

The attached document was submitted to the **Washoe County Board of Commissioners** during the meeting

held on July 25, 2017

by Susanna Kintz

for Agenda Item No. 16

and included here pursuant to NRS 241.020(7) as

amended by AB65 of the 2013 Legislative Session.

APPELLANTS' PRESENTATION

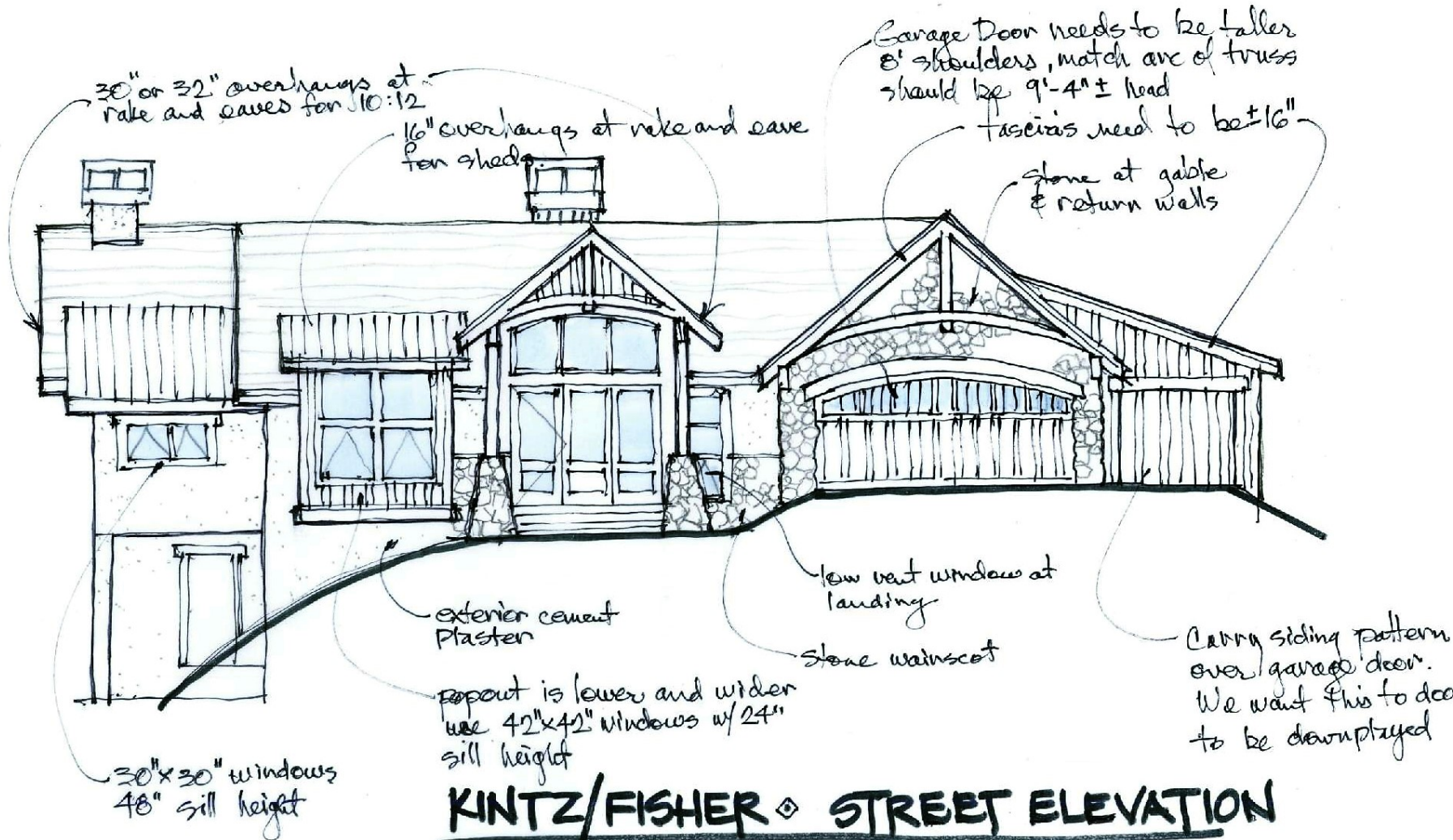
VAR 17-0002

FISHER/KINTZ RESIDENCE



SUBJECT PROPERTY OVERVIEW:

- .39 Acres
- 31% down-sloping lot
- Slope between the street and the setback line is 36%
- 20' setback (instead of 15')
- Property line is 19' from street
- Effective setback is 39'
- North facing driveway
- Between Alden Lane and Dale Drive

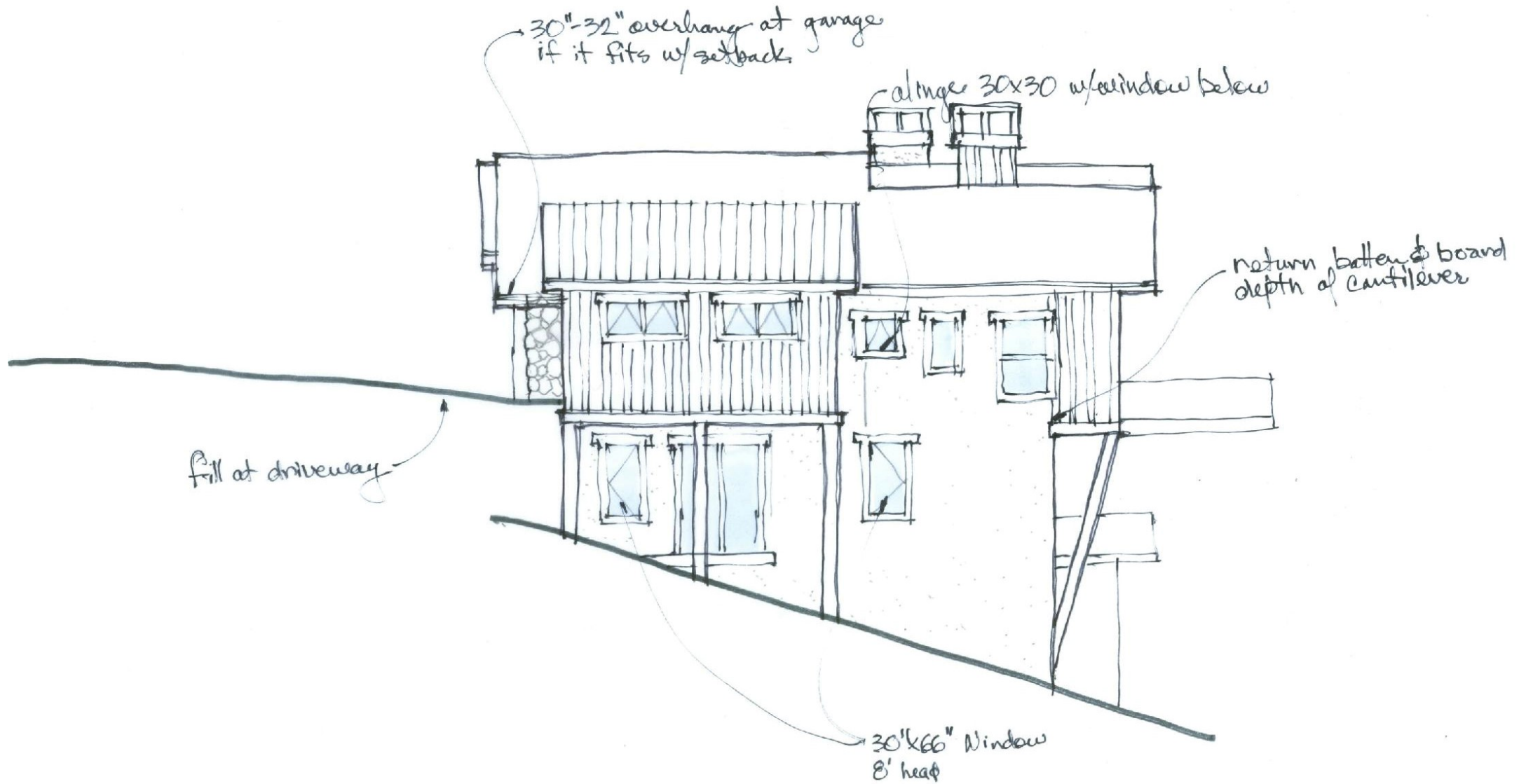


DESIGN GOALS:

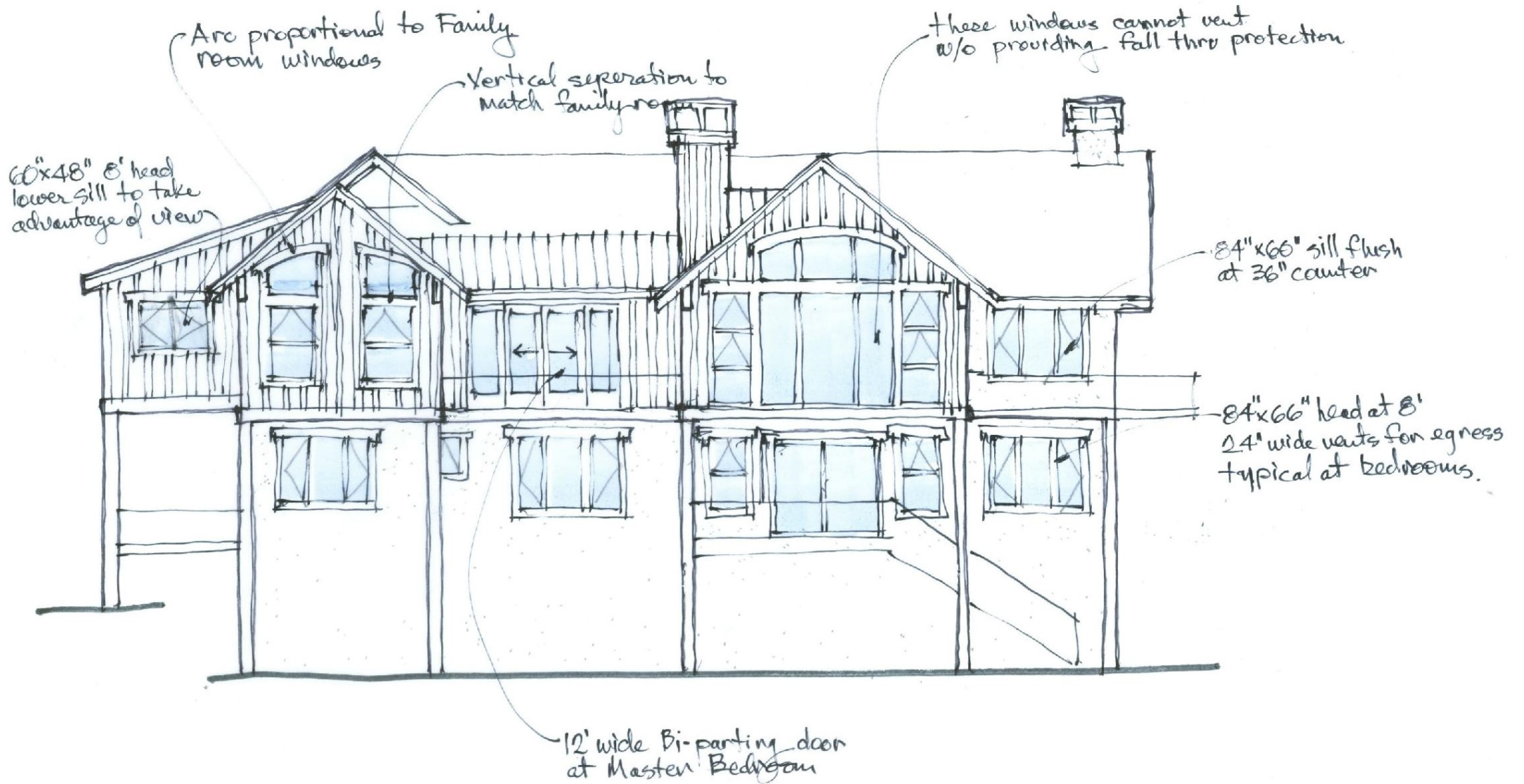
- Family/Dining/Kitchen large enough for 6 kids and their growing families
- Main floor master bedroom
- 3 Car Garage
- Access to Garage
- Mud Room for Dogs
- Covered Front Porch

KINTZ/FISHER ♦ STREET ELEVATION

22 JULY 2016 SDE/DES



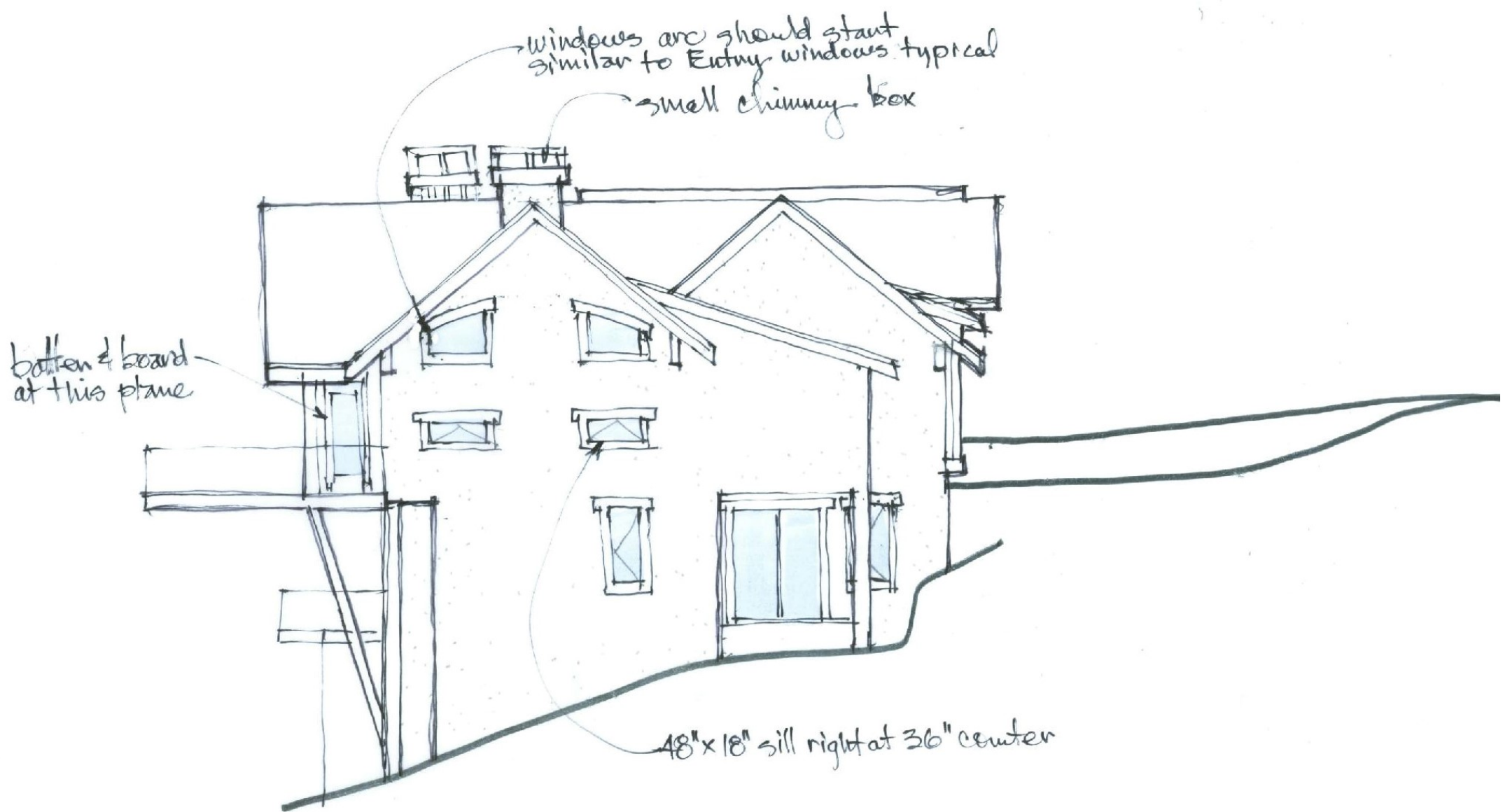
KINTZ/FISHER ♦ SOUTH
22 JULY 2016 S06/DES



KINTZ / FISHER ♦ EAST

22 JULY 2016

SDG/DES



FISHER / KINTZ ♦ NORTH

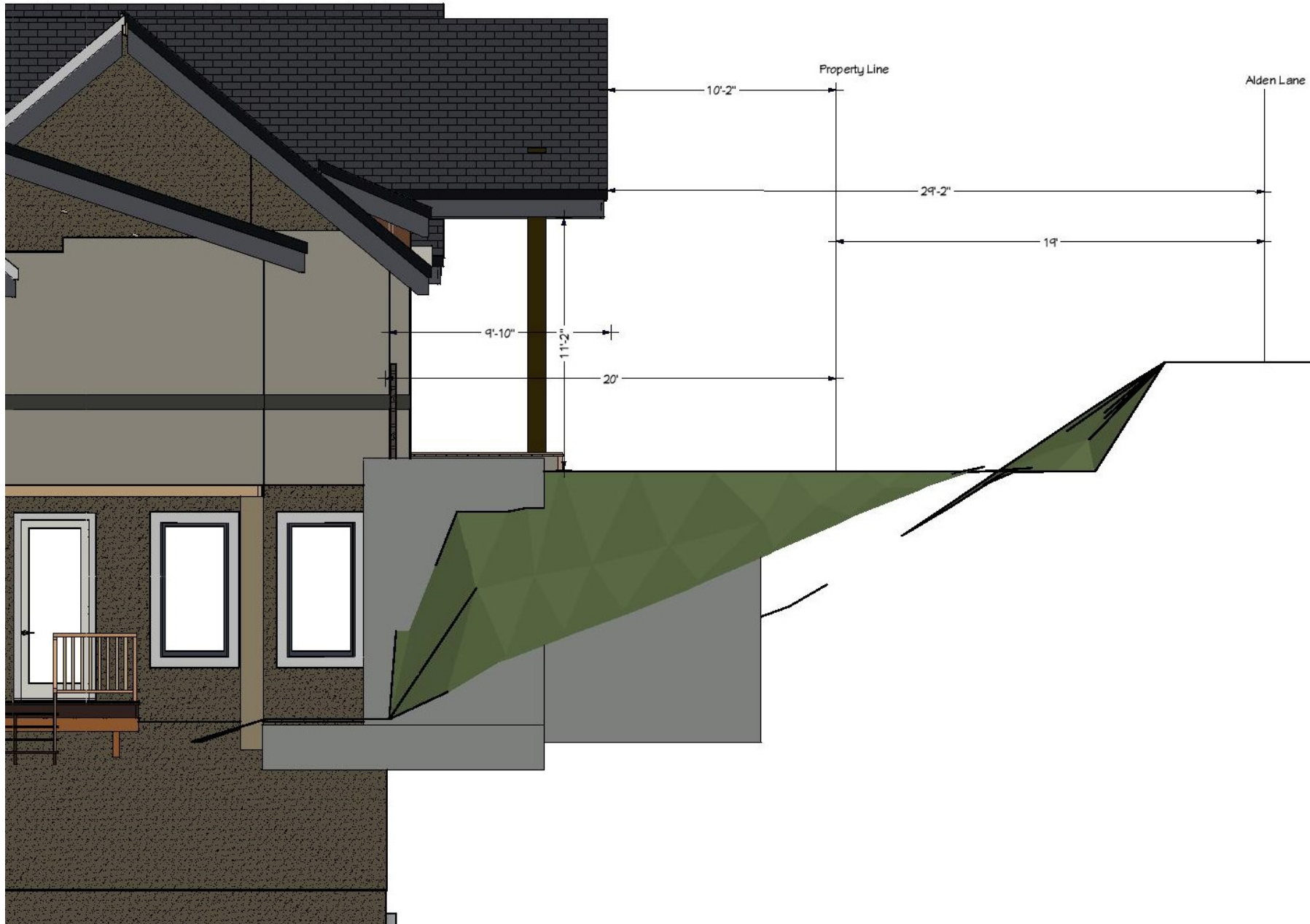
22 JULY 2016

SDG/DES

SET BACK REQUIREMENT:

The setback requirement is more onerous for the Subject Property than most properties in the area for the following reasons:

- 20' Requirement
 - The Subject Property is street-to-street lot and is subject to the 20' setback requirement instead of the 15' setback requirement applicable to lots that are not street-to-street.
 - Thus Subject Property subject to a setback requirement that is 33.3% further from the street than properties that are not street-to-street lots.
- Effective Setback of 39' from the Street
 - The Subject Property Line is 19' from the street, which is significantly farther from the street than most of the properties in the area.
 - Thus the setback requirement for the Subject Property is effectively 39', which is as much as 160% further from the street than other properties.



This slide demonstrates how much further back the setback is for the Subject Property than for properties that are on or only a few feet from the street.

VAR 17-0002 requests a reduction in the 20' setback to permit construction of a roof over the front porch.

If the variance is granted, the roof eave will be 29'2" from the edge of pavement of the street at its closest point.

Also requested is a 6" reduction in the 20' setback to 19'6" to accommodate a larger garage eave.

Tahoe Regional Planning Association's (TRPA) Design Review Guidelines

TABLE A MAXIMUM HEIGHT FOR BUILDINGS

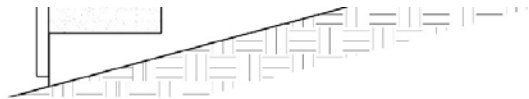
% Slope of Property	Roof Pitch										
	<u>0:12</u>	<u>1:12</u>	<u>2:12</u>	<u>3:12</u>	<u>4:12</u>	<u>5:12</u>	<u>6:12</u>	<u>7:12</u>	<u>8:12</u>	<u>9:12</u>	<u>10:12 or ></u>
...											
22- 24% or >	30'	31'2"	32'5"	33'7"	34'9"	36'	37'2"	38'5"	39'7"	40'9"	42'

This chart shows the height limits for properties having a slope of 22% or greater.

The height limits vary depending on the roof pitch.

A home with a steep pitch of 10:12 or greater can have a total height of 42'.

The TRPA height limits are more restrictive for the Subject Property because it is subject to the same limits as properties with only a 22% slope.



Left Elevation

HIGHEST
103.C



TR-1 TR-1 TR-1 TR-1 TR-1
TR-2 TR-2 TR-2 TR-2 TR-2 TR-2 TR-2 TR-2 TR-2 TR-2 TR-2

FINISH GRADE LOX
61.0'

Right Elevation



Roof Plan

PREPARED BY
BRIAN K. HARRISON,
 P.E.
STRUCTURE DESIGN & ENGINEERING
INC. CO.
 1835 GENESEE DRIVE, BEND, OR 97701



REGISTERED IN THE
 PROVINCE OF ONTARIO
 MEMBER OF THE CANADIAN
 ASSOCIATION OF
 PROFESSIONAL ENGINEERS



FISHERKINTZ
 RESIDENCE
SUSANNA
 FISHERKINTZ
 ARCHITECTURE
 INC. INC. VILLAGES, ILL. INC.
 APRIL 1224-134-02

REV 1	5/18/18
DATE	5/18
DRAWN BY	BP
CHECKED BY	BP
TITLE	ROOF
NO.	1

A4



The original structure was constructed on 58' long, 10' high retaining wall that is situated on the 20' setback line, which was retained.

Keeping the retaining wall avoided disrupting a significant amount of soil.

It also avoided having a long suspended bridge driveway, and thus permitted safer access to the home.

Current Structure Elevations	
Highest Ridge Elevation (garage)	6703
Garage Elevation	6684
House Elevation (main)	6682
Depth of Home (excluding cantelivers)	40
Low Point Elevation	6661
Total Height	42
Max Height per TRPA	42
Balance	0

- This chart shows that the structure is maxed out on height.
- Thus in order to move the main section of the home further back on the lot to accommodate a covered front porch, it would have required lowering the entire structure, including the garage.
- This would have resulted in a steeper driveway.
- Lowering the structure would have required removing the retaining wall, and using a suspended-bridge-driveway.

Driveway Slope Calculations						
	Distance from Street	Change in Elevation	Elevation	Overall Slope	Slope w/VC	
Street Level	0		6686.3		-5	
20' Set Back	39	13.5	6672.8	34.62%		
Current Garage ELEV		2.3	6684	5.90%	6.76%	Driveway supported by the retaining wall
Move Entry 10' Back*	45	-3.3	6680.7	14.36%	16.47%	38' long suspended bridge
Move Entry 7' Back*	45	-2.5	6681.5	12.31%	14.12%	38' long suspended bridge
Move Garage and Entry 7'	45	-2.5	6678.2	18.00%	20.25%	45' long suspended bridge

*Assumes 31% grade/lowering house requires lowering the garage by the same amount

- Vertical Curve Requirement reduces driveway slope at the top and bottom, which increases the driveway slope.
- Moving the home back to accommodate a covered front porch would have required removing the retaining wall, using a bridge-driveway, and increasing the slope of the driveway.
- Slopes greater than 8% are considered unsafe to park and enter/exit vehicles
- Off-street parking is one of the goals of the setback requirement. Thus, moving the home further from the street conflicts with the purpose and intent of the setback requirement.
- Slopes greater than 14% are prohibited.

SPECIAL CIRCUMSTANCES AND HARDSHIPS:

- Steep 31% slope (36% from street to setback line)
- 20' Setback (instead of 15')
- Property Line is 19' From Street (39' Setback)
- The home has a north facing driveway – more exposure to ice
- Same TRPA height limit as properties with only a 22% slope.
- Moving the home back would result in a long steep driveway that:
 - Exceeds the 14% slope limit
 - Conflicts with the goals of the setback requirement because it would be unsafe to park vehicles.
 - Hazardous in snow and ice conditions
 - Home would be suspended further from the street, which exposes emergency responders to greater danger.
 - Less assessable for disabled and elderly persons.

SIGNIFICANT NEED FOR THE VARIANCE:

- The home does not have a covered porch.
- A covered porch is needed for safe access to, and egress from, the home in snow conditions.
- A covered porch is needed to mitigate water damage to the home resulting from snow and ice melting and seeping into the conditioned space.
- A covered porch is needed for safe and immediate access to the home by emergency responders.

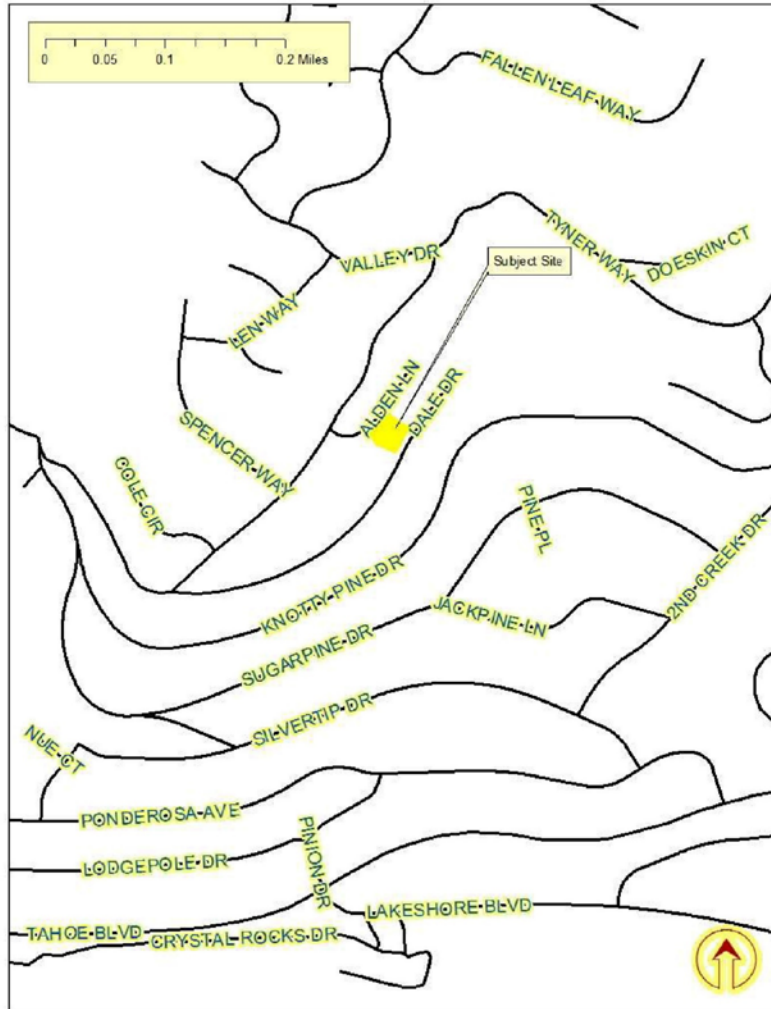
NO ADVERSE IMPACT:

None of the reviewing Agencies found any adverse impact.

- The structure will be 29' from the street permitting sufficient snow storage.
- The driveway is 39' long and less than 8% slope, permitting sufficient off-street parking.
- The structure will not impede neighbor views.
- The distance from the street is consistent with the neighborhood.

NEIGHBOR SUPPORT:

- All of the neighbors who we have discussed the variance with have expressed their support.
- The neighboring owners submitted letters in support with the Application.
- 18 residents of the Ponderosa Neighborhood signed a Petition requesting that the Board approve the Variance.



Vicinity Map

THE HOME WILL BE 29' FROM THE STREET WHICH IS CONSISTENT WITH OTHER HOMES IN THE NEIGHBORHOOD



569 Alden Lane

567 Alden Lane is next door to the subject property. The slope, size and shape of the property are substantially similar to the subject property. 569 Alden Lane is 12'9" from the street to the covered porch eave and 20' from the street to the garage.



573 Dale Drive

573 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 573 Dale Drive is 19' 7" from the street to the garage.



565 Dale Drive

565 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 565 Dale Drive is 21' 3" from the street to the covered porch roof eave.



557 Dale Drive

557 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 557 Dale Drive is 6' from the street to the covered porch roof eave.



555 Dale Drive

555 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 555 Dale Drive is 22' 8" from the street.



553 Dale Drive

553 Dale Drive is on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 553 Dale Drive is 20' 6" from the street to the garage.



551 Dale Drive:

551 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 551 Dale Drive is 26' 8" from the street.



547 Dale Drive

547 Dale Drive is located on the street below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 547 Dale Drive is 29' 7" from the street to the covered porch eave.



529 Dale Drive

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



531 Knotty Pine

531 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 531 Knotty Pine is 26' 3" from the street to the covered front porch post and approximately 24' to the roof eave.



533 Knotty Pine

533 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 21' 6" from the street to the garage.



549 Knotty Pine

549 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 549 Knotty Pine is 18' from the street to the covered front porch post and approximately 16' to the roof eave.



543 Knotty Pine

543 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 15' 4" from the street to the garage and covered front porch.



547 Knotty Pine

543 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 22' from the street to the covered front porch post and 18' to the covered porch roof eave.



553 Knotty Pine

553 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 24' from the street to covered front porch and 21' to the covered porch roof eave.



559 Knotty Pine

559 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 28' from the street to the covered front porch post.



563 Knotty Pine

563 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 543 Knotty Pine is 19' 6" from the street to the garage.



565 Knotty Pine

565 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 565 Knotty Pine is 21' 6" from the street to the garage.



567 Knotty Pine

567 Knotty Pine is located two streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 567 Knotty Pine is 18' from the street to the garage.



555 Sugar Pine

555 Sugar Pine is located three streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 555 Sugar Pine is 29'10" from the street to the garage.



557 Sugar Pine

557 Sugar Pine is located three streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 557 Sugar Pine is 19'6" from the street to the covered porch eave.



551 Sugar Pine

551 Sugar Pine is located three streets below the subject property. The slope, size and shape of the property are substantially similar to the subject property. 551 Sugar Pine is 12'9" from the street to the garage eave.

**The Board of Adjustment has Granted Variances for
Similarly Situated Properties**

541 Dale Drive, #VAR15-007, Rodman Property

- .43-acre lot
- 25% downward slope
- Street-to-street lot
- Subject to the 20' setback requirement
- Property is set back from the street, effectively increasing the setback requirement
- Located near the Subject Property
- The applicant sought a variance reducing the setback from 20 feet to 2 feet.
- The proposed new structure was for a similar size home
- The home is currently under construction

541 Dale Drive posed the same special circumstances as the subject property, i.e. the slope, distance from the street, TRPA height limitations and snow and ice hazards.

Grace Sannazzaro, Staff Planner, made the following findings in recommending the application for approval:

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

The Board of Adjustment granted the variance on the basis of these special circumstances.

547 Dale Drive, VA13-005, Willinger Property

- .43-acre lot
- 25% downward slope.
- Street-to-street lot
- Subject to the 20' setback requirement
- Property is set back from the street, effectively increasing the setback requirement
- Located near the Subject Property
- The applicant sought a variance reducing the setback from 20 feet to 8 feet.
- The proposed new structure was for a similar size home
- The completed home is 29' 7" from the street to the covered porch eave.

541 Dale Drive posed the same special circumstances as the subject property; i.e. the slope, distance from the street, TRPA height limitations and snow and ice hazards.

Sandra Monslave, Senior Staff Planner, made the following comments in recommending the application for approval:

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

The Board of Adjustment granted the variance on the basis of these special circumstances.

OTHER EXAMPLES:

1. 557 Dale Drive, VA15-004, Nudelman Property
2. 715 Christina, VA07-40-94, Ver Brugge Property
3. 701 Christina, VAR 0002-005, Moore Property

The Board of Adjustment Did Not Accord the Application Due Consideration

- **Mr. Pelham led the Board of Adjustment to believe there were no constraints** on the design of the home. He stated:

There were no constraints prohibiting the applicant from designing a covered entry way within the required setbacks.
- **Mr. Pelham concluded there were no special circumstances solely on the basis that Appellants had obtained a building permit.** Pelham stated:

It is clear that the topography, by itself, does not create a hardship to development of the parcel of land, *as a new dwelling was approved to be constructed within the required setbacks.*
- This was not the proper standard.
- Nothing in the NRS or Development Code preclude the Board from granting a variance for a permitted structure.
- Nor is a property owner precluded from obtaining a permit, and subsequently seeking a variance.
- The NRS and Development Code require that the Board consider the special circumstances and hardships of strict compliance with the setback requirement, and neither Mr. Pelham nor the Board conducted this examination.
- Had the Board of Adjustment considered these special circumstances and hardships, the Board should have granted the variance, for the same reasons it granted variances for 541 and 547 Dale Drive.

THE VARIANCE IS REASONABLE AND SHOULD BE GRANTED

- The roof eave will be 29' feet from the street.
- The distance of the home to the street is consistent with the homes in the neighborhood.
- Open-space entry porch;
- All enclosed structures meet the 20' setback requirement.
- The purposes of the setback requirement are achieved.
- A covered front porch is needed to mitigate the hazards created by snow and ice.
- It was not possible to include a covered porch without a variance, because it would have required a long steep driveway that is dangerous in snow and ice conditions , exceeds the maximum slope requirement, and would not permit off-street parking.
- The variance is consistent with variances granted to similarly situated properties in the area.

The attached document was submitted to the **Washoe County Board of Commissioners** during the meeting

held on July 25, 2017

by Roger Pelham

for Agenda Item No. 16

and included here pursuant to NRS 241.020(7) as

amended by AB65 of the 2013 Legislative Session.



Washoe County Board of Commissioners

July 25, 2017



**Appeal of Denial of Variance Case Number WVAR17-0002
(Fisher / Kintz Front Yard Setback Reduction)**





Case Description

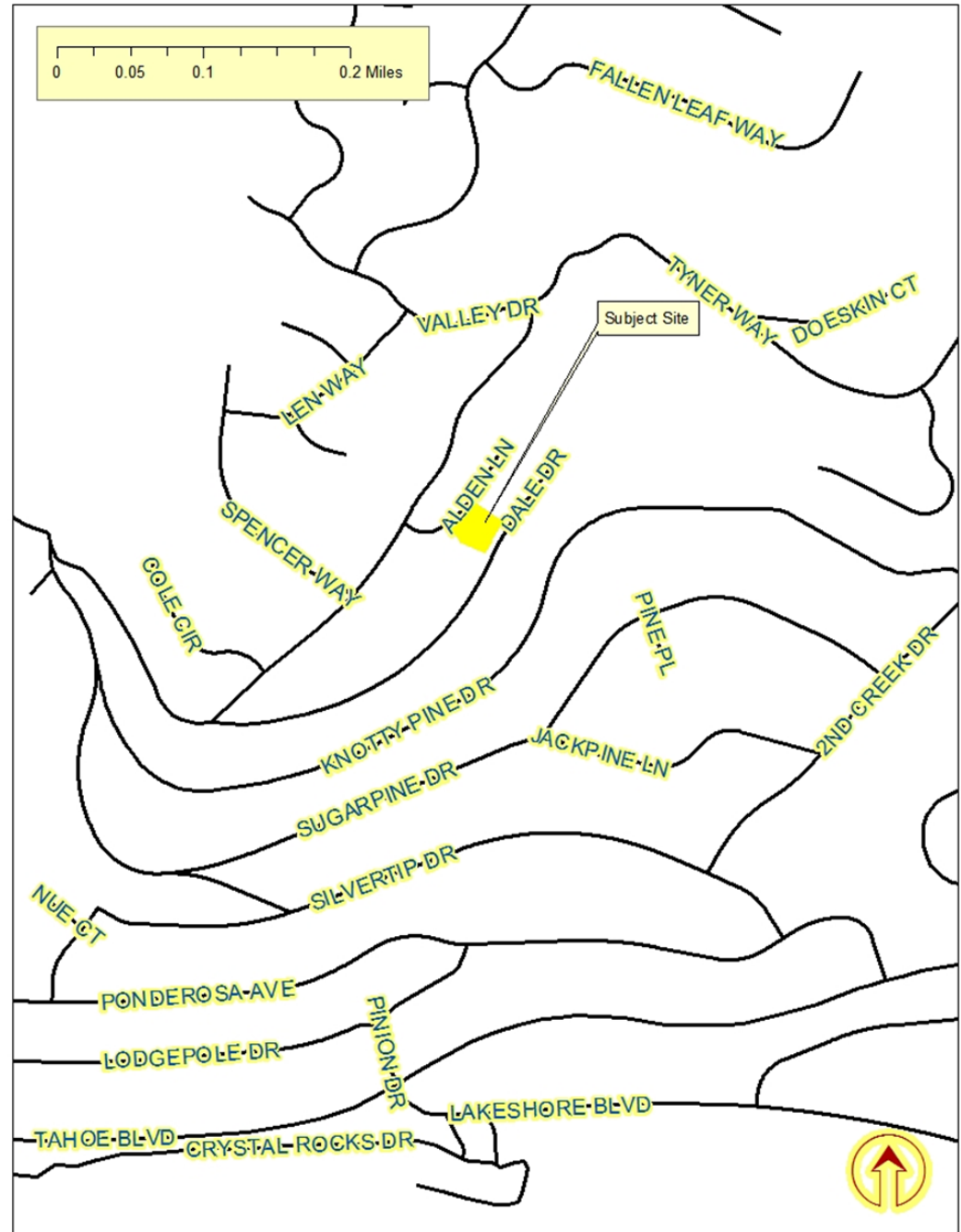
Public Hearing: For possible action on the appeal of the Washoe County Board of Adjustment's denial of Variance Case Number WVAR17-0002 (Fisher / Kintz Front Yard Setback Reduction) which sought approval of variances: to reduce the required front yard setback from 20 feet to 10 feet 2 inches for expansion of a dwelling that is currently permitted and under construction (the total encroachment, including the overhang, is proposed to be 9 feet 10 inches). The proposed encroachment into the front yard setback included a cover for the front porch with a depth of 7 feet 10 inches and an additional 2 feet of roof eave overhang within the front yard setback. The variance request also included a reduction in the front yard setback from 20 feet to 19 feet 6 inches for a "decorative truss" at the front of the garage.

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

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

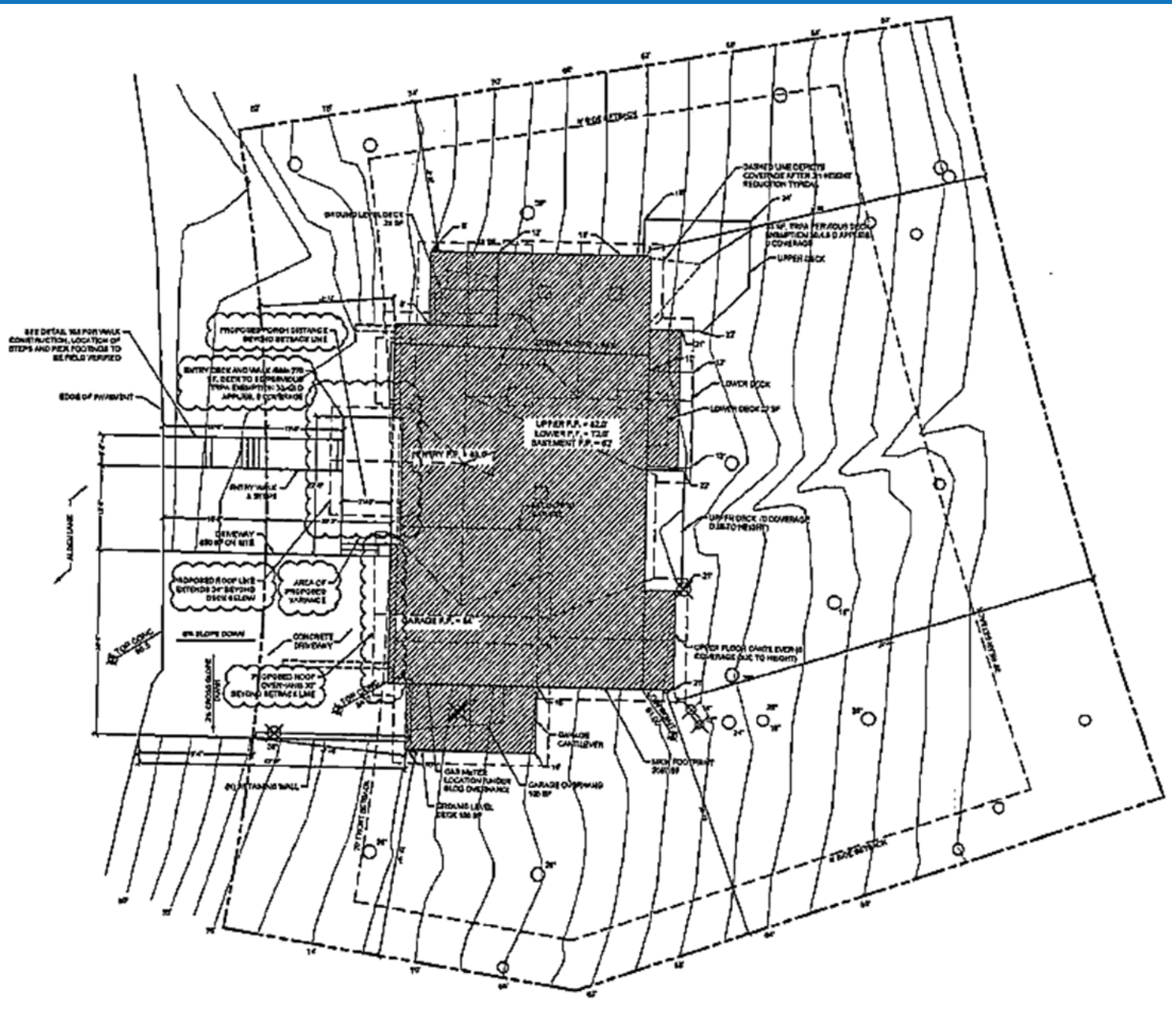


Vicinity Map





Site Plan





Action Taken By Washoe County Board of Adjustment

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



Photo of Subject Site





Photo of Subject Site



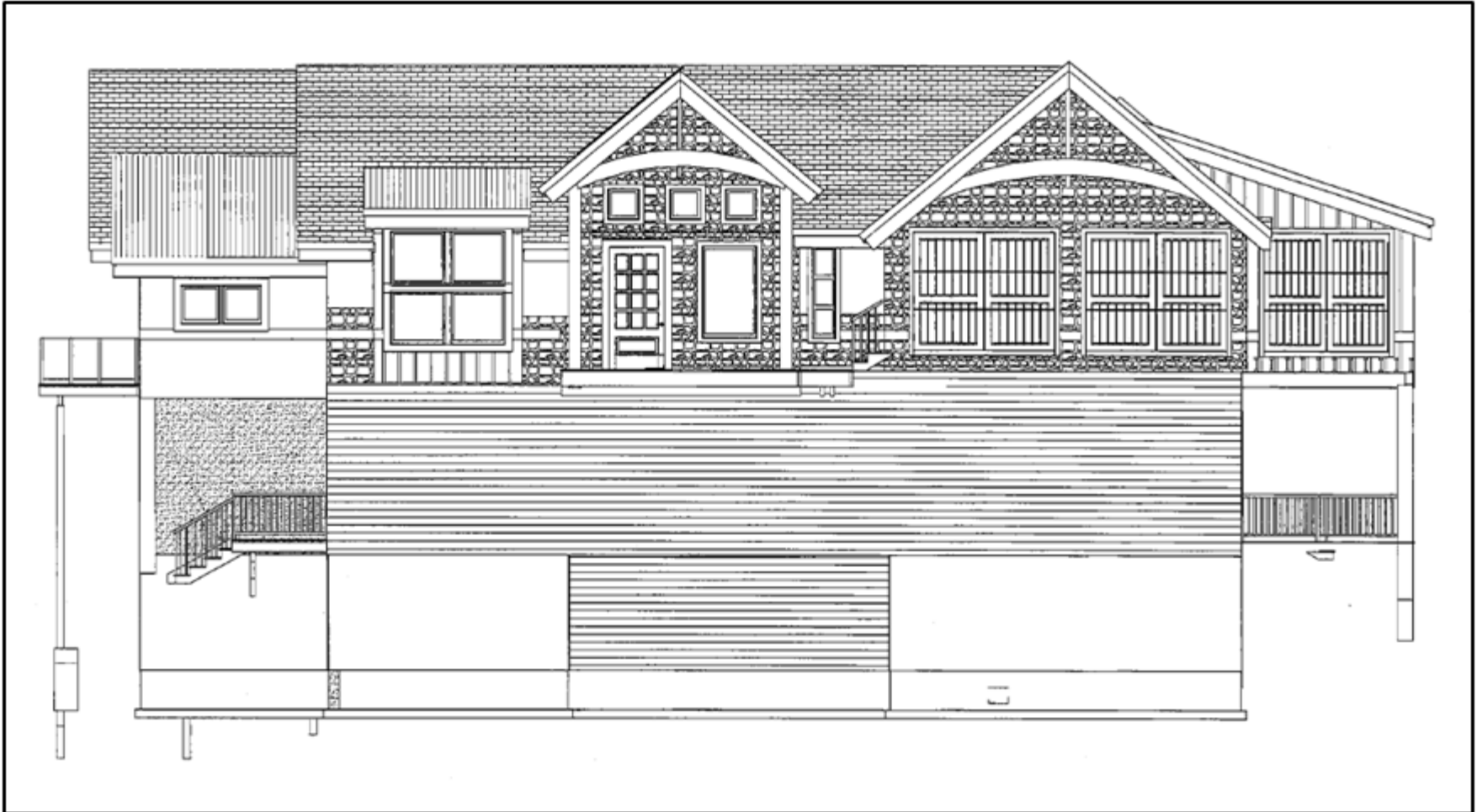
Background



Left Elevation, showing setback and proposed Covered Entry



Background



Front Elevation



Background

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



Background

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



Analysis

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

The subject parcel is not exceptionally narrow.



Analysis

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

The subject parcel is not exceptionally shallow.



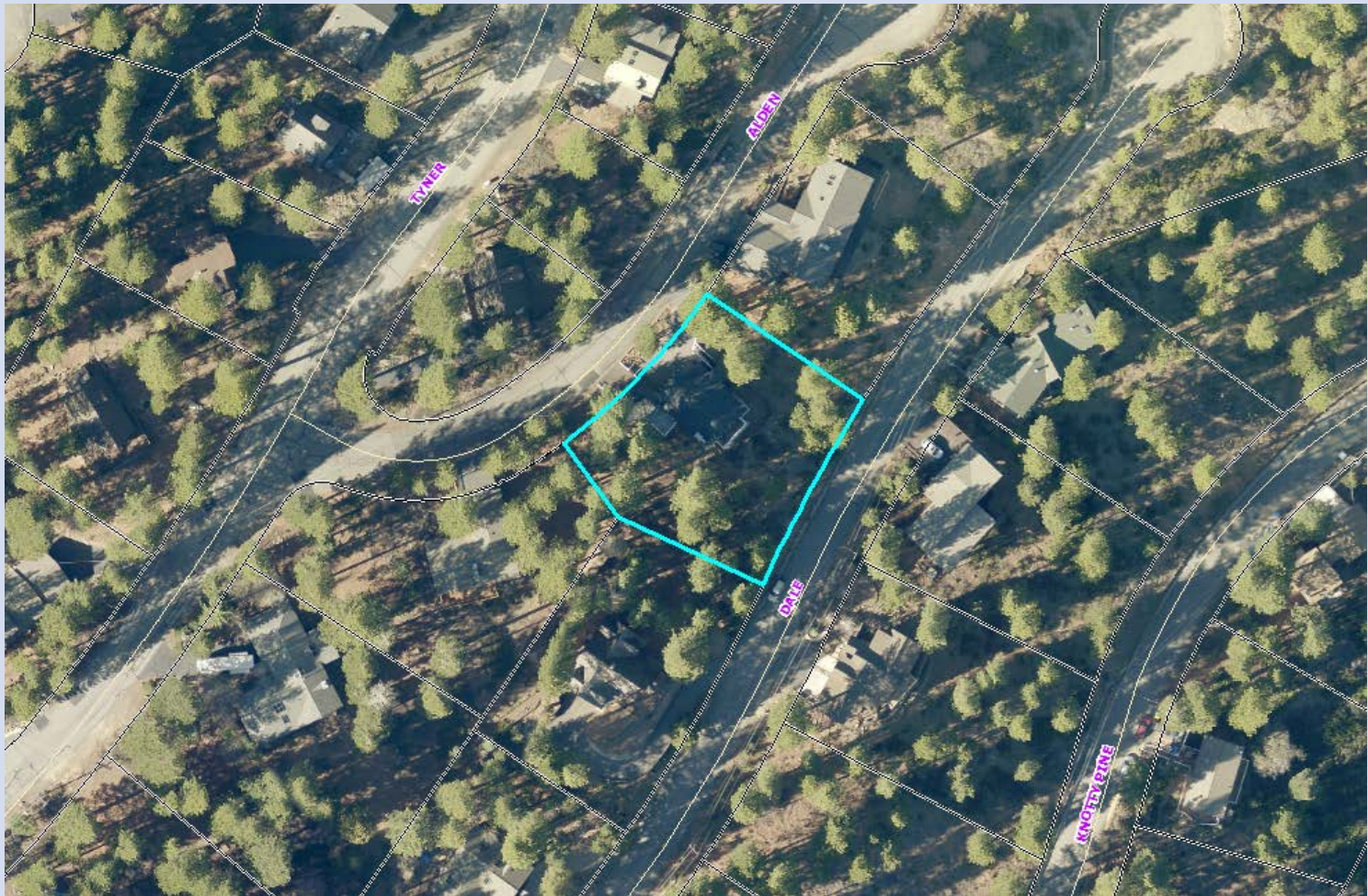
Analysis

Exceptional Topographic Conditions: The subject parcel is sloped at approximately about 31%. Sloped lots are common in the Tahoe Area Plan, and by themselves are not exceptional. There were no constraints prohibiting the applicant from designing a covered entry way within the required setbacks.

The topography of the subject parcel is not exceptional.



Analysis





Variance

Other Extraordinary and Exceptional Situation or Condition of the Piece of Property:

The applicant, "...tried many different design ideas none of which made practical or aesthetic sense given the height and other TRPA restrictions we had to comply with."

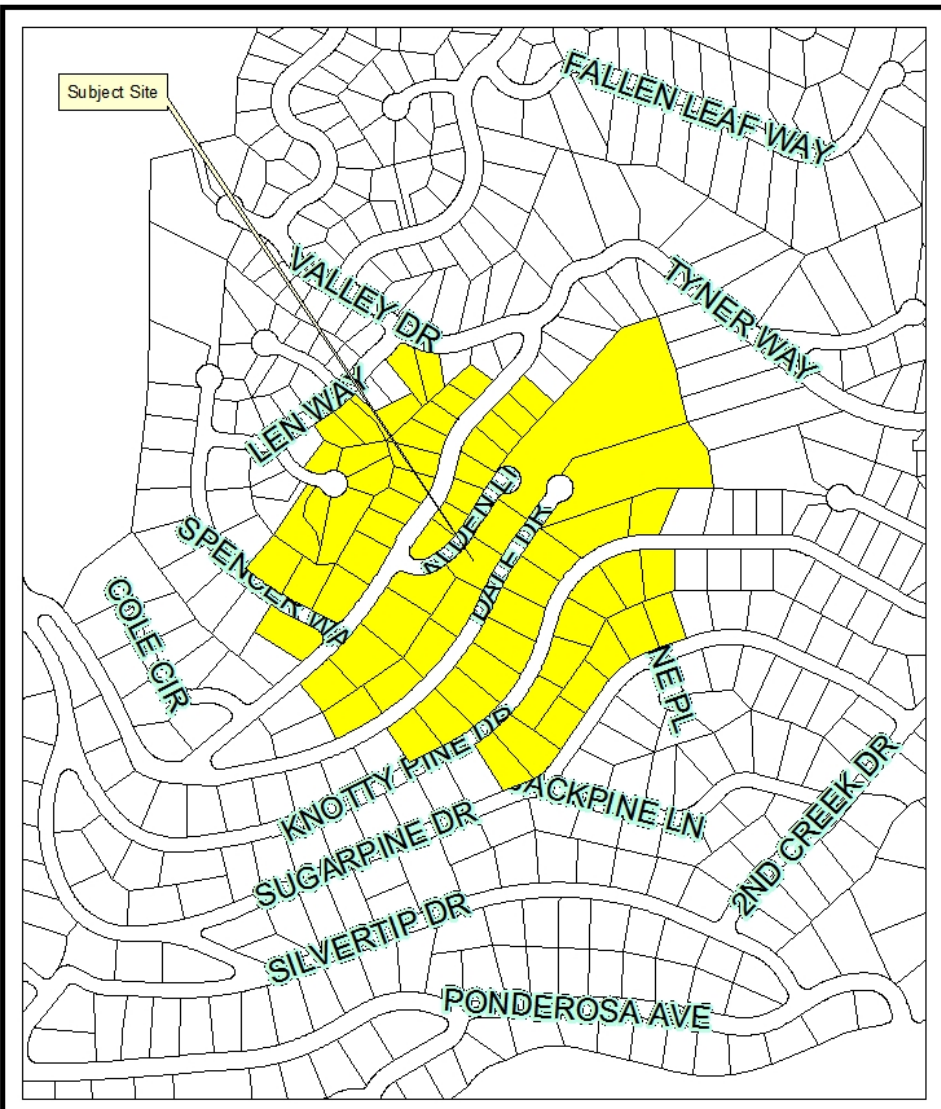
TRPA Height restrictions are consistent throughout the Tahoe Basin and are, therefore neither extraordinary or exceptional.

"Aesthetic sense" is not a condition of the parcel of land and, therefore, does not create an Extraordinary and Exceptional Situation or Condition.

The "practicality" of the plan requiring a variance is called into question when one considers that the applicant has approved construction plans for a dwelling on the parcel, that conforms with all required setbacks.

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

Public Notice



Mailing Label Map
Variance Case Number WPVAR17-0002
(Fisher / Kitner Front Yard Setback Reduction)

67 Parcels selected at 500 feet.

Source: Planning and Development Division



Date: April 2017

Community Services
Department
Planning and
Development Division
WASHOE COUNTY
NEVADA

Plan Office: 601 11120
Plan, Nevada: 69320
(775) 335-3000



Variance Findings

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

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



Variance Findings (continued)

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

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



Variance Findings (continued)

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

Staff Comment: Because there are no identifiable special circumstances, granting the relief will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated by allowing development that does not conform to generally applicable Code requirements. Therefore, this finding cannot be made to support approval of the variance request.



Variance Findings (continued)

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

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



Variance Findings (continued)

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

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



Recommendation (page 5 of Staff Report)

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

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



Recommendation (page 6 of Staff Report)

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

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

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



Questions?

The attached document was submitted to the **Washoe County Board of Commissioners** during the meeting

held on July 25, 2017

by Mike Fisher

for Agenda Item No. 16

and included here pursuant to NRS 241.020(7) as

amended by AB65 of the 2013 Legislative Session.

PETITION IN SUPPORT OF VAR17-0002
FISHER/KINTZ FRONT YARD SETBACK REDUCTION

TO: Washoe County Commission

FROM: Undersigned Ponderosa Subdivision Homeowners & Neighbors of Fisher/Kintz Family

Washoe County Commission;

We, the Undersigned, support the Variance requested in VAR17-0002, for the Fisher/Kintz Front Yard Setback Reduction, and respectfully request that the Commission grant the Variance.

As property owners in the Ponderosa Subdivision, our interests are affected by the issues raised in the appeal of the denial of VAR17-0002, and request that this Petition be read during the period designated for public comment.

VAR17-0002 should be granted because it is reasonable and appropriate, and enhances the values of the surrounding properties; while its denial will create unnecessary hardships for the property owners, and will deter investment in the neighborhood by prospective new property owners.

VAR17-0002 merely seeks a variance for a covered entrance and a six-inch extension of the garage eave. In all other respects, the residence complies with the setback requirements. This is a reasonable request in light of the steep grade of the property and TRPA restrictions imposed on the home. Further, the home will be situated further from the road than many of the surrounding homes, there is more than ample room for snow storage and off-street parking, and the appearance of the home will be enhanced. Thus, the purposes of the setback requirements will be achieved. We can see no justifiable reason why the variance should be denied.

On the other hand, there is a significant need for a covered entry because Incline Village receives inclement weather in the winter months, and the entryway will be exposed to snow and ice conditions. Thus, denial of the variance will create hardships on the property owner.

Further, the denial of VAR17-0002 is inconsistent with variances granted by the Board of the Adjustment to other property owners in the subdivision, which creates the perception that the Board's enforcement of the setback requirements is arbitrary. The fact that one property owner is granted a variance and another is denied when there is no discernable difference between the variances requested will deter prospective new property owners from investing in the area, which will adversely affect property values.

Setback requirements serve an important purpose; they ensure proper spacing between homes, protect road from snow drifts, ensure adequate off-street parking, and maintain and enhance the appearance of the neighborhood. However, strict compliance with setback requirements can create hardships on property owners in certain circumstances and where the purposes of the setback requirements can be achieved without strict compliance, the requirements should be varied appropriately.

The steep grades in the Ponderosa subdivision in Incline Village, and the subject property in particular, the inclement winter weather, and the strict restrictions imposed by the Tahoe Regional Protection Agency, create significant obstacles to property owners in designing residences that comply with the Washoe County setback requirements. The Board of the

- BCC 7-25-17 #16
Mike Fisher

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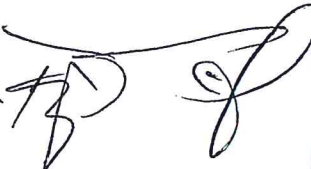

Adjustment should be cognizant of that, and where the Board can achieve the purposes of the setback requirements and at the same time grant reasonable and appropriate variances to avoid the hardships of strict compliance, it should do so.

We strongly support VAR17-0002 and request that the Commission reverse the Board of Adjustment's denial and grant the variance.

Sincerely,

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Lynn Killinger	547 Dale Dr. Incline Village	Lynn Killinger
Gary Schennum	573 Tryner Way	G. Schennum
Marion Smith	" "	Marion Smith
Patricia Walsh ELIZABETH SCHEID	539 Dale Drive "	Patricia Walsh E. Scheid
Ellen Hardgrove	551 Dale Dr. Incline Village	Ellen Hardgrove
Penny Dupin	545 Cole Cir. ZV, NV 89451	P. Dupin
DOUG WILLINGER	547 DALE DR INCLINE VILLAGE	DOUG WILLINGER

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Sharon Kennedy	650 Tumbleweed IV NV 89451	
David Anderson Nancy Kaible	542 Cole Circle Incline Village, 89451	 Nancy Kaible
W/O Leonard	533 Knotty Pine Incline Village	L.O. 71
NL Leonard	533 Knotty Pine Incline Village	Nancy Leonard
S. SWINT	565 Knotty Pine INCLINE VILLAGE NV	
ADELE SWINT	505 KNOTTY PINE INCLINE VILLAGE	
Jim Hardie	555 Dade Dr. Incline Village, NV	Jim Hardie

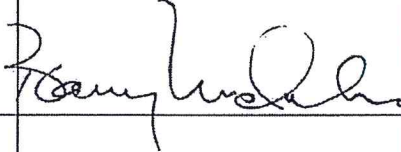
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Susan Schmier	565 Dale Dr. Incline Vlg.	ASchmier

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Sincerely,

PRINT NAME	ADDRESS	SIGNATURE
BARRY NUDELMAN	557 Dale Drive	
Lori Nudelman	557 Dale Drive	