed project is scheduled to go before the regularly scheduled Incline Village/Crystal Bay Citizen Advisory Board meeting on July 27, 2015. Staff will provide a summary report to the Board at the public hearing.

### **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 Capitol Projects
- Washoe County Health District
  - Vector-Borne Diseases Division
  - Environmental Health Division
- North Tahoe Fire Protection District
- Regional Transportation Commission
- Incline Village General Improvement District

Three of the seven above listed agencies/departments provided comments and/or recommended conditions in response to their evaluation of the project application. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided.

Planning and Development recommends denial for lack of Hardship.

Eva M. Krause, 775.328.3796, [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

Building and Safety requires building permits, and that the applicant complies with all building and urban wildland interface codes.

Don Jeppson, 775.328.2030, [dcjeppson@washoecounty.us](mailto:dcjeppson@washoecounty.us)

Engineering and Capital Projects requires an encroachment permit for structures in County right-of-way and a hold harmless for structure within the front yard setback.

Kimble Corbridge, 775.328.2041, [kcorbridge@washoecounty.us](mailto:kcorbridge@washoecounty.us)

### **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: While the property is steeply sloped, there is an existing house build on the property, and the slope of the lot does not affect the proposed front entry addition. Staff cannot make the finding of an exceptional or undue 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: building a structure three feet from the front property line would substantially impair the intent and purpose of the development code.*

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: Allowing for the proposed addition within 3 feet of the front property line would be a special privilege not granted to any other property owner on Dale Drive.*

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

Staff Comment: *The variance would not authorize as use or activity which is not authorized by the Development Code.*

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 are no military installations in this area.*

### **Recommendation**

Those agencies which reviewed the application provided conditions if approved. After thorough analysis and review, staff could only make 2 of the five findings, therefore Variance Case Number VA15-004 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 denies Variance Case Number VA15-004 for Barry and Lori Nudelman, for not being able to make all five of the required findings in accordance with Washoe County Development Code Section 110.804.25.

The two finding that were made are:

1. 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;
2. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

### **Appeal Process**

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: Barry and Lori Nudelman

Representatives: Wayne Ford



# Incline Village/Crystal Bay Citizen Advisory Board

## MEMORANDUM

To: Eva M. Krause, Staff Representative  
From: Misty Moga, Administrative Recorder  
Re: Variance Case Number VA15-004 (Nudelman)  
Date: August 4, 2015

The following is a portion of the draft minutes of the Incline Village/Crystal Bay Citizen Advisory Board held on July 27, 2015.

**7. DEVELOPMENT PROJECTS** – The project description is provided below with links to the application or you may visit the Planning and Development Division website and select the Application Submittals page:  
[http://www.washoecounty.us/comdev/da/da\\_index.htm](http://www.washoecounty.us/comdev/da/da_index.htm).

**A. Variance Case Number VA15-004 (Nudelman)** – Hearing, discussion, and possible approval of a variance reducing the front yard setback from 15 feet to 6 feet to construct a covered entry way on the existing house.

- Applicant: Barry and Lori Nudelman
- Location: 557 Dale Drive
- Staff: Eva M. Krause: 775-328-3796, [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us).
- Hearing Date: August 6, 2015. • Reviewing Body: Board of Adjustment

Wayne Ford gave a brief overview of the subject property and proposed variance request:

- Safety of getting into the home was the issues.
- The current entry wasn't adequate enough for protection. Ice builds up.
- In 1968, the home was built. It's approximately 2,800 square foot house.
- 29% slope in the back. Therefore, the house was built closer to the street. The house set-back was 11 feet.
- 1984, the county gave it another permit without a variance.
- The zoning for that garage didn't go through a variance process. The got built closer to the road.
- 1995, there was a permit for enclosed front walkway.
- Wayne said they want a 6-8 foot entry, but are receiving opposition from the County.
- He said we are trying to preserve the roof system.
- The house is in the setbacks. The road department will get a hold harmless agreement for the whole house.
- Wayne showed pictures of the property. He said they are asking a 6 foot setback and overhang. Provide walkway and create zone for snow to drop near the entry. They attempted to put a gable. The pitch doesn't carry the water, and creates ice in the winter.
- He said they are also proposing to move the walk way. The entry will make the house appear nicer.
- The neighbors have submitted letters approving this variance because it will make the house look nicer.
- He showed pictures of the roof and the attempts to remediate the issue with drainage.
- He said the alternatives are good ideas, however, they aren't feasible.
- The 'row affect' won't happen because there is vegetation screening

Board questions and comments:

- Kevin Lyons asked about the 15 foot setback requirement. Wayne said properties with a 20ft slope, there is a 15 foot setback is a consideration. Wayne said the road department needs space for plow and snow removal.
- Judy Miller asked about parking. Wayne said there is railroad ties, 2 feet of the car hangs into the street. They have two parking spaces in front of the garage.
- Andrew Wolf asked about the area cut out of the driveway. Wayne showed it on a map. Andrew asked about the roof wall and overhang. Wayne said we are coming out 6 feet of the building wall.
- Kevin Lyons asked how a 'row affect' is a road issue? Wayne said there is a philosophy developed under Mr. Whitney that there are too many variances given out in Incline. The decision was made to hold the line on variances. They want to reduce the row affect too close to the road. Wayne said its for safety and protection. Kevin Lyons said he didn't understand why a row affect is prevented. Wayne said applications are being denied. T
- Pete Todoroff said if it complies with code and safety. He said he approve it without a doubt.
- Judy Miller said she knows people in the neighborhood. Parking would normally be a concern, however, not in this case. It would approve safety. She said she supports it as well.
- Andrew Wolf said there are bridges, curbs, and rock walls. He said this doesn't impact the environment. He said he would approve it.

**MOTION: Chairman Pete Todoroff moved to recommend the approval of the variance. Andrew seconded the motion. Vote passed unanimously.**

cc:

Marsha Berkgigler, Commissioner  
Al Rogers, Constituent Services  
Sarah Tone, Constituent Services

# VA15-004 Nudelman Residence

**Reduce front yard setback from 20 feet to 3 feet to facilitate construction of new entry.**

- **The house is 11 feet from the front property line.**
- **The proposed entrance will extend 6 feet out from the house.**
- **The roof overhang will extend an additional 3 feet beyond the front door.**



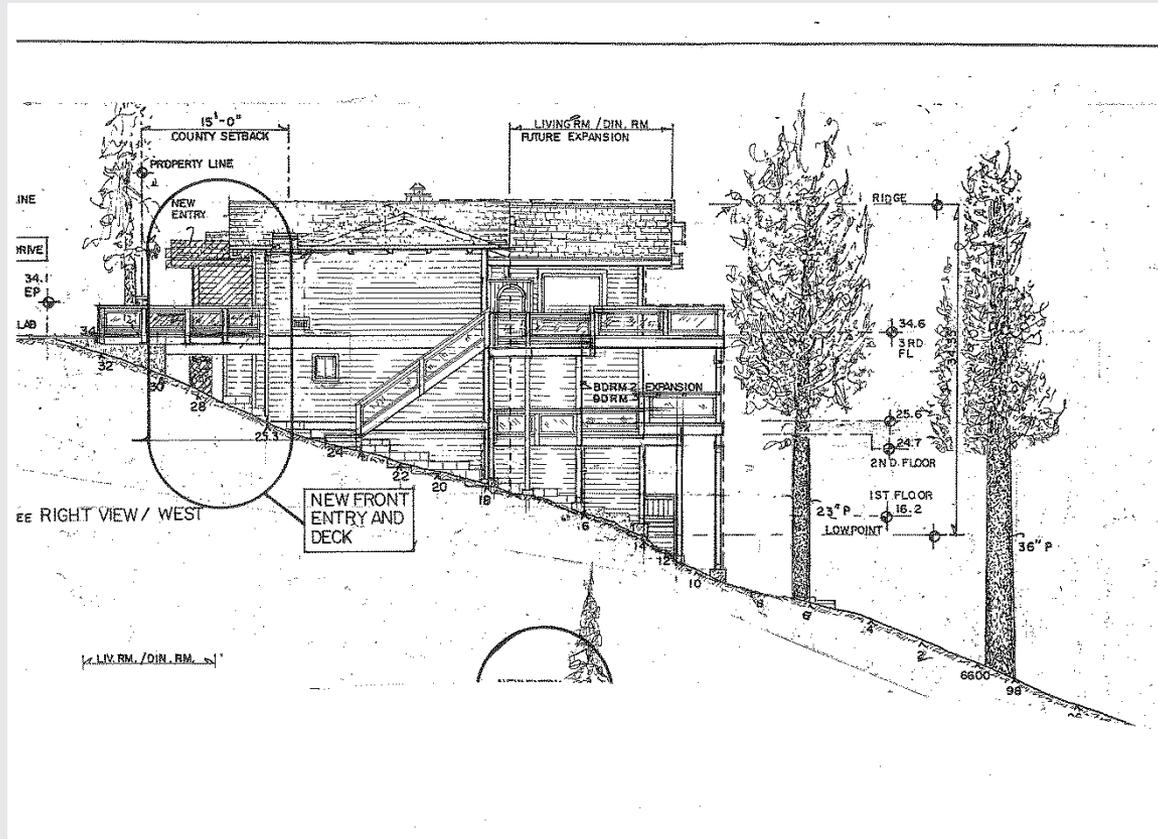
# VA15-004 Nudelman Residence

## Analysis

- House is built within 11 feet of front property line.
- Home had a front porch and entry that was enclosed by previous owner.
- Driveway and walkway to front door is not steeply sloped.



# VA15-004 Nudelman Residence



# VA15-004 Nudelman Residence

## Analysis

- Existing condition is manmade and not a hardship of the property.
- Proposed roof over front entry would be 3 feet from property line, and approximately 12 feet from edge of street.
- House and garage are in the front yard setback.



# VA15-004 Nudelman Residence



# Incline Village/Crystal Bay CAB

- **The project doesn't impact the environment.**
- **How does this affect the road?**
- **The neighbors support the proposal.**
  
- **The CAB recommended approval for safety reasons.**



# Recommendation

**Staff finds that the hardship is manmade and not a condition of the land, therefore staff recommends denial.**



# Findings

## 1. Special circumstances of the land:

- Exceptional narrowness, shallowness or shape
- Exceptional topographic conditions
- Other exceptional extraordinary conditions created by the property



# Findings

2. No detriment to the public good, natural resources, or impairment to the Development Code
3. No special privileges are being granted
4. **The proposed use is an authorized use**
5. **No effect on a military installation**



# Possible Motion

**I move that after reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission deny Variance Case VA15-004 having not made all the findings in accordance with Washoe County Development Code Section 110.804.25.**





# Excerpt from **WASHOE COUNTY BOARD OF ADJUSTMENT Draft Meeting Minutes**

## **Board of Adjustment Members**

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

**Thursday, August 6, 2015  
1:30 p.m.**

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

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The Washoe County Board of Adjustment met in regular session on Thursday, June 4, 2015, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

## **1. \*Determination of Quorum**

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

Members present: Lee Lawrence, Chair  
Kristina Hill  
Brad Stanley  
Clay Thomas  
Kim Toulouse

Members absent: None

**D. Variance Case Number VA15-004 (Nudelman)** – Hearing, discussion, and possible action to approve a variance reducing the front yard setback from 20 feet to three feet to construct a covered entryway on the existing house.

- Applicant: Barry and Lori Nudelman
- Property Owner: Barry and Lori Nudelman
- Location: 557 Dale Drive
- Assessor's Parcel Number: 122-132-09
- Parcel Size: 0.42 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler

- Section/Township/Range: Section 17, T16N, R18E, MDM,  
Washoe County, NV
- Staff: Eva M. Krause, AICP Planner  
Washoe County Community Services Department  
Planning and Development Division
- Phone: 775-328-3796
- E-mail: [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

Chair Lawrence opened the public hearing. Roger Pelham reviewed Eva Krause's staff report dated July 17, 2015, in her absence.

Member Stanley noted that in his research he noticed in this area six variances were applied for with four being approved and two being denied. He asked how those decisions were made. Mr. Pelham said variances are based on the individual "exceptional", out of the ordinary, characteristics of individual parcels. Each one is evaluated on its own merit against the same scale/standard and if the Board finds there is "exceptional narrowness", "exceptional shallowness", "exceptional shape", "exceptional topographic conditions" or other things that are out of the ordinary that force the variance then probably a variance is reasonable. On the other hand, if the Board doesn't find that one of those criteria or standards are met then probably a variance is not warranted. The fact that some were approved and some weren't shows that his Board is weighing those individual cases carefully.

Chair Lawrence opened public comment.

\*\*\*NOTE: Mr. Ford gave a presentation but didn't submit copies to the Recording Secretary as requested.

Wayne Ford, the applicant's representative, noted that the requested setback be reduced to six feet, not three feet as stated in the case description. Mr. Ford stated the history of the residence is directly related to why they are in need of a variance. In 1968, when the home was built the house was 11 feet six inches from the front property line. The setback on the recorded maps at that time was 30 feet. They made a decision to move it closer because of a 39% slope. In 1984, a garage was added at which time the County had a 20 foot setback and the garage was built 12 feet from the property line. In 1995, the closed in porch/entry was added to the home, 13 feet from the front yard setback. At that time it was hoped, by the builder, to protect the entry. It hasn't worked as it is an unsafe entry. All these projects were allowed in the front yard setback that was 20 feet and no variances were required. Mr. Ford indicated this was based on the topographic conditions. He said there continues to be a hardship on the parcel and it's all connected back to the original structure that was allowed to be built in the setback.

Robert Angres, legal counsel for the applicant, opined that the problem here is that staff is trying to "hold the line." He said he spoke with the planner, Eva Krause, and she said they're just tired of all the variances. That there was a variance last year for zero setback on Dale Drive and the planner who recommended it got it approved and then left. Mr. Angres said staff is under a lot of pressure, they're trying to hold the line, there's the feeling there are too many variances, and they understand there are hundreds of variances granted in Incline Village and many on Dale Drive and yet they're trying to hold the line on this particular one. Mr. Angres noted there are errors, the setback requested should be six feet, not three feet, and they note that your (the Board's) power is only under NRS 278.300 (1) (c) but you have plenty of power under NRS 278.300. Mr. Angres went on to say proper evaluation under special circumstances and hardship, the detriment, the special circumstances, special privileges; all these findings in

identical situations have been made to approve a variance. In this one, their interpreting it in a vacuum and that vacuum is unfair to the applicants and it doesn't meet the standards of equal protection, it doesn't meet the standard of fairness. The mission of Washoe County is "to provide and sustain a safe, secure, and healthy community", we're asking for a safe entry on a property that was created in the 1960's and has been sitting there. Every complaint staff has mentioned was done by a prior owner and the new owner is looking to be allowed to create a very small adjustment in the manner other people in their neighborhood have and hundreds in Incline Village and Crystal Bay have had. If the County is going to re-examine how it grants variances then it should do so as an overhaul but this piecemeal way doesn't comport with the law, it doesn't comport with the regulatory function, and staff admitted this Board very often countermands them or tries to equalize or adjust what they do and they're fine with that they're here to hold the line. We ask your Board to examine each of the finding and see that they can be made in exactly the opposite way very easily like it was done last year, as it may be done a few minutes from now, as it may be done next month. We have to have some consistency and fairness.

Member Hill asked when the entry was originally enclosed. Mr. Ford said 1984. Member Hill asked why the roof couldn't be extended to prevent the snow and ice from getting on the entry. Mr. Ford said they'd still need a variance they're only allowed two feet of overhang, true it could be extended but they'd need a variance to do it. And he's looking at the character of the house. The homes in that area have gabled roofs out front and this home deserves that same kind of end result. There are a lot of things that were done where you just extend the roofs out with no consideration to what other people see and it may solve the problem temporarily, but in this case because of the home being grandfathered in at its current setbacks we need a variance to extend 1 inch beyond the existing roof system because everything is in as it is right now. Also, the roof system is structurally questionable, right now. If we have to tear into the roof I'd much rather have a gable that matches the garage, the entry, and the rest of the home architecturally for the character of the neighborhood. These are considerations for architectural that aren't necessarily considerations for hardship but the neighbors support it because they care about what they see. Member Hill referenced Exhibit E which shows a future addition in the back of the home. Mr. Ford said they are planning to add to the bedrooms, a portion of the dining room, and some upgrades to the kitchen. The home is 2800 square feet. Most of the homes on Dale Drive are 6000 and 7000 square feet. This home will be about 4000 square feet when they're are done.

Member Thomas clarified the garage was added in 1984. Mr. Ford said yes, the garage was 1984 and the entry was 1995. The entry is newer than previously stated. Member Hill asked if there was a variance for the entry. Mr. Ford said no. Member Hill asked why extending the roof would create the need for a variance. Mr. Ford said the interpretation is different now than 1995. We still have the code section that says we're allowed two feet. They established some property setbacks by giving permits on each one of these and now we want to extend the roof beyond that. That's the setback, so extending the roof more than two feet would require a variance. Our wall is at six feet, we're asking for a variation of the overhang. We're not building to that, it's something above. Member Hill asked if the roof extension would be to the east or west not in the front. Mr. Ford said the entry is in front. Member Hill asked, if they're just wanting to prevent the snow from coming into the covered walkway. Mr. Ford said no, it's a flat wall across the front. They tried to put a prow down to keep the snow from coming in over the top but the snow just blows over. Member Hill said the front door seems very close to the street. Mr. Ford said the front door was approved in 1995 at 13 feet from the property line and another three feet to the street, so, 15 feet from the road. Member Hill asked how many more feet they're proposing to come out. Mr. Ford said six feet.

Mr. Angres noted the approvals not given according to code resulted in a situation where the County doesn't have its proper indemnification for damage from road service. Approving this, a condition would be that that would have to be executed like everyone else in Incline Village who gets close to the road.

Chair Lawrence asked Mr. Edwards for clarification. Mr. Edwards explained that typically when you have a variance that brings the property right up to the edge of the road, snow removal is a significant issue as there is an increased chance that snow removal equipment could run into or throw snow and ice onto one of the structures, vehicles, or someone coming in and out of the door. If a variance is granted, there is a condition that the property owner is assuming the risk that could happen and signs an indemnification, that's what Mr. Angres is referring to.

Member Thomas asked if the entrance was in 1995 and that was the new entrance, they didn't account for the snow falling onto the front walkway at that time and that's why you want to add the extension out there; for safety and a clear entrance way. Mr. Ford said that's correct. Member Thomas said it's been that way for 20 years, have there been accidents, falls, or problems. You're coming to us now 20 years later, I'm assuming if it was that big a problem early on it should have been addressed early on. Mr. Ford said he doesn't know the previous owners he just knows his clients, this last year, had a lot of problems at the door with black ice, slippery conditions, a lot of issues. He thinks the previous owners entered the home by the garage.

Member Hill asked Mr. Ford if he could have done the same design, changing the location of the entry and not having it encroach into the setback. Mr. Ford said no. Member Hill asked, just have it go right into the building. Mr. Ford said that's the problem. They have the door opening thing and the lower room. If he makes a recessed entry there is no headroom below to put the proper framing and waterproofing that's necessary. He'd be creating a flat roof over existing living space on the north side of a house. There are interior issues that don't allow him to solve the problem.

Member Stanley addressed Mr. Ford's comments regarding many conversation he had with the planner, Ms. Krause, and asked if Mr. Ford had foreseen this outcome, the application being denied. Mr. Ford answered he wasn't sure how to answer that. He always anticipates they'll have to make the findings for a variance. What he didn't anticipate was the lot with a 39% slope would not be a consideration of a hardship especially with the documented safety issues and this wouldn't be a viable solution. He said he's seen this added on countless homes and three homes on Knotty Pine have the same exact entry and had the same issues with a six or seven foot setback. So, no, he thought it'd be considered a hardship. Yes, the house is on a steep parcel and he didn't expect this degree of discussion.

Pete Todoroff, temporary Chair of the Incline Village/Crystal Bay Citizen Advisory Board, said he'd brought up the safety issue with the snow falling directly on the entry way. The CAB voted to have this approved, if all the codes are met the safety issue will be taken care of if the variance is approved. He asks the Board to approve this variance.

Mr. Pelham wanted to address a couple of questions he thought he'd heard asked. First, would this have required a variance to enclose the porch or new entry way when it was constructed in 1995. He responded, he doesn't know. That was under a different zoning code and regulatory scheme. Our current development code was put into effect in 1998 and is more or less the same today. In terms of staff evaluation of variances, the findings have not changed,

the evaluation process had not changed, and we make our recommendations based upon an impartial evaluation of the unique or extraordinary situation or condition of each individual parcel. He believes all variances are looked at fairly, impartially, and individually. Would it require a variance to extend the roof line an additional two feet, yes, he believes it would. If that variance had been brought forward it would have been given the same consideration this variance request was given. Second, what is the front yard setback, is it being asked to reduce to three feet or six feet. That is a matter of interpretation. Setbacks are generally measured to the footing, that's where you get the six feet. Overhangs and architectural features are allowed 24 inches into that overhang. This applicant is requesting 36 inches. Does that add up to a three foot variance request? Yes. The important part to note is the edge of the eaves would be three feet from the front property line, the footing of the building an additional three feet.

Member Stanley asked, the first finding about hardship and the 39% grade, is it the hardship that is key to the finding, ie: in any variance would they still face the same lack of hardship. Mr. Pelham said absolutely, he believes 100% that the staff evaluates each variance application based upon the physical characteristics. What is different that forces that variance.

Member Hill said she doesn't see where the steepness of the lot affects this particular project. It could be a flat lot and have the same issues with the roof line and the ice falling in the front entry and they would want to come out and build a new entry to prevent the ice from falling. The proposal isn't really relevant to the steepness of the lot. Mr. Pelham said what Member Hill is describing is very much what Ms. Krause put in her staff report; that the difficulty or hardship is based upon the manmade changes to the lot over the years rather than the physical topography under lying that development.

Mr. Angres wanted to clarify there was no intent to impugn the integrity or the attempted impartiality of staff, just pointing out the variability. What we're seeking here is safety.

Chair Lawrence closed public comment.

There were no disclosures.

Member Toulouse noted that he has been on the Board for almost six years and as a Board they've looked at many variance requests in Incline Village and possibly on Dale Drive, that being said, Member Toulouse takes exception with what Mr. Angres said as far as staff holding the line. He opined that no one on the staff would have said that and it is this Board's purview to grant a variance based on the information presented by the staff to us. He believes the information presented to the Board in the staff report and in testimony today, they should deny the variance. He has to agree with staff on this case and in the past has disagreed with staff on many occasions and believes one of those times was on one that Mr. Ford was involved with. Additionally, Member Toulouse was a bit concerned when he read the email regarding this project and the trimming and cutting down of trees. He knows the TRPA has pretty specific regulations and the reference to trimming as much as possible is disturbing.

Member Hill asked if the property owner was present. Yes. She noted that snow is a part of living in Incline Village and if everyone had to get a variance because they had a slippery walkway in front of their house, they'd be talking to everyone. There is a safety issue with every house in Incline Village regardless unless you can drive right up to your front door and have a heated walkway. It's life in the mountains. It looks like a beautiful house and will be nice with the addition in the back but she can't make the findings. As a planning consultant she has to represent clients in the same situations and she has to say whether or not they have a case.

Something like this she wouldn't be able to portray to her client that it is something she could do. Making the findings needs to be more objective not subjective.

Member Stanley wanted to thank the CAB chair for coming to tell the Board what the CAB thought. Member Stanley opined that he kept listening for the hardship and the point about it being the same if the lot was flat sounded very logical so it is tough to make the hardship finding.

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 denies Variance Case Number VA15-004 for Barry and Lori Nudelman, for not being able to make all five of the required findings in accordance with Washoe County Development Code Section 110.804.25. Member Stanley seconded the motion which carried unanimously.

The two finding that were made are:

1. 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;
2. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Mr. Whitney read the appeal procedure.



# Board of Adjustment Action Order

Variance Case Number VA15-004

Decision: Denial

Decision Date: August 6, 2015

Mailing/Filing Date: August 11, 2015

Property Owner: Barry and Lori Nudelman  
557 Dale Drive  
Incline Village, NV 89451

Assigned Planner: Eva M. Krause, AICP, Planner  
Washoe County Community Services Department  
Planning and Development Division

Phone: 775.328.3796

E-Mail: [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

**Project Description – Variance Case Number VA15-004 (Nudelman)** – Hearing, discussion, and possible action to approve a variance reducing the front yard setback from 20 feet to three feet to construct a covered entryway on the existing house.

- Applicant: Barry and Lori Nudelman
- Property Owner: Barry and Lori Nudelman
- Location: 557 Dale Drive
- Assessor's Parcel Number: 122-132-09
- Parcel Size: 0.42 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler
- Section/Township/Range: Section 17, T16N, R18E, MDM,  
Washoe County, NV

Notice is hereby given that the Washoe County Board of Adjustment denied the above referenced case number based on the inability to make the findings required by Washoe County Development Code Section 110.804.25. The Board was unable to make findings #1, #2, and #3

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property.
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and

To: Barry and Lori Nudelman  
Subject: Variance Case Number VA15-004  
Date: August 11, 2015  
Page: 2

purpose of the Development Code or applicable policies under which the variance is granted.

3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Anyone wishing to appeal this decision to the Washoe County Board of County Commissioners may do so within 10 days of the date that this written decision is filed with the Secretary to the Board of Adjustment and a copy mailed to the applicant as indicated above. To be informed of the appeal procedure, call the Planning staff at **775.328.6100**. If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day. Appeals must be filed in accordance with Section 110.912.20 of the Washoe County Development Code.

Washoe County  
Planning and Development  
  
William Whitney  
Secretary to the Board of Adjustment

WW/EK/df

Property Owner: Barry and Lori Nudelman  
557 Dale Drive  
Incline Village, NV 89451

Consultant: Wayne Ford Residential Design  
P.O. Box 4775  
Incline Village, NV 89450



# Conditions of Approval

Variance Case Number: VA15-004

The project approved under Variance Case Number VA15-004 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on August 6, 2015. 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.

**The Washoe County Commission oversees many of the reviewing agencies/departments with the exception of the following agencies.**

- **The DISTRICT BOARD OF HEALTH, through the Washoe County Health District, has jurisdiction over all public health matters in the Health District. Any conditions set by the Health District must be appealed to the District Board of Health.**

- **The REGIONAL TRANSPORTATION COMMISSION (RTC) is directed and governed by its own Board. Conditions recommended by the RTC may be required, at the discretion of Washoe County.**

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 – Eva M. Krause, 775.328.3796, ekrause@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.

\*\*\* End of Conditions \*\*\*

# Washoe County Appeal of Decision Application

## Appeal of Decision by (Check one)

<input checked="" type="checkbox"/> Board of Adjustment	<input type="checkbox"/> Hearing Examiner
<input type="checkbox"/> Design Review Committee	<input type="checkbox"/> Parcel Map Review Committee
<input type="checkbox"/> Director of Building & Safety (NRS 278.310)	<input type="checkbox"/> Planning Commission
<input type="checkbox"/> Director of Planning and Development	<input type="checkbox"/> Code Enforcement Officer

## Appellant Information

Name: Barry and Lori Nudelman	Phone: 925-577-5625
Address: 557 Dale Drive	Fax: 925-683-9862
email: bnudelman@processmaterials.com lnudelman@processmaterials.com	Email:
City: Incline Village State: NV Zip: 89450	Cell: same
Original Application Number: VA15-004	
Project Name: Nudelman Residence	
Project Location: 557 Dale Drive Incline Village, Nv.	

Date of decision for which appeal is being filed: August 11, 2015

State the specific action you are appealing:

Denial of Variance by Board of Adjustment

State the reasons why the decision should or should not have been made:

See attachments: Letter pages 1 through 9 and Power Point Presentation A - L

## For Staff Use Only

Appeal Number:	Date Stamp
Notes:	Staff: _____

<b>Appellant Information (continued)</b>	
Cite the specific outcome you are requesting under the appeal:	
Approval of Variance VA15-004	
State how you are an affected individual entitled to file this appeal:	
"We feel we are entitled to appeal due to the lack of due process and dialogue during the Board of Adjustment hearing in spite of the local support by the CAB. We are having to spend an excessive amount of money to insure a safe entry and exit at our new residence in order to avoid potential dangerous situations.	
Did you speak at the public hearing when this item was considered? Owners, attorney Bob Angres Residential Designer spoke Wayne Ford	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did you submit written comments prior to the action on the item being appealed? See agents for owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

For time limitations imposed for the various types of appeals, please refer to the Washoe County Development Code (WCC Chapter 110) and Nevada Revised Statutes Chapter 278 (NRS 278).

**APPELLANT AFFIDAVIT**

STATE OF NEVADA     )  
                                  )  
COUNTY OF WASHOE    )

I, BARRY L. NUDELMAN

being duly sworn, depose and say that I am an appellant seeking the relief specified in this petition 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 staff of the Planning and Development.

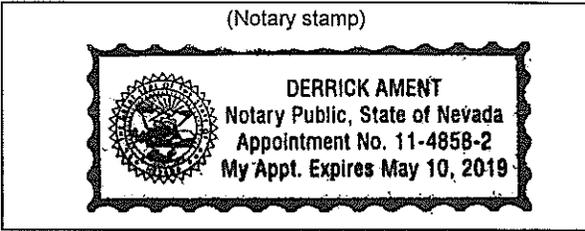
Signed: *Barry L. Nudelman*

Address SST DALE DRIVE  
Incline Village, NV  
89451

Subscribed and sworn to before me this 20 day of August, 2015.

*[Signature]*  
Notary Public in and for said county and state

My commission expires: may 10, 2019



## **APPEAL TO COUNTY COMMISSION FROM DENIAL OF VARIANCE 15-004**

**Barry and Lori Nudelman are aggrieved parties as a result of the denial by the Board of Adjustment of their request for Variance #15-004 which was heard on August 6, 2015.**

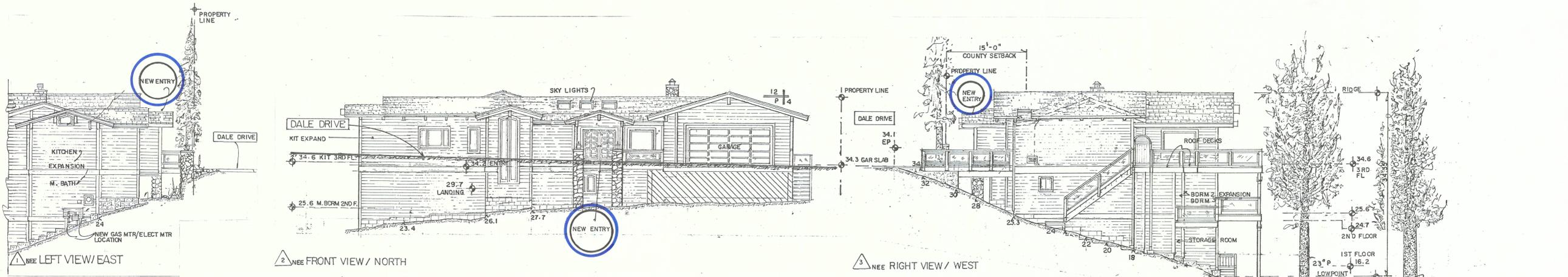
**Appeal to the Washoe County Commissioners is hereby made pursuant to WCC 110.912.20.**

**This Appeal is based upon three main bases of error resulting in inadequacy of the findings made by the Board of Adjustment: 1. Washoe County Development staff framed the request for variance incorrectly in its written and oral presentation to the Board of Adjustment and set forth incomplete instances of the nature of variances granted in the same area; 2. A Board member misconstrued and misrepresented comments of legal counsel proffered to clarify the context of the staff report and position and 3. most significantly, failed to accord the concerns of the appellants the benefits received by a majority of previous applicants for similar variances.**

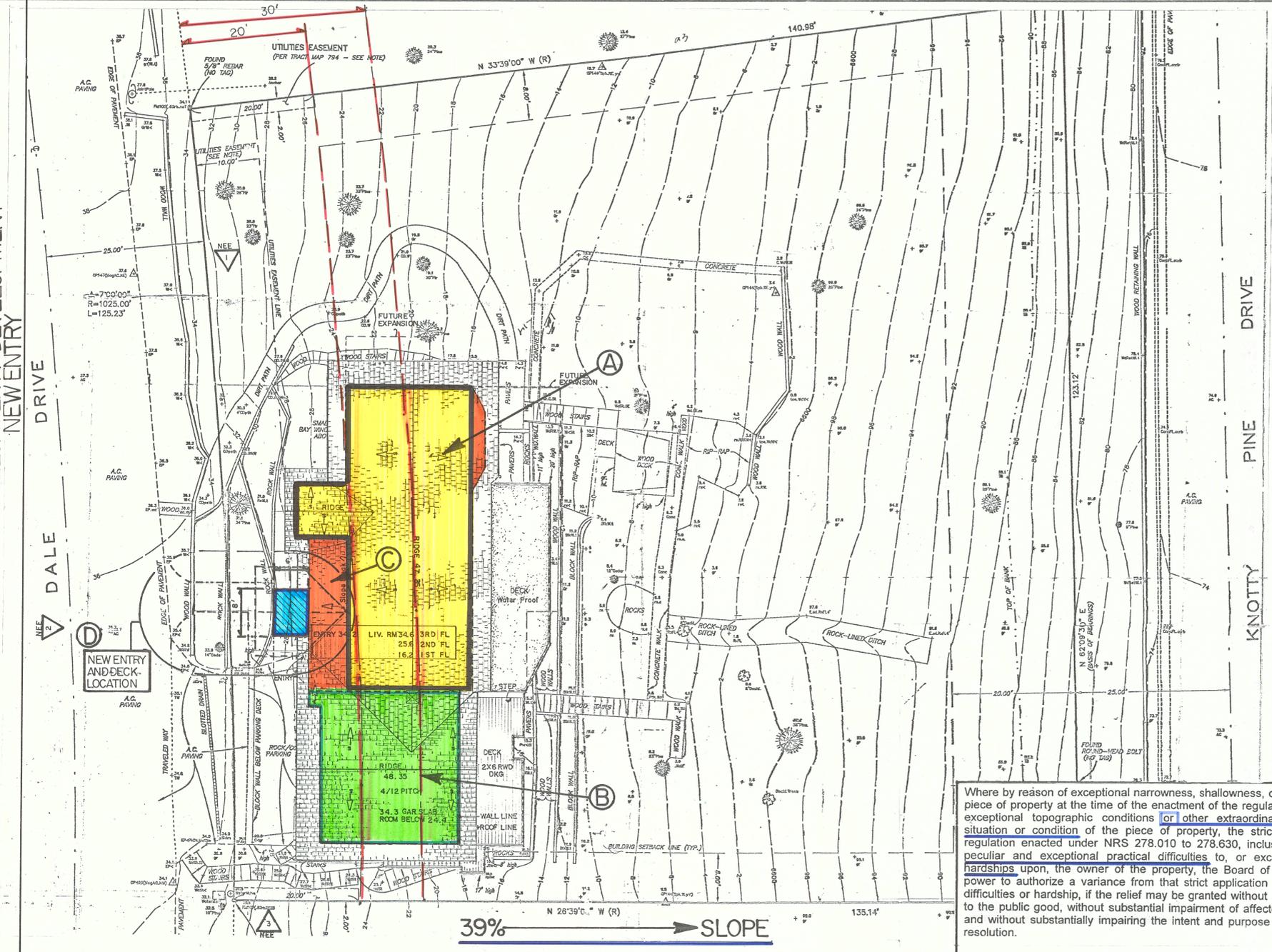
### **Brief History of Property Subject of Appeal:**

**557 Dale Drive in Incline Village was constructed in 1968 within 11 feet of the front property line. Between that time and its purchase by appellants less than one year ago, it had been the subject of numerous remodels and the construction of a garage, each permitted by the County and considerably in non-conformance with setback requirements and even despite its inconsistency with and in violation of Code Section 110.220.40 respecting grandfathered circumstances. At that time it was stated that "No further intrusion into the setback is requested." The entry was placed at a setback of 12 feet, not 15 feet per code.**

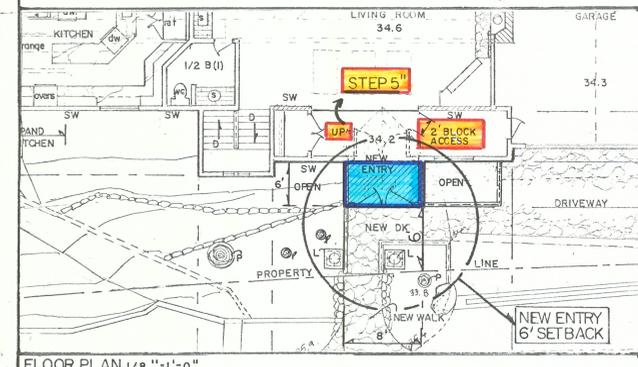
**All of the various departures from code requirements were palpably a result of a recognition by the County of the parcel's exceptional topographic conditions, primarily its 39% slope. For the purposes of**



EXTERIOR ELEVATIONS 1/8" = 1'-0"



SITE PLAN 1/8" = 1'-0"



FLOOR PLAN 1/8" = 1'-0"

**KEY: PERMIT HISTORY**

<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (A)	RESIDENCE BUILT IN 1968 2886 SF	SETBACK APPROVED 11'-6" MAPPED SETBACK 30'-0"
<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (B)	GARAGE ADDITION 1984 534 SF	SETBACK APPROVED 12'-0" MAPPED SETBACK 30'-0"
<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (C)	NEW ENTRY ADDED 1995 NOT SAFE 144 SF	SETBACK APPROVED 13'-0" MAPPED SETBACK (MDS) 20'-0"
<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (D)	NEW SAFE ENTRY NEED 6' SETBACK FOR 48 SF	

NOTE: NO VARIANCE'S REQUIRED/ALL APPROVED BY WASHOE COUNTY

[This Section amended by Ord. 924, provisions eff. 2/6/95; Ord. 951, provisions eff. 6/7/96.]

**Section 110.804.25 Findings.** Prior to approving an application for a variance, the Board of Adjustment, the Planning Commission or hearing examiner shall find that all of the following apply to the property:

- (a) **Special Circumstances.** Because of the special circumstances applicable to the property, including either the:
  - (1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
  - (2) By reason of exceptional topographic conditions, or
  - (3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,
 the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
- (b) **No Detriment.** The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
- (c) **No Special Privileges.** The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated; and

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.

FINDINGS



OWNERS: BARRY AND LORI NUDELMAN  
 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.



this variance request, as detailed below, Staff sought to ignore the basis of nearly 50 years of decisions regarding this dwelling by stating that the slope was no longer an issue because the house was built. Two attempts were made to distinguish this circumstance and modify this perception prior to hearing-first the design professional met with the planner and subsequently legal counsel. These attempts were unsuccessful in arriving at a compromise to satisfy staff concerns or to otherwise modify staff's position. The facts surrounding the construction and remodels that crept closer and closer within the allotted setbacks, without variances, all in light of the 39% slope yet still failed to afford a safe entry to the home, were sought to be "disappeared" by the existence of the house as built.

Appellants, purchasing such house only last year, and faced with an unsafe entry which is not protected from snow falling from the sky and roof, as well as ice buildup in front of the threshold, have sought to be granted a variance from 11 feet to 6 feet (**not the 3 feet represented by staff in their report**). Such a variance would cure the problem existing for nearly half a century at this home and provide safe and secure entry from the garage. Part of the request was to allow the eaves of the enclosed entry to extend **3 feet** (Code 110.407.30 e) to assist the shedding of the snow to areas on both sides of the entry which could then fall into the steeply sloped area below. (See Exhibit "A" attached hereto: Power Point photos with narrative description).

[\*\*Overview / Background of Facts and errors in hearing process at the Board of Adjustment:\*\*](#)

Staff issued and circulated a report stating that the applicant was seeking a variance to reduce the front setback to **3 feet** from 11 feet. The applicant clearly sought a reduced setback from 11 feet to **6 feet**. This misstatement was repeated in the staff's oral presentation to the Board of Adjustment at the hearing. This required applicant's representatives to use part of their time to attempt to correct the record. There was a substantial difference as to the relief that was

being requested such that applicant's were prejudiced both procedurally and substantively by such error. Staff stated in its written report that the power of the Board of Adjustment was "limited" to providing relief only as set forth in NRS 278.300 (1)(c). It is worthy of note that the actual statutory language is far broader and plenary and subsection 1(c) is merely the specific language that most closely applies to the circumstances of the variance request. This error in the report is of minimal significance alone, but taken with the misstatement of the actual request for setback reduction and the dynamic tension created by the advocacy intended in "holding the line", it contributed to the prejudice experienced by the Appellants at the Board of Adjustment hearing.

Additionally, Staff instructed the Board of Adjustment that since the house was already built and there was an entry, that there was no hardship existing from the slope. Staff failed to take into account the nearly half century history of *de facto* variances which had been allowed which brought the house to its present location without a safe and secure entry.

Legal counsel, who had met with the planner issuing the report, was explained that the recommendation for denial was based on a felt need by staff to "hold the line" because there had been too many variances granted and the perception of staff was that recent variances, including a recent one recommended by staff, were not merited. The comment about "holding the line" was augmented by the planner by placing in context the perception of their function *vis a vis* the Board of Adjustment or County Commissioners, i.e. that such Boards could determine otherwise, and often did and that was "fine", but that staff needed to take a "hold the line" position.

It should be noted that legal counsel did not present that information to fault the staff. Such position is perfectly in line with the different functions that various levels of governmental entities perform. To claim otherwise would deny reality and the separation of powers that is at the heart of the design of our constitutional government in the United States. The executive branch essentially creates policy by its actions and initiatives and the judicial seeks to bring such actions and initiatives in line with equity and law. It is truly unfortunate that one of the Board of Adjustment members chose to misinterpret the

reference, state unequivocally to the effect that “he could not believe that staff ever said that” and to essentially impugn the integrity for veracity of a member of the bar standing before the assembly on behalf of Appellants. Additionally, a board member brought into the discussion an email from a neighbor implying that the Appellants had expressed the intention or support for the illegal cutting of trees which was unequivocally not the case. These unfortunate and prejudicial comments were made in an impassioned way after public comment had closed and just prior to calling for a motion to deny the variance. It left no reasonable opportunity to correct or clarify. These described actions were substantially prejudicial to the interests of the Appellants. Further, it is instructive to note that when such call for a motion was requested by the Chairman that there was an unusually long silence before anyone on the Board proffered the requested motion and a similar lapse of time before there was a “second” to the eventual motion. (Appellants invite the Board of Commissioners to examine the video record of this proceeding).

Peter Todoroff, Chairman of the Incline Village/Crystal Bay Advisory Board, which had voted unanimously in support of the variance, traveled to Reno especially to address the Board of Adjustment as to the need for variances for safe entries in Incline/Crystal Bay. His urging for reason in these matters was ignored.

Despite requesting the Board to take notice of the near ubiquity of variances granted for these and lesser purposes, both directly on Dale Drive and on Knotty Pine just below, as well as hundreds of such variances all over Incline Village/Crystal Bay, the issue of consistency and equity was discounted and the Board voted to deny the variance request in derogation of Appellants right to be treated consistently with other applicants for similar variances.

#### LEGAL/EQUITABLE CONSIDERATIONS:

NRS 278.300 was enacted to provide relief for persons in circumstances where either the attributes of the lot in question created a “hardship” under certain criteria or where there exists “...other extraordinary and exceptional situation or condition of the piece of property”.

**This statute was enacted over 40 years ago and has not been materially altered in any fashion since. The legislative history displays support for the obvious purpose of the law-to provide relief under hardship or exceptional situations so long as the public welfare is not harmed thereby.**

**It is submitted that the Development Staff's handling of the issues of hardship, special circumstances/special privileges and public detriment, along with the Board of Adjustment's consideration thereof, was seriously flawed. While understandable, it is unfortunate that staff feels under pressure to evaluate the issues of hardship, special circumstances/special privileges and public detriment essentially in a vacuum-there is no other way to state they are unable to find special circumstances, hardship, no special privileges and no public detriment when there is an obvious safety issue confronted by many others who were granted variances on similar bases and where staff recently found the opposite in favor of similarly-situated properties.**

**Thus, we ask this Board of Commissioners whether it is equitable to look only at the lot, or the lot with the house already built on it through a series of grandfathered errors, without considering the context which led to each modification. All the modifications were permitted in recognition of the hardship associated with the exceptional slope (special circumstances). Each of these modifications, from the original construction being permitted closer to the road because of the slope, recognized the issues of safety, snow removal and practical economy.**

**With reference to employing the criterion of "Strict application"-it is unreasonable to now state that the last piece of safety to be afforded this type of parcel, that of a safe entry, is somehow unsusceptible of approval because the findings that have been made before for this property and numerous others in the neighborhood, are now, inexplicably, unavailable. Nothing has changed about the slope of the plot, the substantial modifications and garage efforts and it is submitted that fairness would be permitting this last aspect of having a safe home-a covered entry which can be accessed from the garage driveway for added security and which is not subject to ice and snow buildup at the threshold.**

**Issue of "Detriment" non-finding-The staff position regarding inability to make a finding of "no detriment" does not ring true nor is it consistent with findings of no detriment in many other cases of variance approval, such as where the setback was allowed at zero just last year! While staff laments the variable interpretation of each finding, this lamentation does not cure the "equal protection" argument and goes no further in the effort to equalize and ensure consistent application.**

**The issue of interpretation of Special Privileges-Again Staff's position does not survive commonsense scrutiny. There are numerous other homes on Dale Drive alone which have been accorded variances and hundreds within Incline/CB. (Appellants will submit a list of some of such previous variances before the hearing in front of the Commissioners). These failures to find are patently erroneous therefore, both procedurally and substantively.**

**While Appellants have sought this variance to remove a serious safety issue, granting them this request will also resolve liability issues for the County. In all circumstances where a request for variance brings construction within a certain distance of the road maintained by Washoe County, the applicant must agree to standard conditions, one of which is to execute a "hold harmless" for the county's efforts at road maintenance and snow removal. Because the subject property achieved its current closeness to the road somehow without variance approval and hence no requirement of fulfilling the standard conditions, a benefit of granting this final piece of relief for the property will be to subject it to the standard conditions and the hold harmless provisions. The long history of this property being accorded treatment inconsistent with the regulations suggests that it would be appropriate to grant this last piece of relief for a safe entry while finally and appropriately "grandfathering" its existing status and bringing the property in line with the standard conditions required by the County.**

**Appellants acknowledge that a county agency has to have some latitude to increase its consistency and, if it chooses, strive to reduce the number of variances granted. In this particular case, the history of this property and the county response to its palpable special**

circumstances, whether through allowance of privileges or failure to enforce regulations, all militate towards a finding that the property, as it stands today, is eligible for a finding of special circumstances and hardship and should not be denied this relatively minor request. Staff previously suggested that another way is for the new owners to rip off the entire roof and restructure the house, but this is inappropriate and would constitute "waste". To have to seek Declaratory Relief through the courts based on an estoppel of the County for non-enforcement is likewise inappropriate and wasteful. It is rather the appropriate province of this Board to grant relief through a finding that there are special circumstances, a palpable hardship related to safety and security, acknowledging that many other residences in Incline/CB and numerous homes on Dale Drive enjoy these privileges.

It is incontrovertible that variances have been frequently granted to owners of properties with significantly less slope. We keep hearing that staff, and the boards that review the staff findings, are told that they are not bound by what they did in another case. It is submitted that this admonition is being misconstrued: The constitutions of the United States and the State of Nevada, through their Due Process and Equal Protection clauses, protect persons from arbitrary actions by governments. Moreover, the provisions that provide relief from the strict application of rules through the variance procedure are meant to be liberally construed in favor of granting relief whenever the informed discretion of the Board of Adjustment or the County Commission suggests that it is appropriate.

The matter of overriding importance is equity, simple fairness, both in the application of the variance process (including staff treatment of applicants) and fidelity to the statute and legislative intent behind it. This is, after all the essence of Due Process and Equal Protection.

In this variance case, the Nudelmans have a property, which through no fault of their own, was granted all manner of *de facto* variances from existing code, but still lacks a safe and manageable entry.

The manner in which the Nudelmans were treated does not comport with the intent of the statute or county regulations; Staff misstated the relief requested and the authority of the Board; Staff's findings are not supported by the evidence and are unequivocally at odds with

prior practice. A member of the Board of Adjustment made unsupportable and inflammatory comments allowing no opportunity for appropriate rebuttal.

It is submitted that the foregoing experience was not one of fairness and equity and it was not proper stewardship of the obligations owed to the applicants in this case. If the winds of political will and change are now to seek a greater strictness than may have obtained in the past with respect to variances at Tahoe, so be it, however, it would be a miscarriage of justice to “throw the baby out with the bathwater” and fail to observe the clear legislative intent and facts in order to wrongfully deny this minor, but crucial variance to this family at this time. (In order to achieve the “holding of the line” properly, the regulations should be amended with the proper notice and public hearing, not to prejudice a particular applicant in a fashion inconsistent with the treatment according so many others similarly situated).

Even with all the events complained of above, the vote of the Board was strikingly ambivalent. After one member misconstrued and misstated legal counsel’s statement about “holding the line” and then alluded incorrectly to an email about cutting trees seemingly attributing inappropriate action to the Appellants, the routine procedure of calling for a vote resulted in stilted silence. When a member finally made the motion there was again silence when a second was requested, similar delay occurred when the vote was called for. In light of the irregularities cited, equity cries out for this Board to remedy the injustice done and grant this variance to the Nudelman family.

It is suggested that there are numerous rationales which can be employed by the Commission in granting this variance:

\* The Commissioners could find that staff erred in its assessment of hardship, special circumstances/no special privileges and no detriment and find that hardship does exist at a level meriting this variance. The commissioners could note that the failure of candor and misinterpretation/inflammatory rhetoric at the Board of Adjustment hearing caused a denial of due process and is sufficient to reverse the close vote.

\*Pursuant to statute, the Commissioners can treat this Appeal as a determination de novo, choose not to deal with the proceedings below and simply examine the facts/presentations as a new request for a variance and grant the same based on a determination that there are, indeed, special circumstances related to hardship due to extreme slope (and the history of the property), that no privileges that have not frequently been accorded neighbors in the same area are being requested (thus not special privilege) and that no detriment will result from allowing a few extra feet to permit a safe and secure entry.

\* The Commissioners, independent of anything done or not done at the Board of Adjustment level, can grant the variance pursuant to the clear provisions of NRS 278.300(c) which contemplates the grant of relief in circumstances of exceptional difficulty.

\*The Commissioners could find this case to be “an exceptional situation or condition” in which the property is ripe for help because of health and life/safety issues, that the variance should be granted. The Commissioners could, like numerous other jurisdictions, make a plenary exception for life/safety reasons.

#### **CONCLUSION:**

The Nudelman family was not treated fairly or legally by county staff and in the Board of Adjustment hearing process. It is well within the purview of the County Commissioners to remedy this wrong and is supported by both the facts and the law.

The Nudelman family respectfully prays that the commissioners will grant them relief.

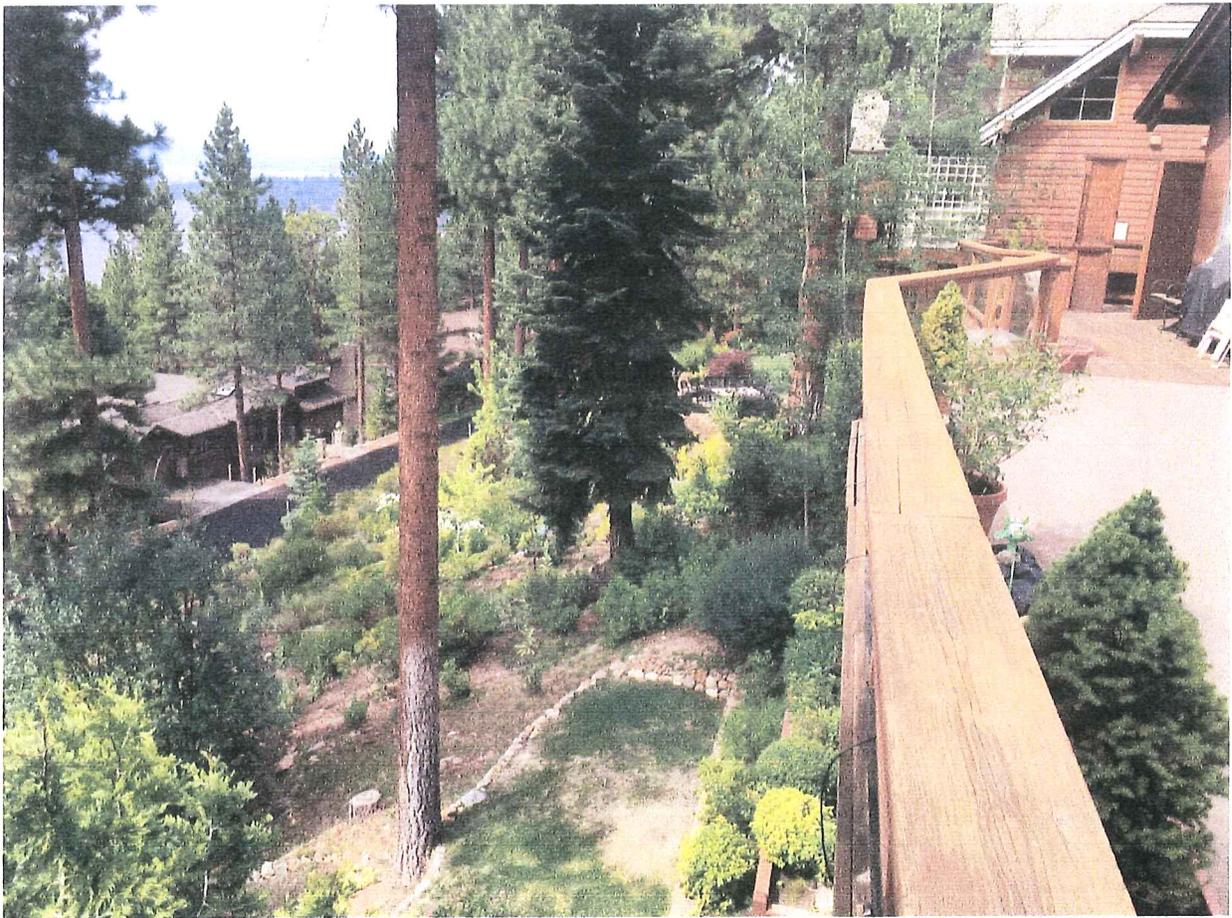
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## Project

- Historical construction at 557 Dale Drive did not conform with setback code and represents pattern of development based on steep slope of 39%
- All prior development was signed off by Washoe County with no variances
- New entry of 48 square feet proposed to solve safety and access issues with the as-built construction

# 39% Lot Slope

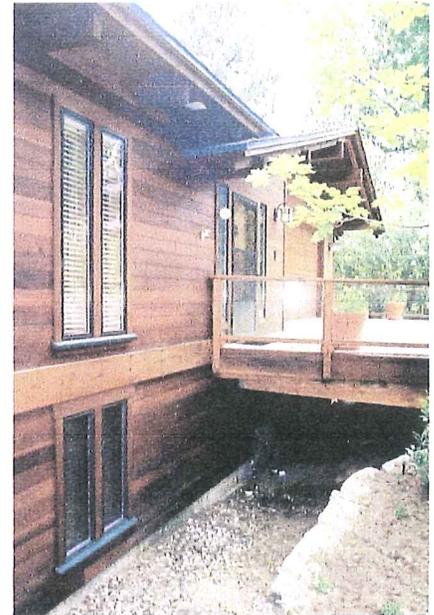
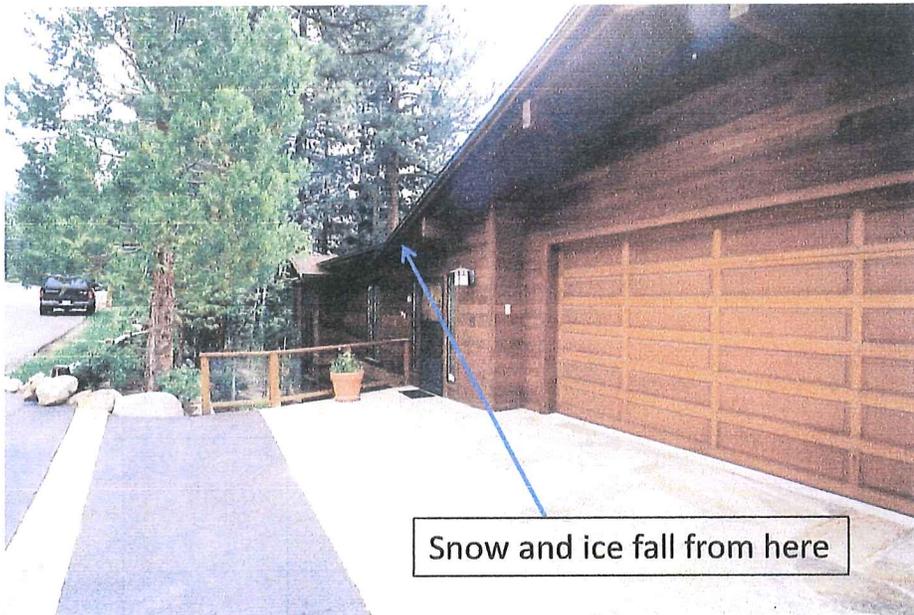


## Street View



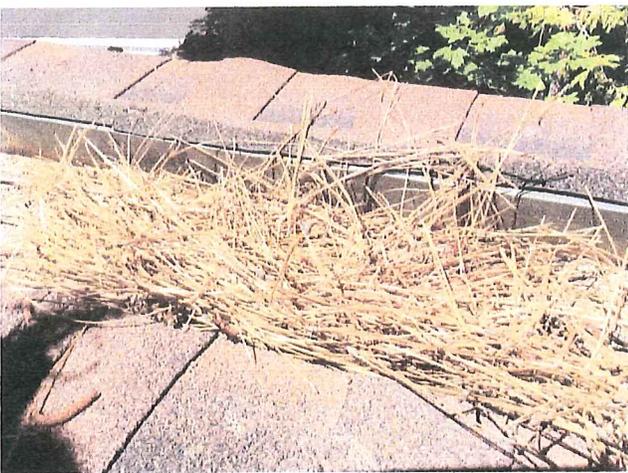
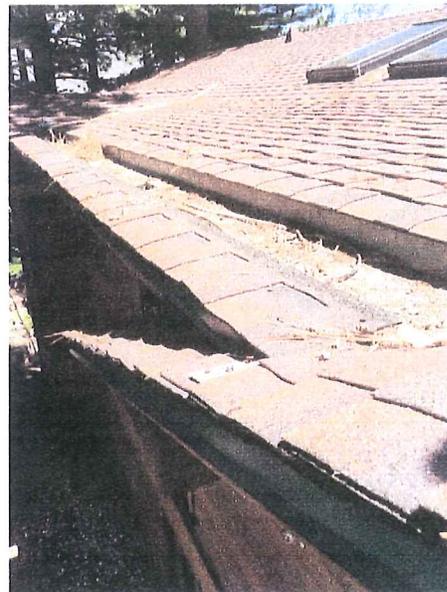
- Entry to be added between and behind the two existing cedar trees

## House and Entry: Safety & Hardship



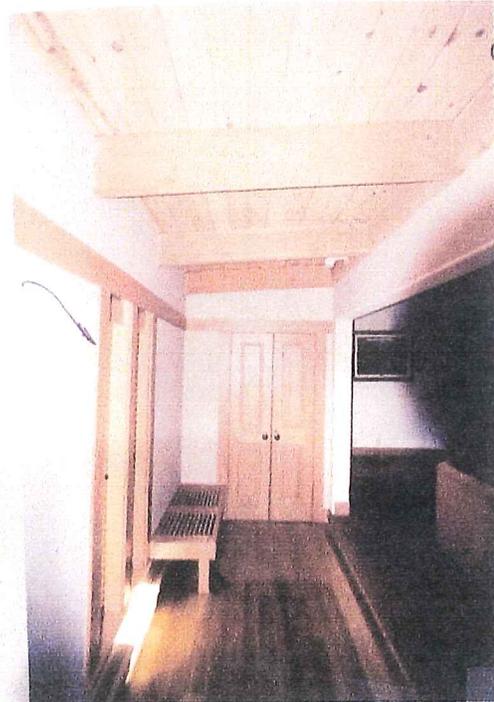
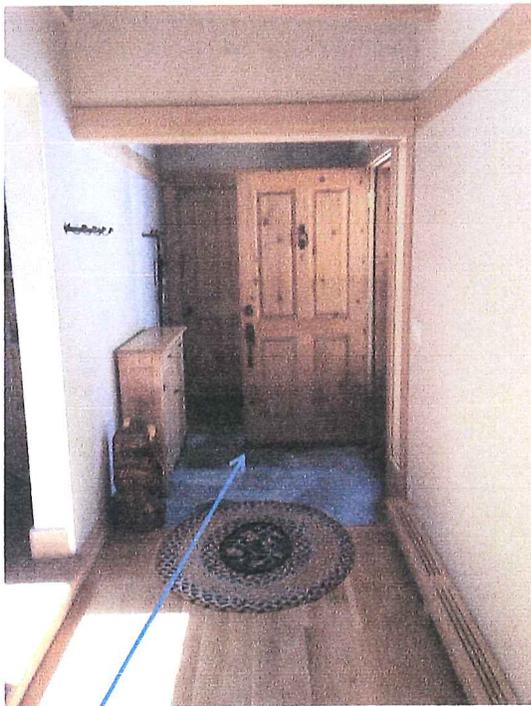
- Current roof design drops snow and ice on entryway

## Roof Above Existing Entry



- Roof snow diverter would block current valley system drainage
- Roof pitch is 1" rise in 12" run
- Roof gutter is too flat
- Overhang prow is too shallow

## Interior Pictures – Door Clearance Issues and Step Hazard



- New door swing on outside wall would prevent egress past door when open and cause trip hazard.
- New door would prevent ADA ramp

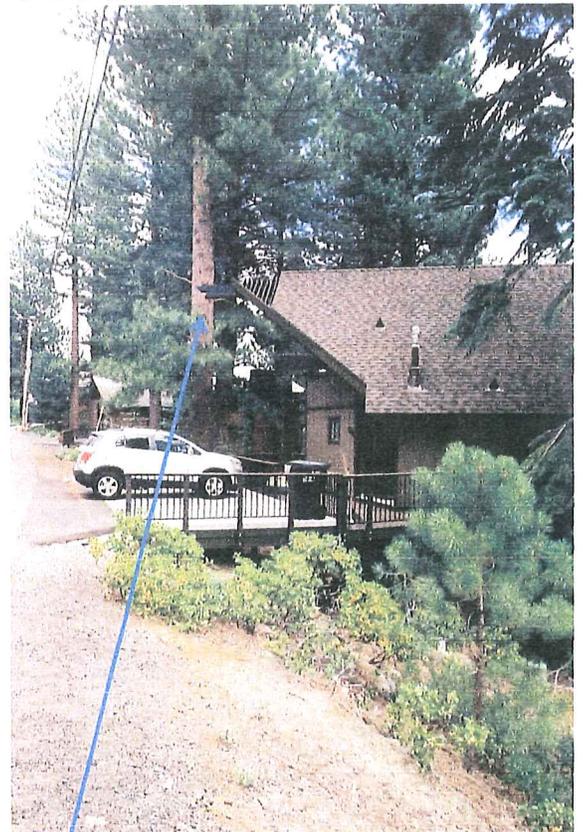
## 558, 551 and 559 Dale Drive – Variance Needed for Two of Three



Retaining wall on right requires variance for entry



Example not relevant. Property has 20' setback.



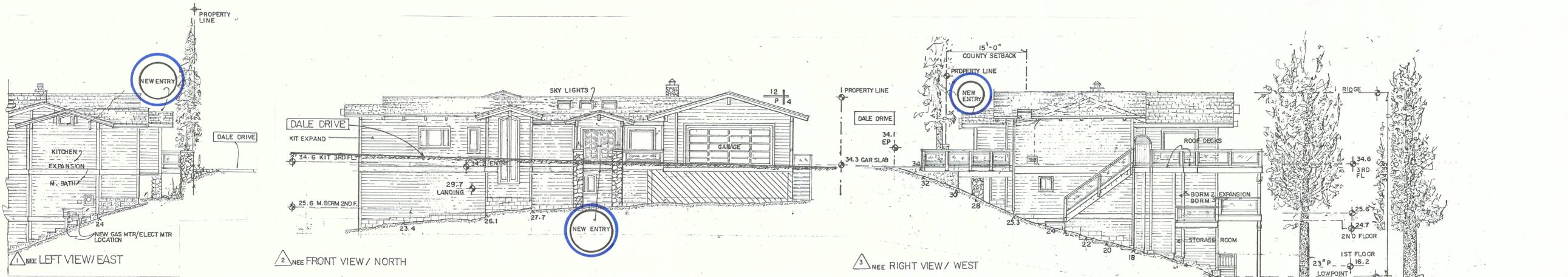
10' setback; Roof overhangs property line

# Placement of Homes on Dale Drive No "Row Effect" from Proposal

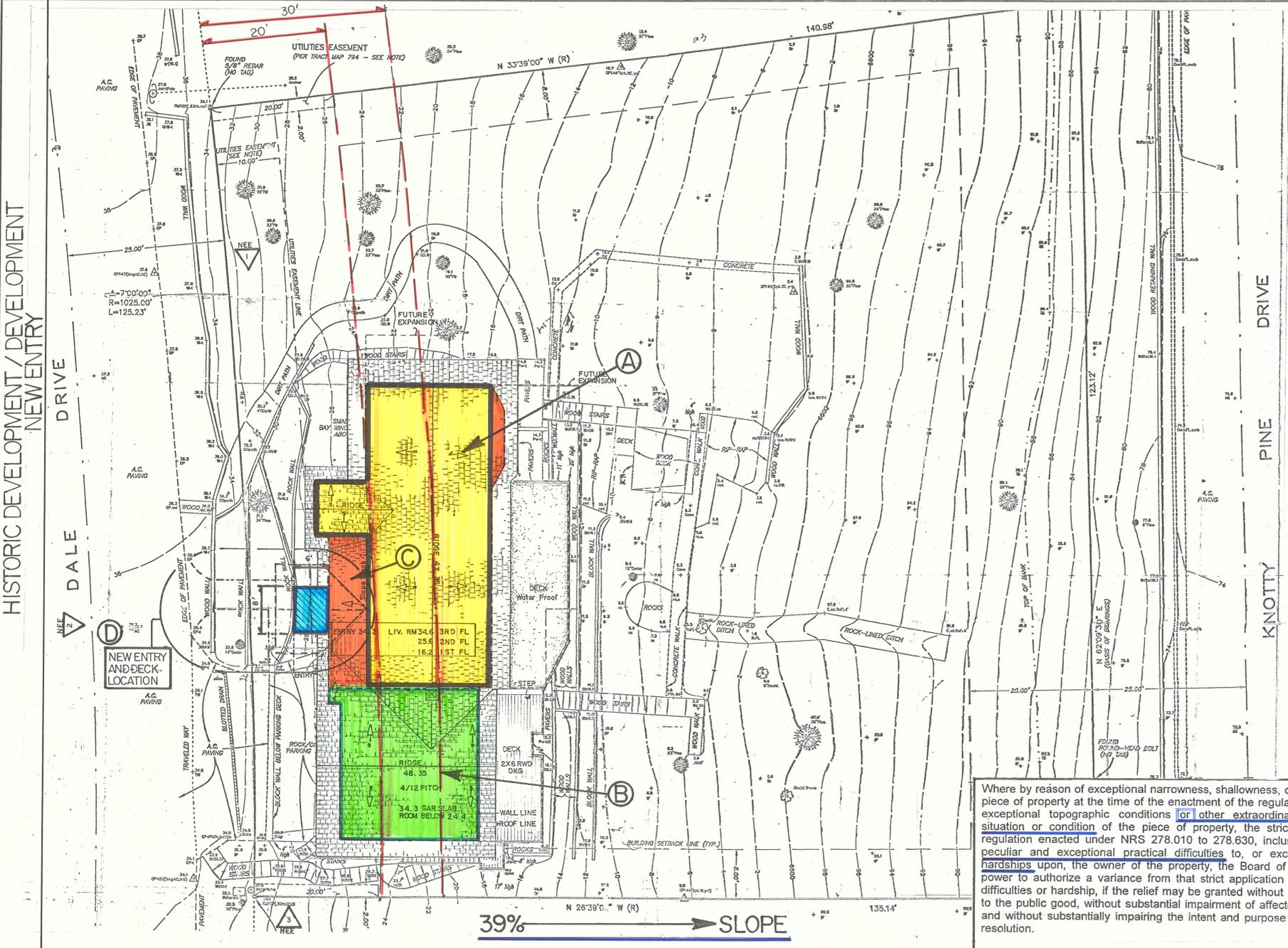


## Recap

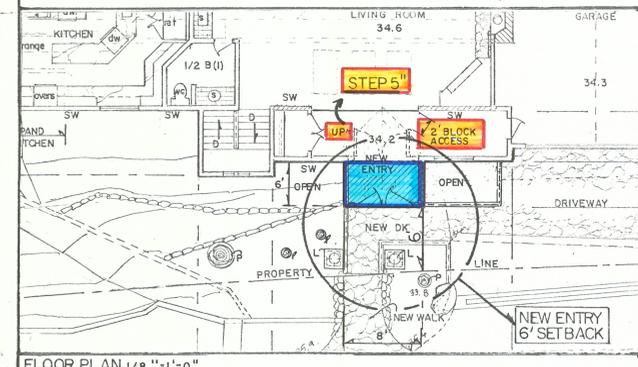
- Parcel slope of 39% is the basis for a finding of hardship
- There exists a real ice and snow safety problem for owners, first responders (e.g. medical and fire) and anyone entering the property during winter months
- Solution to this problem is a new entry on the north side of the residence at a 6' setback which requires a variance based on exceptional topographic conditions
- Recommend approval of variance with conditions



EXTERIOR ELEVATIONS 1/8" = 1'-0"



SITE PLAN 1/8" = 1'-0"



FLOOR PLAN 1/8" = 1'-0"

**KEY: PERMIT HISTORY**

<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (A)	RESIDENCE BUILT IN 1968 2886 SF	SETBACK APPROVED 11'-6" MAPPED SETBACK 30'-0"
<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (B)	GARAGE ADDITION 1984 534 SF	SETBACK APPROVED 12'-0" MAPPED SETBACK 30'-0"
<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (C)	NEW ENTRY ADDED 1995 NOT SAFE 144 SF	SETBACK APPROVED 13'-0" MAPPED SETBACK (MDS) 20'-0"
<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> (D)	NEW SAFE ENTRY NEED 6' SETBACK FOR 48 SF	

NOTE: NO VARIANCE'S REQUIRED/ALL APPROVED BY WASHOE COUNTY

[This Section amended by Ord. 924, provisions eff. 2/6/95; Ord. 951, provisions eff. 6/7/96.]

**Section 110.804.25 Findings.** Prior to approving an application for a variance, the Board of Adjustment, the Planning Commission or hearing examiner shall find that all of the following apply to the property:

- (a) **Special Circumstances.** Because of the special circumstances applicable to the property, including either the:
  - (1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
  - (2) By reason of exceptional topographic conditions, or
  - (3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,
 the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
- (b) **No Detriment.** The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
- (c) **No Special Privileges.** The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated; and

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.

FINDINGS



OWNERS: BARRY AND LORI NUDELMAN  
 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA 89451  
 PROJECT LOCATION: 557 DALE DRIVE  
 INCLINE VILLAGE, NEVADA  
 APN: 122-132-09  
 LEGAL: LOT 9 BLOCK 4 PONDEROSA SUB.

PROJECT: ENTRY ADDITION

