

Washoe County Board of County Commissioners



WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction)

May 24, 2022

WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction)



Request

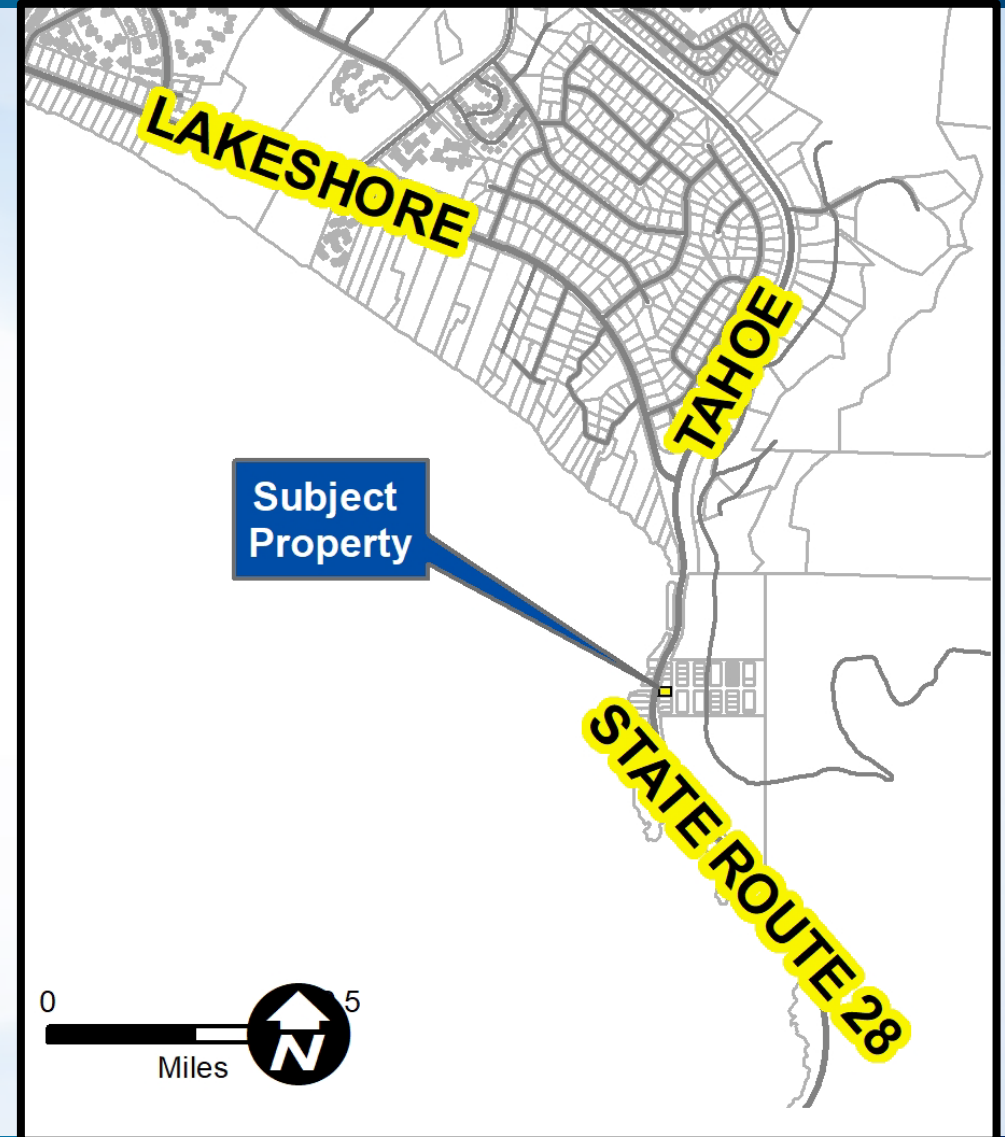


Appeal of the Washoe County Board of Adjustment's denial of Variance Case Number WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction) which sought a variance to reduce the required side yard setback on the north side of the parcel from five (5) feet to one (1) foot in order to enlarge the existing bedroom wing of the current home on the property and add a second level bedroom.

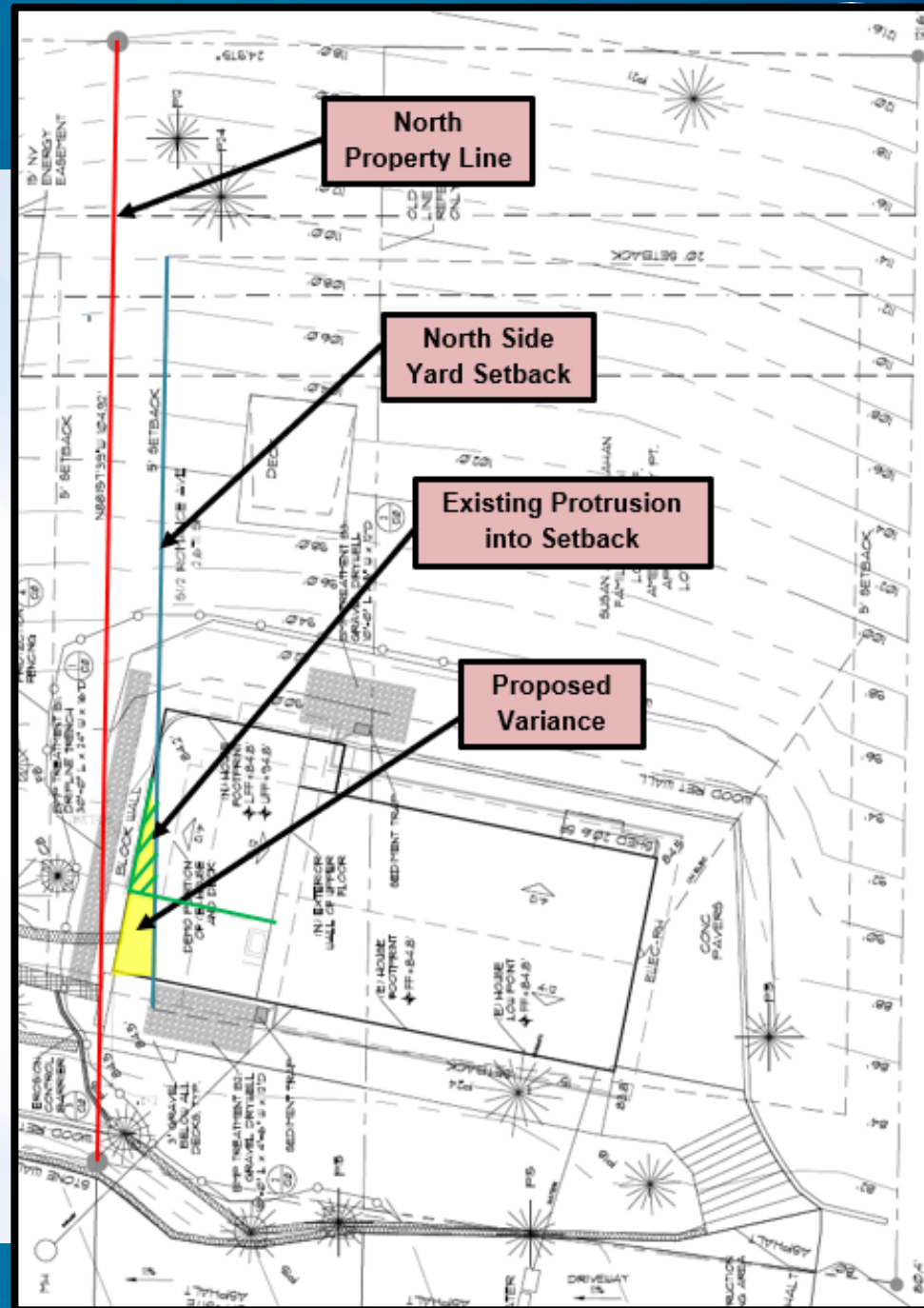
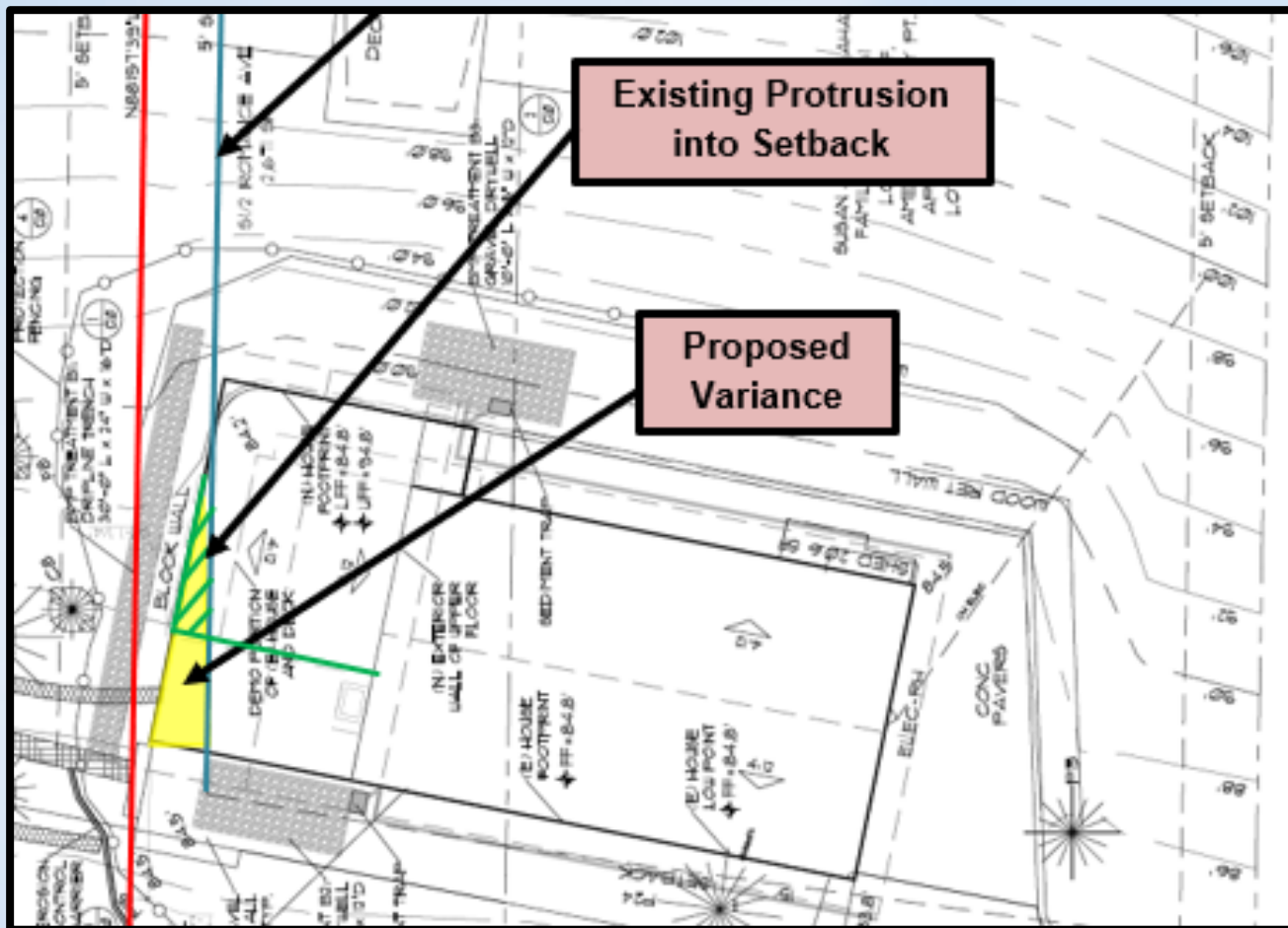
Vicinity Map



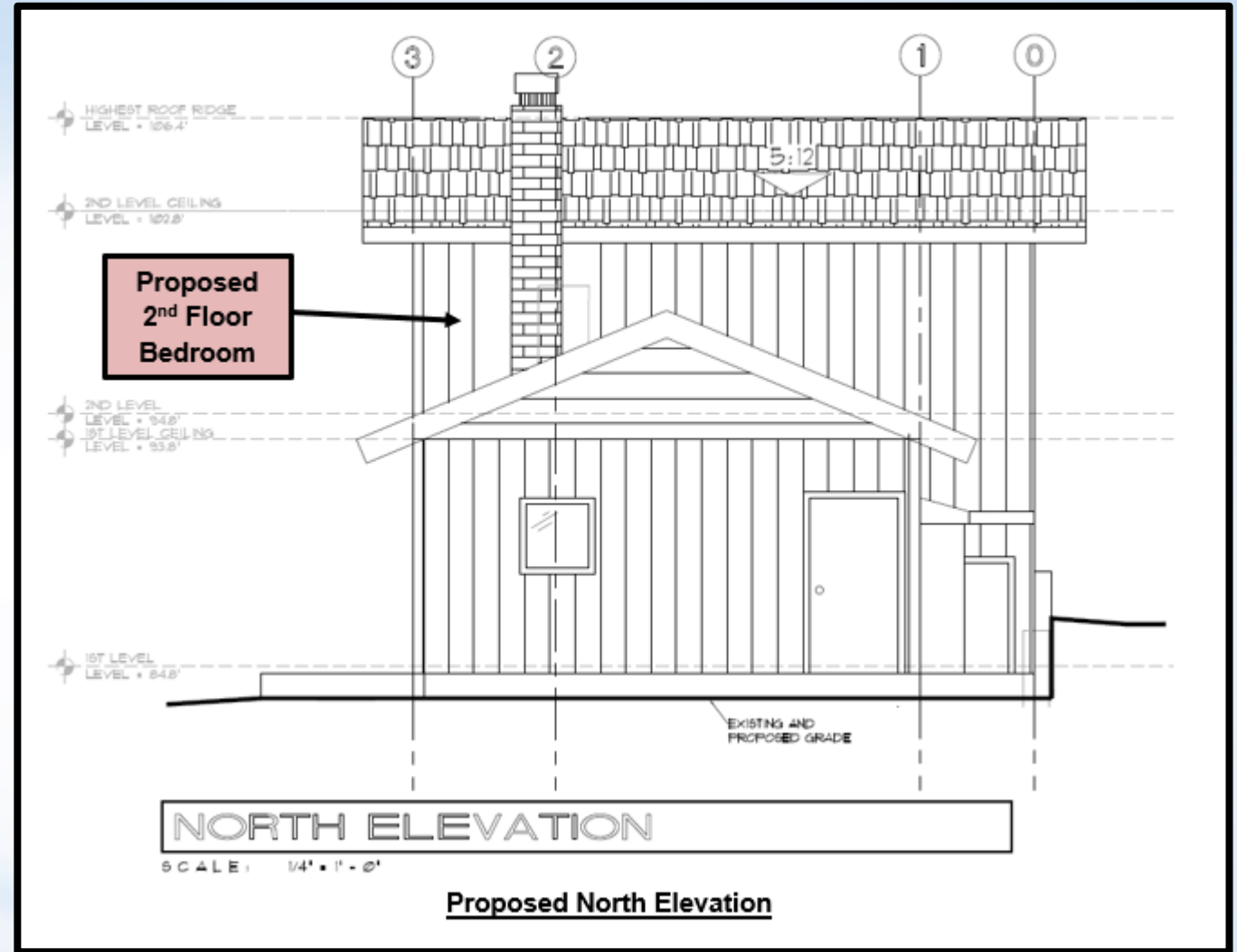
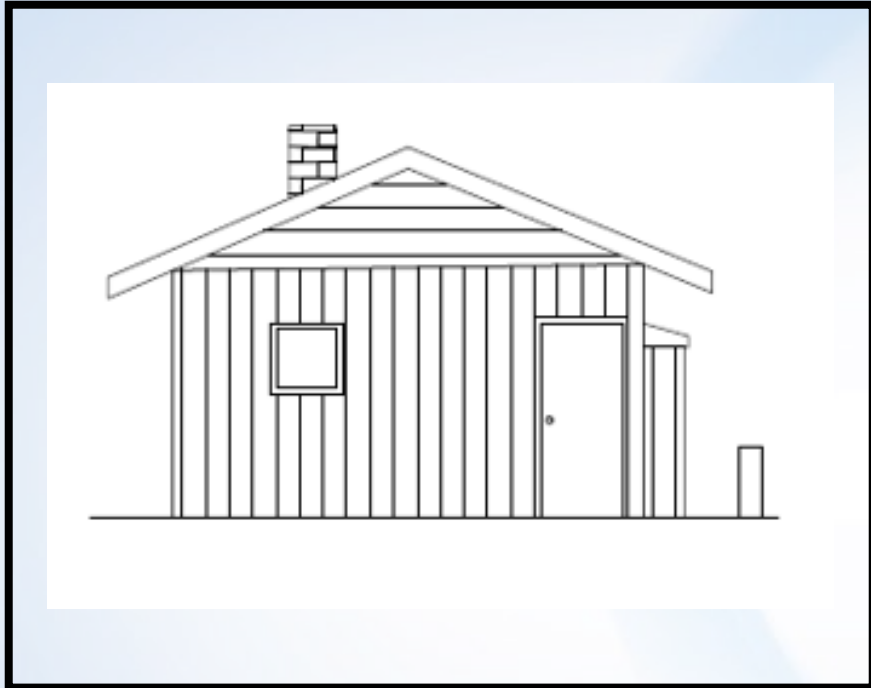
The project site is a 0.192-acre parcel located at 1710 Lakeshore Blvd. in Incline Village. The parcel is on the east side of State Route 28.



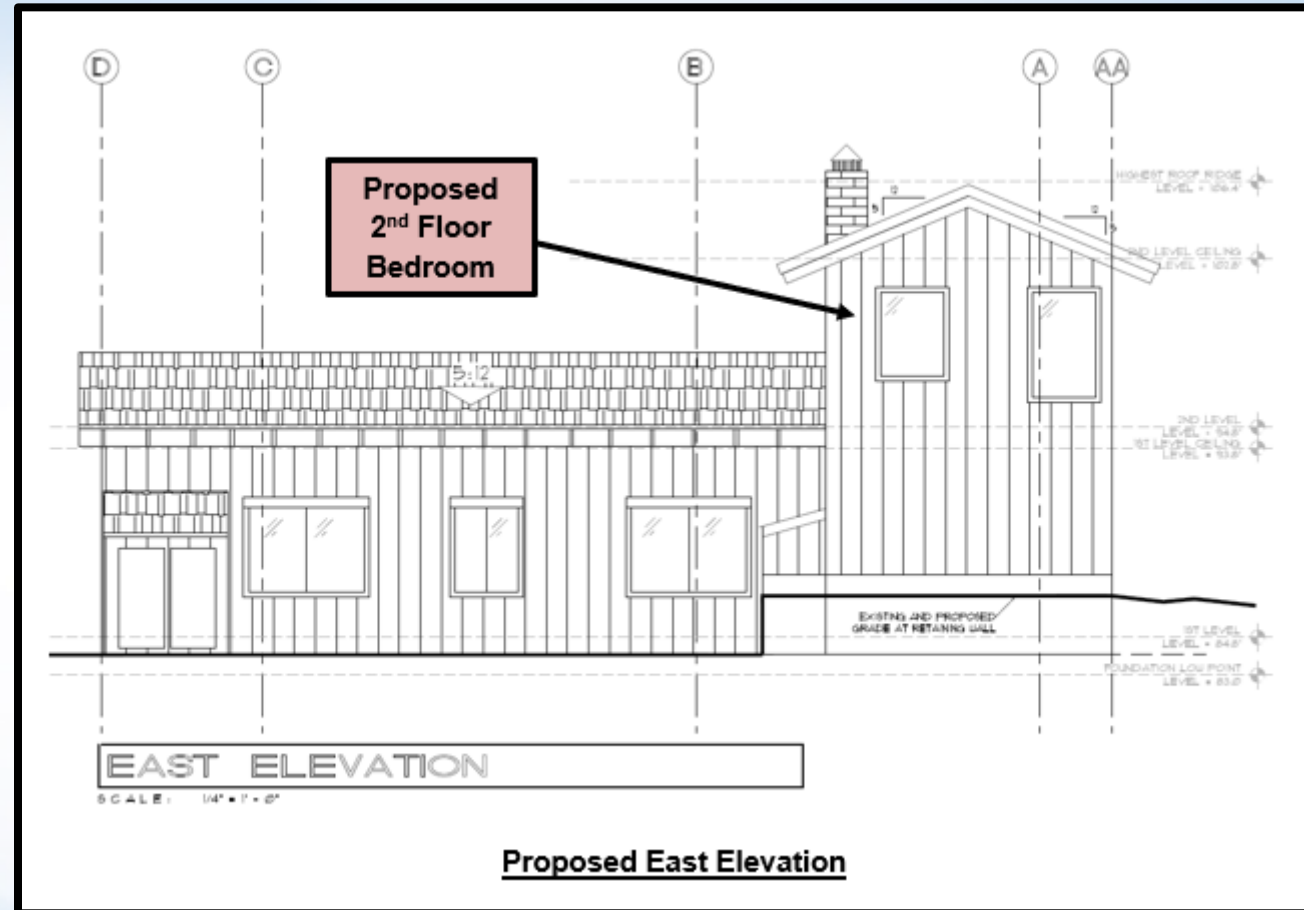
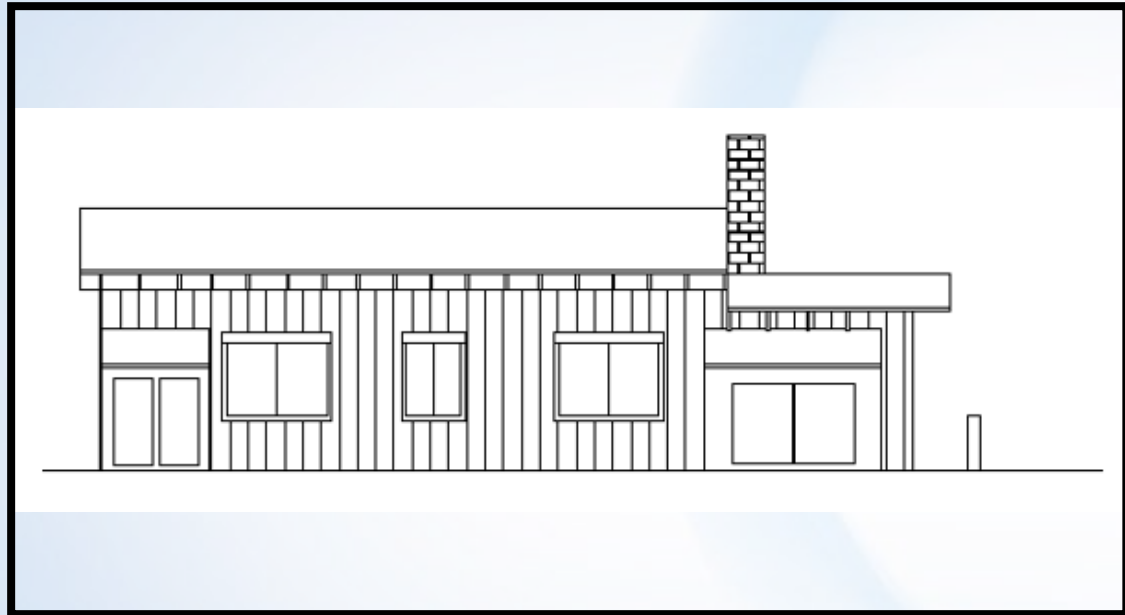
Site Plan



North Elevation



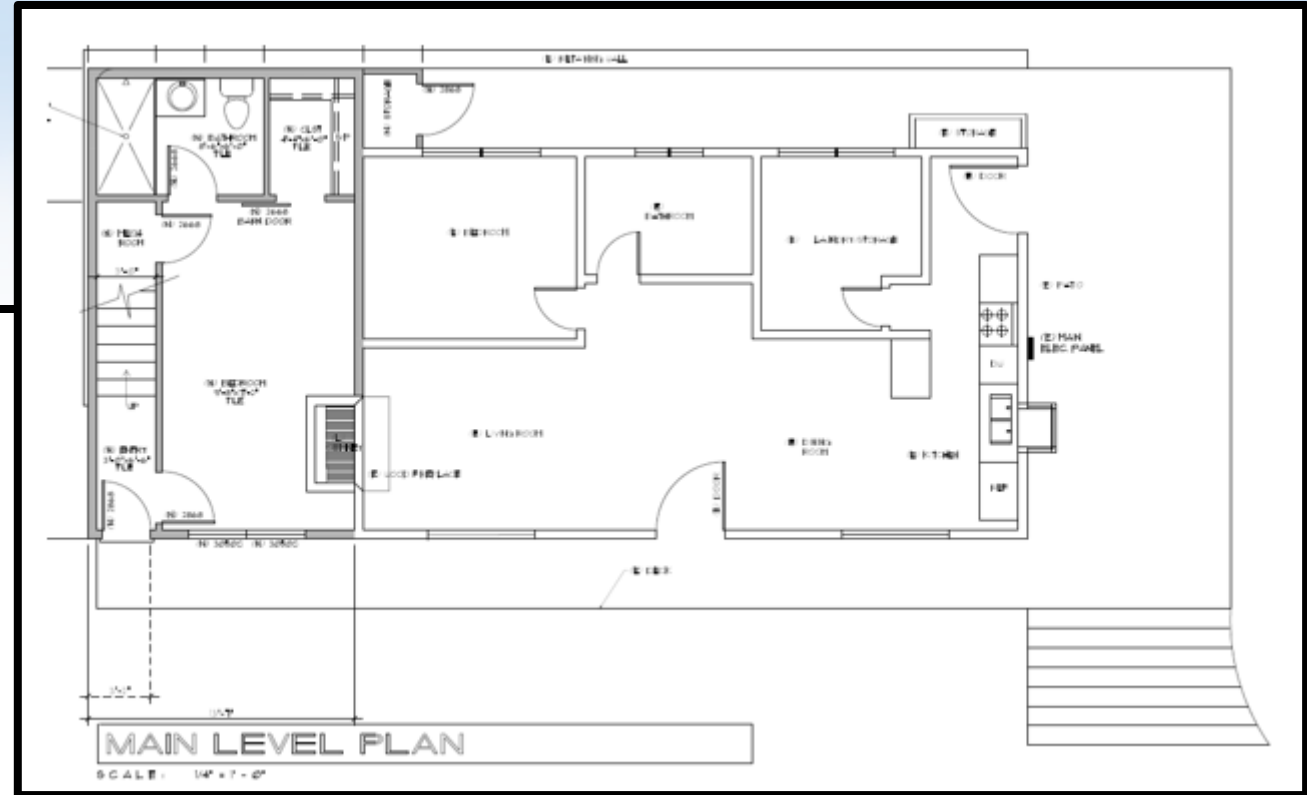
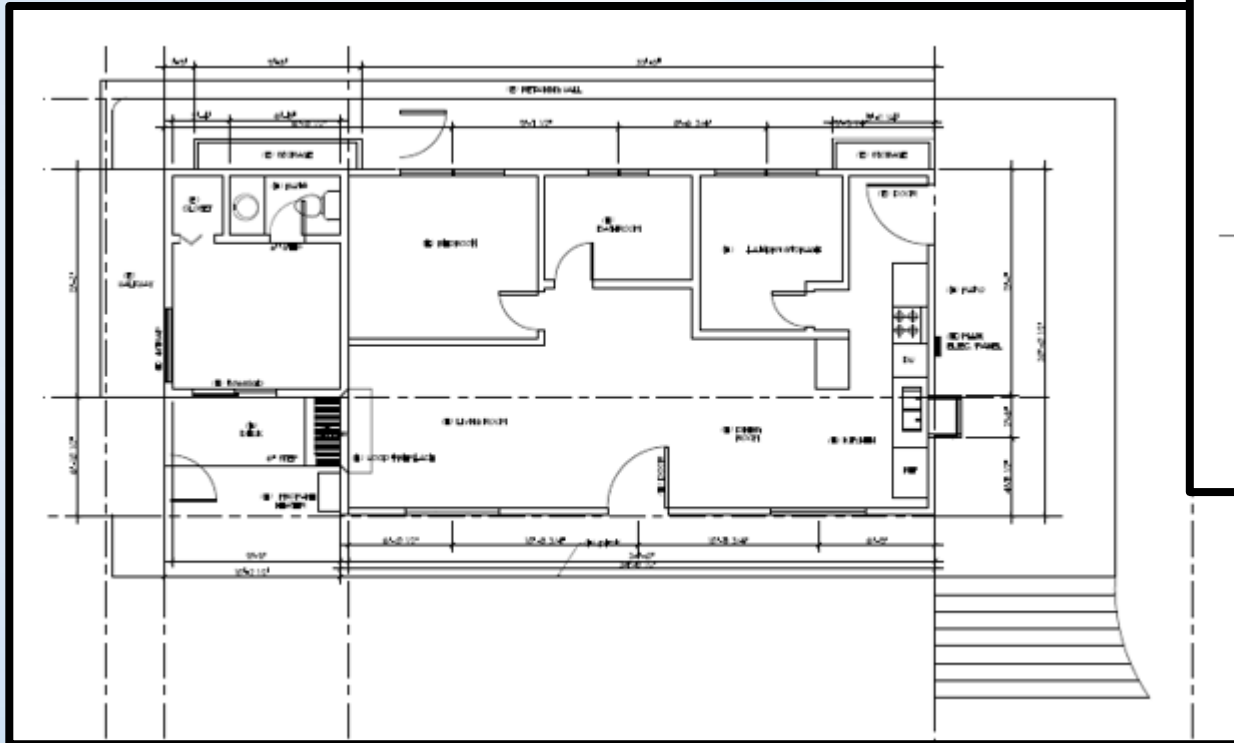
East Elevation



Floor Plans – 1st Floor

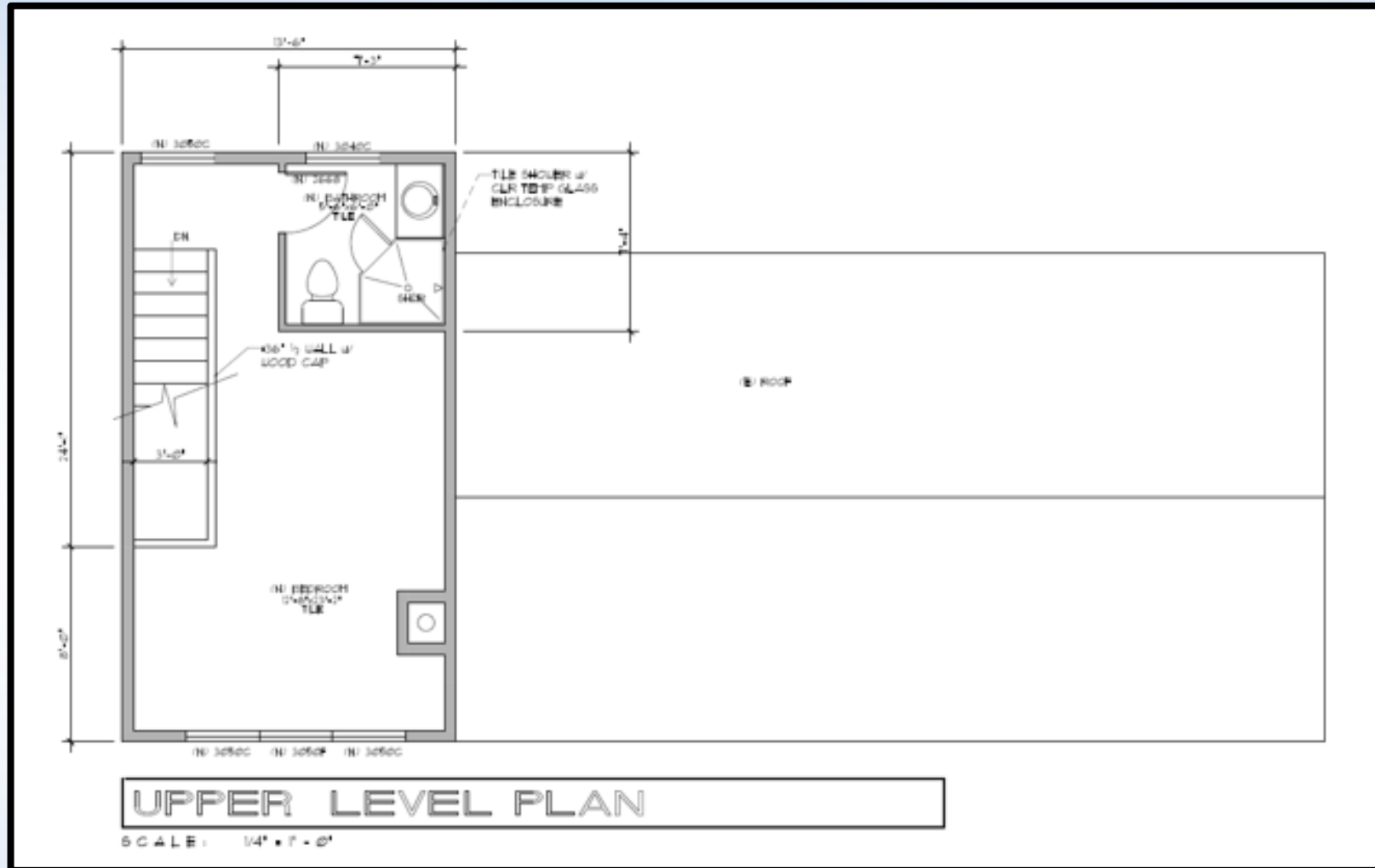


Existing Floor Plan



Proposed Floor Plan

Proposed Floor Plan – 2nd Floor



Project Evaluation

- The project site has a regulatory zone of East Shore.
- Setbacks – determined by lot size in the Tahoe planning area
- The subject property is 0.192 acres or 8363.52 sq. ft.
- For lots between 5,000 sq. ft. & 11,999.99 sq. ft., front & rear yard setbacks are 20 ft. & side yard setbacks are 5 ft.

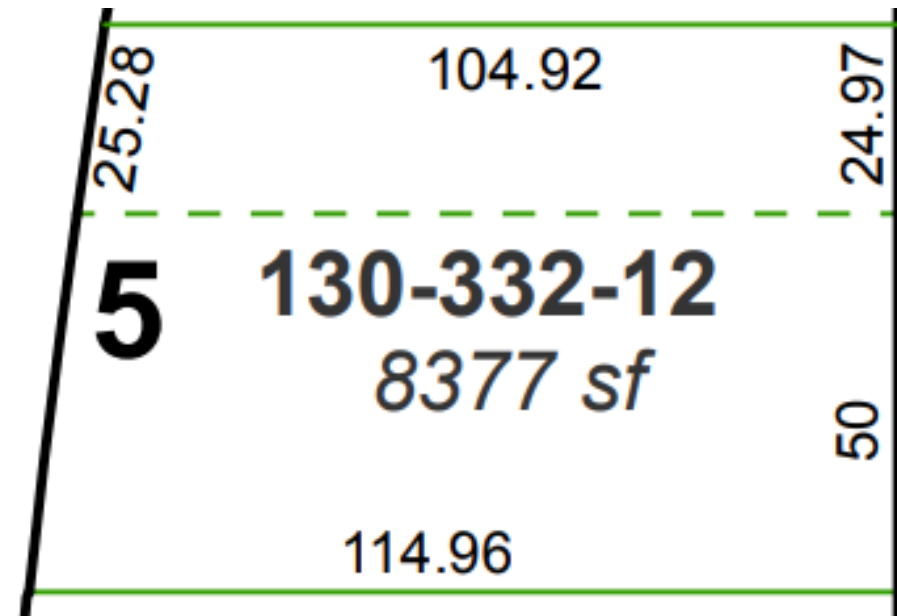
Use Type and Parcel Size	Required Setback			Minimum Parcel Width (Feet)	Minimum Parcel Size (Square Feet)
	Front (Feet)	Side (Feet)	Rear (Feet)		
Residential					3,700 sf.
Greater Than 2.5 Acres	30	15	30	80 ft.	
35,000 Square Feet to 2.5 Acres	30	12	30	80 ft.	
12,000 Square Feet to 34,999.99 Square Feet	20	8	20	60 ft.	
5,000 Square Feet to 11,999.99 Square Feet	20	5	20	60 ft.	

- Variances are limited to those circumstances in which the property exhibits a special circumstance that results in a hardship.
- Those circumstances (by NRS 278.300 and WCC) 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 & exceptional situation or condition of the piece of property.

Project Evaluation – Exceptional Narrowness



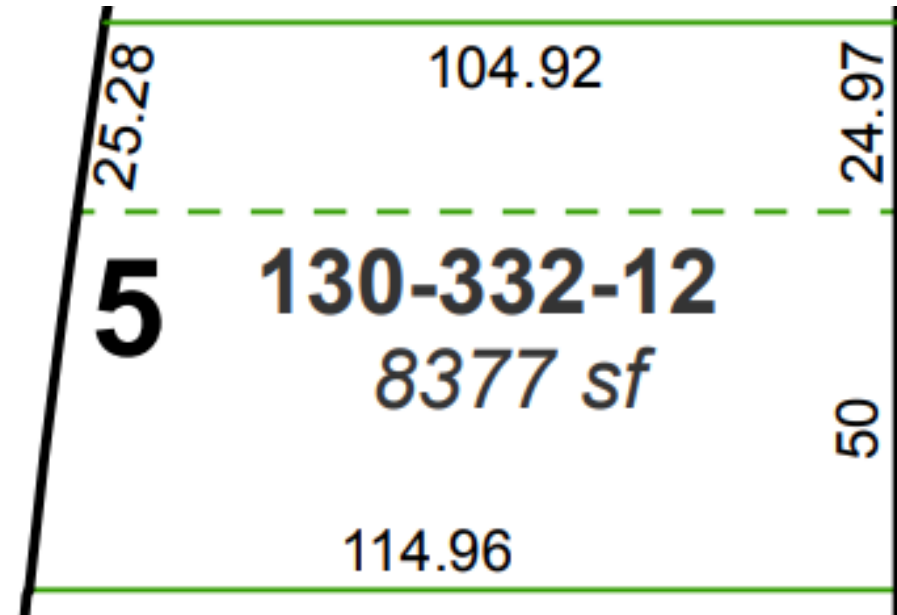
- Minimum required lot width: 60 ft.
- Lot width of subject site: 75 ft.
- The subject parcel is not exceptionally narrow.



Project Evaluation – Exceptional Shallowness



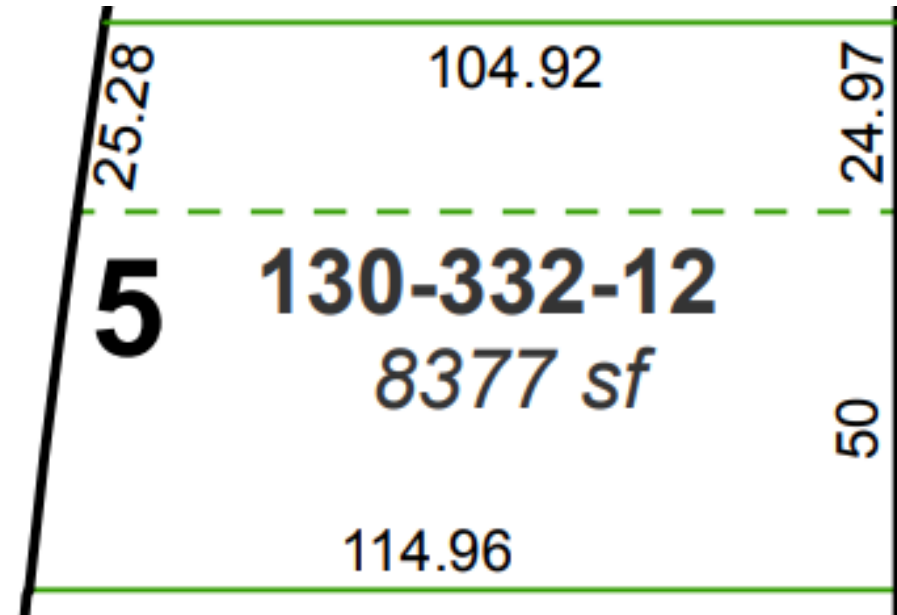
- Minimum required lot depth: 60 ft.
- Lot depth of subject site: average of 110 ft.
- The subject parcel is not exceptionally shallow.



Project Evaluation – Exceptional Shape



- The subject parcel is essentially rectangular.
- The subject parcel is not exceptionally shaped.



Project Evaluation – Exceptional Topography



- The slope for the parcel is approximately 36%.
- The slope on the front portion of the parcel where the home is located is less.



Project Evaluation – Exceptional Topography

- The slope of the subject parcel is not unique to the subject parcel.
- Parcels to the north and south of the subject parcel have similar slopes.



Extraordinary & exceptional situation or condition of the property and/or location of surroundings

- The applicant has stated that the house was originally built in 1959 & is a historical house. The applicant has stated that the purpose of the variance request is to increase the bedrooms without changing the historic house.
- The existing house already protrudes into the side yard setback.
- According to Article 904, Nonconformance, this house is considered a nonconforming structure, because it does not meet current setbacks. WCC 110.904.30 states that a nonconforming structure may not be enlarged by more than 10%.

Extraordinary & exceptional situation or condition of the property and/or location of surroundings

- Enlarging the existing bedroom wing, which protrudes into the side yard setback, & adding a second level bedroom above that wing would result in an increase in nonconformance.
- Staff opinion: The age of the house is not an exceptional situation or condition of the property & does not meet variance requirements.

Extraordinary & exceptional situation or condition of the property and/or location of surroundings

- The applicant stated: “Other locations on the site were investigated to place the bedroom wing such as behind the unit however TRPA coverage restraints do not allow relocation of coverage since the entire site is Class 1A. This is the only viable location within the stringent TRPA rules.”
- TRPA restraints and requirements are not extraordinary or exceptional for properties located in the Tahoe area.

Project Evaluation



No Detriment – 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.

- **This finding cannot be made.** Because there are no special circumstances applicable to the subject site, approval of a variance would impair the intent of the Development Code which requires that a finding of hardship be made, for approval of a variance to be granted.
- The limited side yard setback could also have impacts to the neighboring property to the north, such as drainage impacts, snow storage, etc.

Project Evaluation



No Special Privileges – 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.

- **This finding cannot be made.** Because there are no special circumstances applicable to the subject site, approval of a variance to reduce the side yard setback results in a special privilege to this applicant that is not consistent with the limitations on other properties.

Use Authorized – Variance does not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

- **This finding can be made.** A home addition is permissible on the subject site.

Effect on a Military Installation – Variance will not have a detrimental effect on the location, purpose or mission of a military installation.

- **This finding can be made.** There is no military installation within the area that is required to be provided with public notice for the variance request.

Conditions of Approval

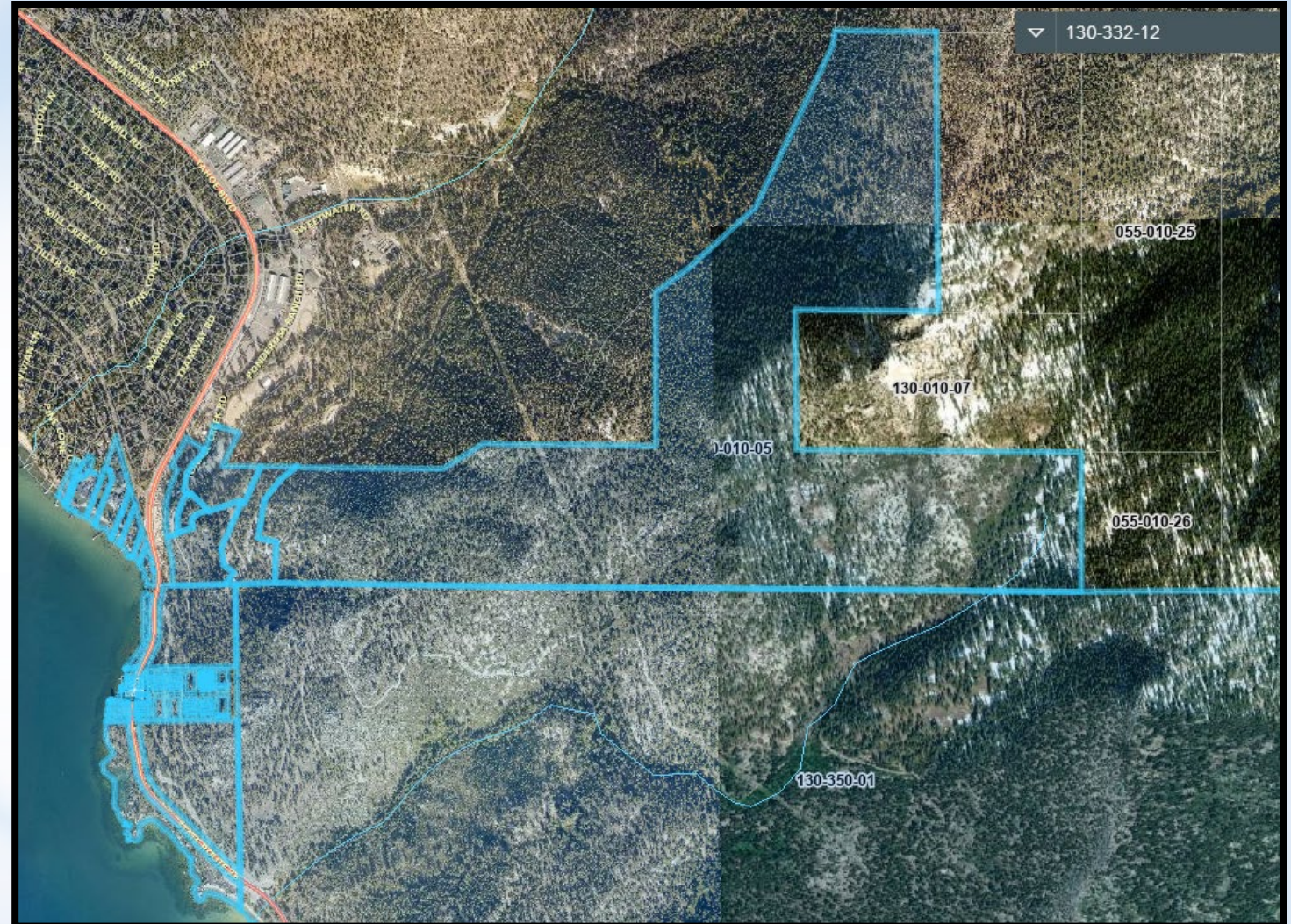


Possible conditions of approval are included at Attachment D to the staff report.

Public Notice



Notices were sent to the owners of 68 parcels (33 separate property owners) at 2,000 feet.



Variance Findings



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

The BOA found that there were no 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.

Recommendation



It is recommended the Board of County Commissioners review the record and take one of the following actions:

1. Affirm the Board of Adjustment's decision and deny Variance Case Number WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction); **or**
2. Reverse the Board of Adjustment's decision and approve Variance Case Number WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction).

Possible Motions



Should the Board agree with the action taken by the Board of Adjustment, a possible motion would be:

Move to uphold the decision of the Board of Adjustment and deny the appeal of Variance Case Number WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction) which sought a variance to reduce the required side yard setback on the north side of the parcel from five (5) feet to one (1) foot in order to enlarge the existing bedroom wing of the current home on the property and add a second level bedroom, being unable to make all required findings of fact in accordance with Washoe County Development Code Section 110.804.25

Possible Motions

Should the Board disagree with the action taken by the Board of Adjustment, a possible motion would be:

Move to overturn the decision of the Board of Adjustment and approve, with conditions as included at Attachment D to the staff report, Variance Case Number WPVAR22-0001 (Herz-Callahan Side Yard Setback Reduction) which sought a variance to reduce the required side yard setback on the north side of the parcel from five (5) feet to one (1) foot in order to enlarge the existing bedroom wing of the current home on the property and add a second level bedroom, being able to make all required findings of fact in accordance with WCC Washoe County Development Code Section 110.804.25

Thank you

