

Sec. 1726

Setbacks.

- (a) Except as may be provided herein, no building or structure shall be permitted within any required setback area. The foregoing, however, shall not apply to septic tanks or other underground utilities.
- (b) In any case, where a Road Plan Line has been established as a precise section of the General Street and Highway Plan of Placer County, the required building setbacks shall be measured from such Road Plan Lines and in no case shall the provisions of this Chapter be construed as permitting any structure to encroach upon said Road Plan Lines.
- (c) Zoning District setbacks on the street side of any lot shall be nullified in any case where a building line has been established in accordance with Section 1734 of this Chapter. The required minimum setbacks so established on the street side of any such lot shall apply to main buildings and automobile garages, provided, however, that the exceptions in Section 1726(e) shall apply.
 - (1) Cornices, eaves, canopies, and similar architectural features may extend into any required side setback not exceeding two and one-half (2 1/2) feet and into any required front or rear setback not exceeding five (5) feet, provided, however, that no such feature shall be permitted within two (2) feet of any side lot line.
 - (2) Unenclosed porches, or stairways, fire escapes or landing places may extend into any required front or rear setback not exceeding five (5) feet, and into any required side setback not exceeding three (3) feet.



GABBART & WOODS
STRUCTURAL ENGINEERS

STUDIO 2

MEMORANDUM

date: 5.07.14
to: Alvina Lundberg
from: Rocky Woods
re: 1346 Kings Way, Tahoe Vista, CA

Alvina,

This memo will verify that the double 6x12 wood girders shown on our structural plan S2.1, at gridline B, between gridlines 5 and 6, are indeed a critical part of the structural support of the deck. The deck would not be stable without these girders extending to the post and footing at gridline 6.

Please let me know if you need any more information.

Thank you very much.

Rocky Woods

5-7-14

3.31.15

A NEVADA LIMITED LIABILITY COMPANY
LAKE TAHOE OFFICE 877 TAHOE BLVD INCLINE VILLAGE, NV 89451
www.gabbartandwoods.com

13
ATTACHMENT 4



PLACER COUNTY PLANNING SERVICES DIVISION
 AUBURN OFFICE
 3091 County Center Dr, Auburn, CA 95603
 530-745-3000/FAX 530-745-3080
 Website: www.placer.ca.gov
 E-mail: planning@placer.ca.gov

RECEIVED
 MAY 28 2014
 CDRA

TAHOE OFFICE
 775 North Lake Blvd., Tahoe City, CA 96145
 PO Box 1909, Tahoe City, CA 96145
 530-581-6280/FAX 530-581-6282

PLANNING APPEALS

The specific regulations regarding appeal procedures may be found in the Placer County Code, Chapters 16 (Subdivision), 17 (Planning and Zoning), and 18 (Environmental Review Ordinance).

T20140026

OFFICE USE ONLY

Last Day to Appeal _____ (5 pm) Appeal Fee \$ 536
 Letter _____ Date Appeal Filed 5-28-14
 Oral Testimony _____ Receipt # 14-098194
 Zoning _____ Received by Sn
 Maps: 7-full size and 1 reduced for Planning Commission items Geographic Area _____

TO BE COMPLETED BY THE APPLICANT

1. Project name LUNDBERG RESIDENCE VARIANCE APPLICATION
 2. Appellant(s) VINITA VARMA 661.547.5055 530.587.1316
 Telephone Number Fax Number
 Address 2315 WESTFIELD DRIVE LANCASTER CA 93536
 City State Zip Code
 3. Assessor's Parcel Number(s): 112-230-028 (Lundberg) 112-230-008 (Varma)

4. Application being appealed (check all those that apply) Application Number

<input type="checkbox"/> Administrative Approval	_____
<input type="checkbox"/> Use Permit	_____
<input type="checkbox"/> Parcel Map	_____
<input type="checkbox"/> General Plan Amendment	_____
<input type="checkbox"/> Specific Plan	_____
<input type="checkbox"/> Environmental Review	_____
<input type="checkbox"/> Minor Boundary Line Adjustment	_____
<input type="checkbox"/> Tentative Map	_____
<input checked="" type="checkbox"/> Variance	<u>PVAA20140026</u>
<input type="checkbox"/> Design Review	_____
<input type="checkbox"/> Rezoning	_____
<input type="checkbox"/> Rafting Permit	_____
<input type="checkbox"/> Planning Director Interpretation _____ (date)	_____
<input type="checkbox"/> Other: _____	_____

5. Whose decision is being appealed: PLANNING COMMISSION
(see reverse)

6. Appeal to be heard by: BOARD OF SUPERVISORS
(see reverse)

7. Reason for appeal (attach additional sheet if necessary and be specific):
SEE EXHIBIT A ATTACHED AND INCORPORATED HEREIN BY REFERENCE

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 MAY 29 2014
 PLANNING DEPT.

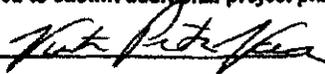
(If you are appealing a project condition only, please state the condition number)

T:\PLN\Application and Brochure Masters\PingAppsWord\Appeal.docx Rev 120627

14
ATTACHMENT 5

Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s)



PLACER COUNTY ZONING ORDINANCE SECTION 17.60.110

Rulings made by the below are considered by the Planning Commission:

- Planning Director (interpretations)
- Zoning Administrator
- Design/Site Review Committee
- Parcel Review Committee - other than road improvements which should be appealed to the Director of Public Works
- Environmental Review Committee

Rulings made by the Planning Commission are appealed directly to the Board of Supervisors.

Rulings made by the Development Review Committee are appealed to the hearing body having original jurisdiction

Note: An appeal must be filed within 10 calendar days of the date of the decision. Appeals filed more than 10 days after the decision shall not be accepted by the Planning Division.

For exact specifications on an appeal, please refer to Section 17.60.110 of the Placer County Code.

EXHIBIT A

APPEAL OF LUNDBERG VARIANCE (PVAA 20140026)

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MAY 28 2014

SUMMARY OF REASONS FOR APPEAL

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At the Planning Commission hearing on May 22, 2014, the Commission took three separate actions:

- (1) Granted a variance for the corner of the Lundberg's house;
- (2) Denied a variance for the Lundberg's lower deck to encroach into the five foot setback. The portion of the lower deck encroaching into the five foot side setback must be removed by applicant; and
- (3) Granted a variance to allow the Lundberg's upper deck and related appurtenances to extend three feet only into the five foot setback. All portions of the deck and/or related appurtenances (e.g., support post) more than three feet into the side setback must be removed by applicant.

Appellant does not appeal the first or second actions of the Planning Commission. However, if the applicant appeals the second action, then Appellant intends to argue in support of the Planning Commission's action on appeal because a granting of the variance would be legally unsupportable under Placer County Code section 17.60.100.

Appellant appeals the third action of the Planning Commission based on all the arguments made by Appellant in the record, including those made by Appellant in writing before the hearing, those made by Appellant at the hearing to the Planning Commission, and those to be made before or at the Board of Supervisors' hearing. To summarize briefly, the basis for the appeal is that the Planning Commission should have denied the variance in its entirety because there is not substantial evidence to support the legal findings required by Placer County Code section 17.60.100 to grant the variance.

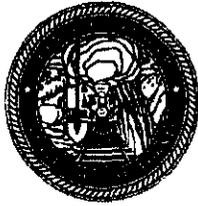
In particular, there are not special circumstances applicable to the Lundberg's property and, even if there were, those special circumstances do not deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The record contains no evidence of legally-recognized special circumstances or comparable properties in the same vicinity and under identical zoning restrictions to allow an encroaching deck to remain under these circumstances.

The basis relied on in the Staff Report for the granting of the variance is longstanding use, the allegation that a prior version of Placer County Code previously allowed intrusion into the side setback by up to three feet, and the fact that County staff marked "existing" on the Lundberg's 2010 plan submittal for the upper deck. These are not special circumstances supporting a variance.

Longstanding use is covered by a separate portion of Placer County Code governing nonconforming uses. Longstanding use is not a special circumstance or a legal justification for a variance. The decks at issue here are not nonconforming uses because they never complied with Placer County Code, even the outdated Placer County Code.

The variance constitutes a grant of special privileges to build into the side setback by up to three feet. The granting of the variance would adversely affect public health or safety (particularly snow shedding and fire danger), and is injurious to nearby property or improvements, including Appellant's property.

This appeal is based on the record to date, including all submissions and comments by or on behalf of Appellant or any other person or entity, all further submissions to the record by Appellant, applicant, the County or any other person or entity, and all public comments at the Board of Supervisors' hearing on the variance application.



PLACER COUNTY PLANNING SERVICES DIVISION

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PLANNING APPEALS

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—OFFICE USE ONLY—

Last Day to Appeal _____ (5 pm) Appeal Fee \$ 536-
Letter _____ Date Appeal Filed 6-2-14
Oral Testimony _____ Receipt # M-0303038
Zoning _____ Received by [Signature]
Maps: 7-full size and 1 reduced for Planning Commission items Geographic Area _____

—TO BE COMPLETED BY THE APPLICANT—

1. Project name Lundberg Residence Variance (VAA 20140026)
2. Appellant(s) Alan and Alvina Lundberg (916) 485-5807
Address 1346 Kings Way, Telephone Number Tahoe Vista CA Fax Number 96140
City State Zip Code

3. Assessor's Parcel Number(s): 112-230-028

4. Application being appealed (check all those that apply) Application Number
 Administrative Approval
 Use Permit
 Parcel Map
 General Plan Amendment
 Specific Plan
 Environmental Review
 Minor Boundary Line Adjustment
 Tentative Map
 Variance VAA 20140026
 Design Review
 Rezoning
 Rafting Permit
 Planning Director Interpretation _____ (date)
 Other: _____

5. Whose decision is being appealed: Planning Commission (see reverse)

6. Appeal to be heard by: Board of Supervisors (see reverse)

7. Reason for appeal (attach additional sheet if necessary and be specific):
See attached.

(If you are appealing a project condition only, please state the condition number)

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Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s)

Alan Sundberg 5/30/2014
Debra Smith 5/30/2014

PLACER COUNTY ZONING ORDINANCE SECTION 17.60.110

Rulings made by the below are considered by the Planning Commission:

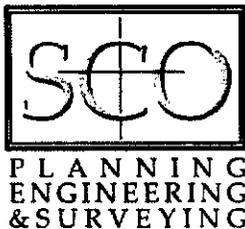
- Planning Director (interpretations)
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For exact specifications on an appeal, please refer to Section 17.60.110 of the Placer County Code.



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140 LITTON DRIVE
SUITE 240
GRASS VALLEY, CA 95945
TEL: 530.272.5841
FAX: 530.272.5880
WEBSITE: WWW.SCOPEINC.NET
TRUCKEE: 530.582.4043

Lundberg Statement In Support To Their Appeal

This appeal involves a requested variance for a small triangular corner, which includes a critical structural post, of a second-story deck that was built in 2011 on the same footprint of a deck that was built in the 1970's. The new deck is attached to a remodeled home that occupies virtually the same footprint as the original 1970's-era residence. Vinita Varma purchased the neighboring unimproved (undeveloped) lot in the fall of 2012 after the Lundbergs had substantially completed construction of their remodeled home and deck. She subsequently hired an attorney who asserted that the Lundbergs' new upper deck extended over the property line.

The Lundbergs had previously understood that the old deck and its replacement abutted, but did *not* extend over the property line. Understanding that they could build the deck in the same location as the old home, the Lundbergs submitted building plans to the County showing the corner of the new deck abutting the property line. The County approved those plans in 2010.

In 2013, the Lundbergs learned for the first time from a newly recorded survey that their new deck did in fact extend over the property line. The Lundbergs rectified the Varma property encroachment by removing two feet from the southern end of the new upper deck. The Lundbergs subsequently requested a variance for a corner of the modified upper deck that remained within the five-foot side yard setback. The Lundbergs supported the proposed findings and recommendations County staff submitted to the Planning Commission.

On May 22, 2014, the Planning Commission voted (5-1) to allow a corner of the upper deck to project three feet into the five-foot setback, including all appurtenances thereto. This vote was consistent with the Zoning Ordinance in effect when the original deck was constructed. That ordinance allowed decks to project three feet into the five-yard setback as a matter of right.

In this appeal, the Lundbergs respectfully request that the Board grant a variance to allow a small corner of the upper deck — and its critical structural support post — to project slightly beyond the three-foot projection allowed under the Zoning Ordinance in effect when the original home and deck were built. The Lundbergs are now willing to remove 1.4 square feet from the corner of the upper deck that is not critical to maintaining the structural integrity of the deck. As a result, the variance requested in this appeal involves a deviation from the 1978 standard of approximately 2.7 square feet. *See Exhibits A & B* for a graphic representation of these facts.

Because the original 1970's-era home did not have a lower deck, the Lundberg's do not appeal the Planning Commission decision requiring that the lower deck conform to the current 5-foot setback. However, the Lundbergs seek confirmation that the horizontal girder located on the lower level may remain as constructed. That girder does *not* extend beyond the 3-foot projection area allowed under the 1978 Zoning Ordinance, and it provides critical structural support for the upper deck. *See Exhibit B & C* for additional information regarding the portion of the lower deck that will be removed, and the horizontal girder that is to remain in place for structural support.

The Lundbergs firmly agree with the proposed findings and recommendations contained in the staff report presented to the Planning Commission, and believe that it identified the special circumstances that support granting this appeal. The Lundbergs respectfully submit that their appeal should be granted to help remedy a situation that arose from a minor error that evidently occurred over 35 years ago when the Lundberg's predecessors built the original home, an error that was discovered only *after* the Lundbergs had substantially completed their home remodel project after proceeding in good faith under the construction permits the County had granted to them.

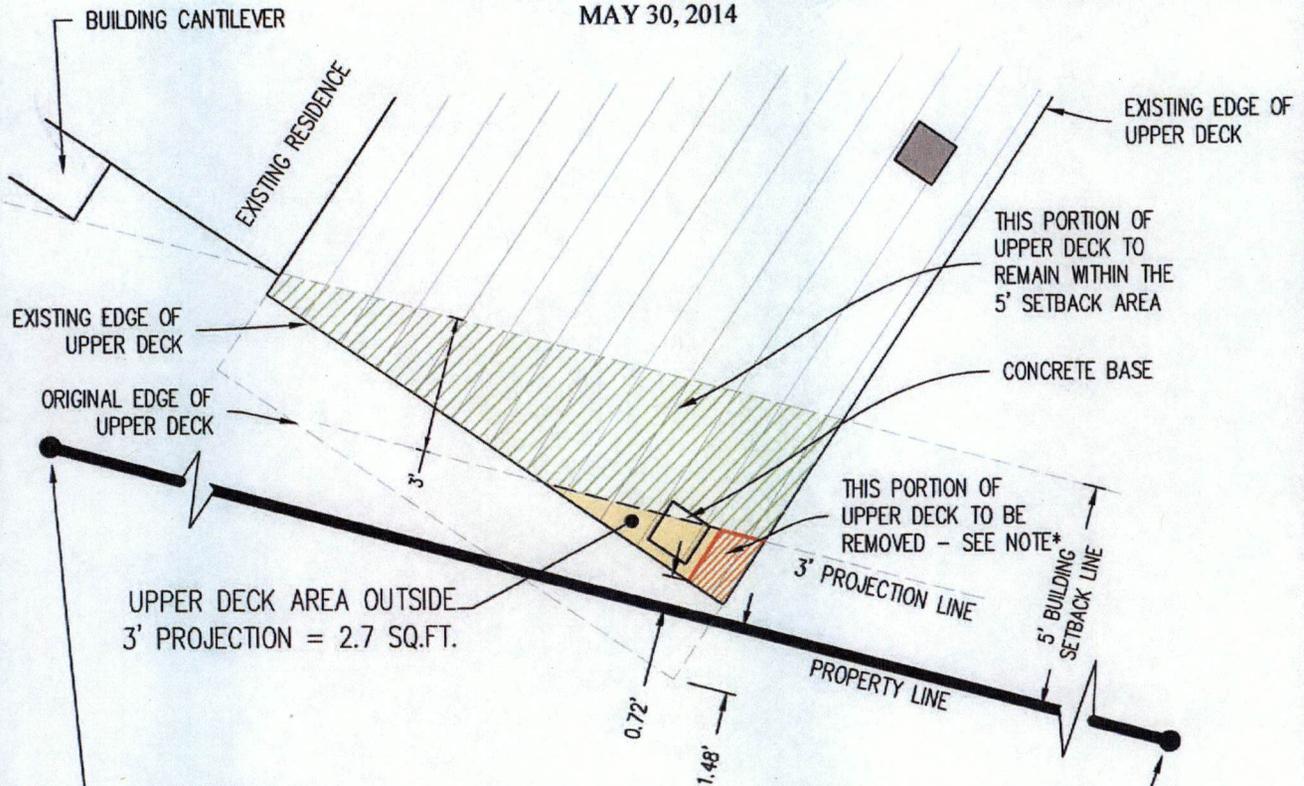
Thank you for your review and consideration of this appeal, and any supplemental materials the Lundbergs may submit in its support at or before the hearing.



5-30-14

EXHIBIT A
FOR
ALAN AND ALVINA LUNDBERG
1346 KINGS WAY, TAHOE VISTA CA
MAY 30, 2014

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JUN 02 2014
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RECORD INFORMATION ONLY:
R.S. # 3250, A 5/8" REBAR
W/YELLOW PLASTIC CAP L.S.
7429 WAS SET. (NO FIELD
SURVEY PER THIS MAP)

-  PORTION OF UPPER DECK TO REMAIN (WITHIN THE 5' SETBACK)
-  * ADDITIONAL PORTION OF UPPER DECK LUNDBERGS ARE WILLING TO REMOVE

RECORD INFORMATION ONLY. PER R.S. #3250, A 5/8" REBAR WITH PLASTIC CAP RCE-20257 WAS FOUND. (NO FIELD SURVEY PER THIS MAP).



**SCO PLANNING
ENGINEERING
& SURVEYING**

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www.scopeinc.net

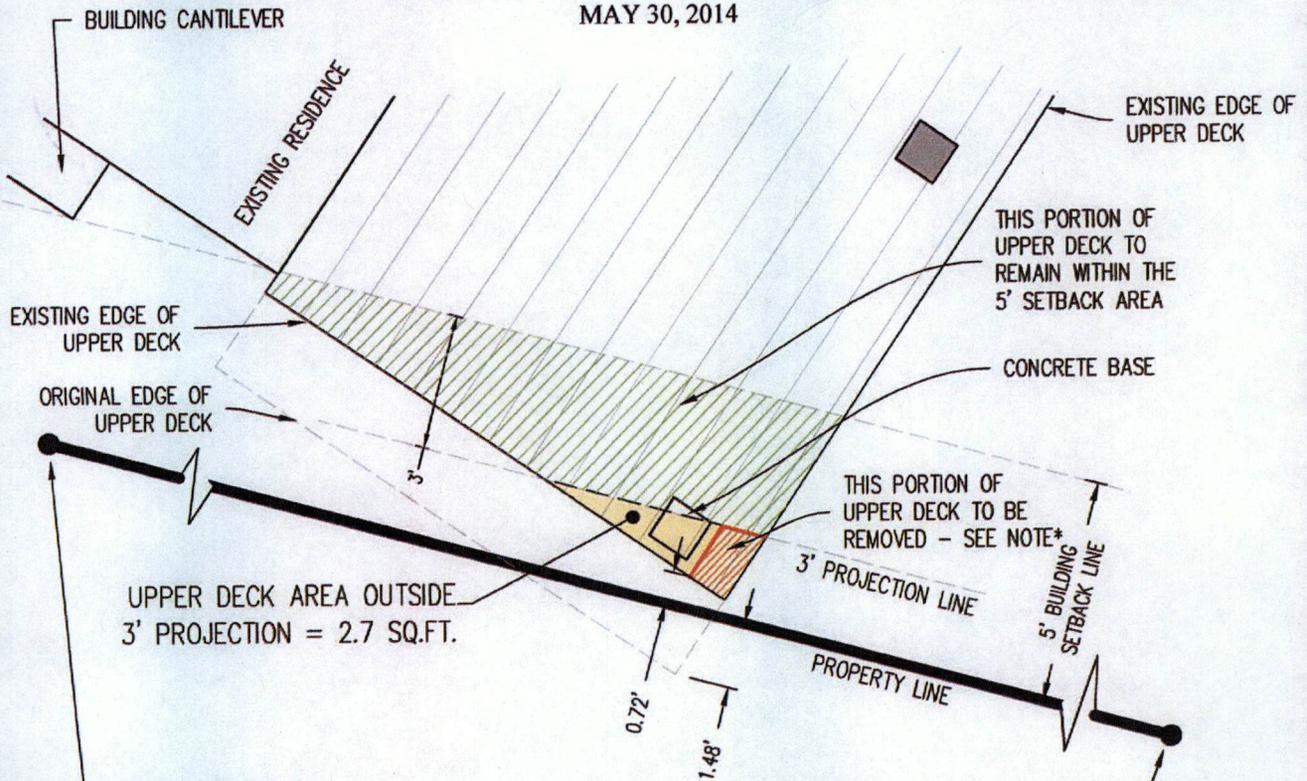


SCALE: 1"=4'

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EXHIBIT A
FOR
ALAN AND ALVINA LUNDBERG
1346 KINGS WAY, TAHOE VISTA CA
MAY 30, 2014

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UPPER DECK AREA OUTSIDE
3' PROJECTION = 2.7 SQ.FT.

RECORD INFORMATION ONLY:
R.S. #. 3250, A 5/8" REBAR
W/YELLOW PLASTIC CAP L.S.
7429 WAS SET. (NO FIELD
SURVEY PER THIS MAP)

 PORTION OF UPPER DECK TO
REMAIN (WITHIN THE 5' SETBACK)

 * ADDITIONAL PORTION OF
UPPER DECK LUNDBERGS
ARE WILLING TO REMOVE

RECORD INFORMATION ONLY. PER R.S.
#3250, A 5/8" REBAR WITH PLASTIC
CAP RCE-20257 WAS FOUND. (NO FIELD
SURVEY PER THIS MAP).



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SCALE: 1"=4'

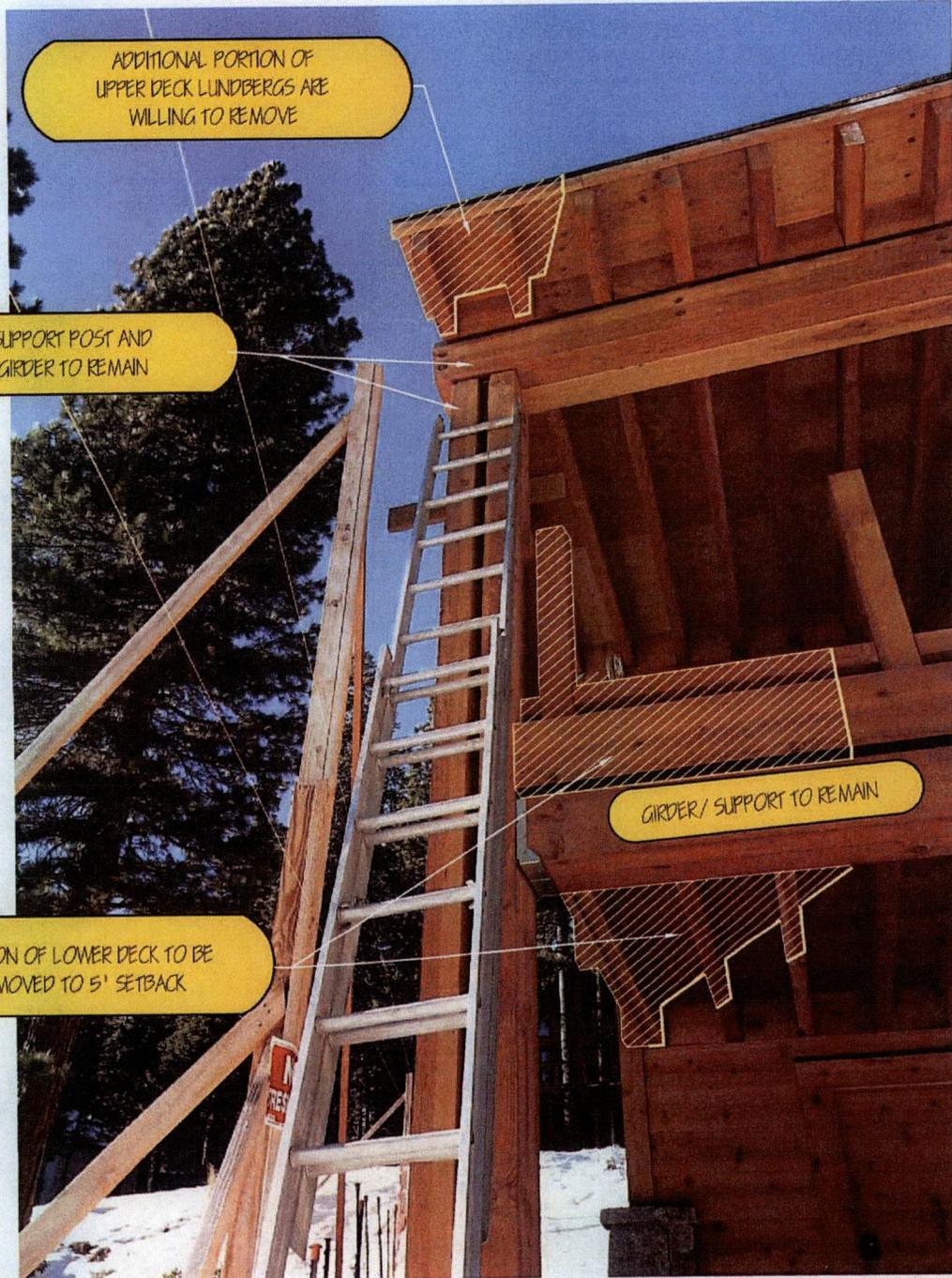
25

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EXHIBIT B
FOR
ALAN AND ALVINA LUNDBERG
1346 KINGS WAY, TAHOE VISTA CA
MAY 30, 2014



ADDITIONAL PORTION OF UPPER DECK LUNDBERGS ARE WILLING TO REMOVE

SUPPORT POST AND GIRDER TO REMAIN

PORTION OF LOWER DECK TO BE REMOVED TO 5' SETBACK

GIRDER/ SUPPORT TO REMAIN

26

C:\Users\Project\27407-101-100000\201405-1-100000-01\Construction - 01.dwg, 5/30/2014 5:03:07 AM

From: vinita varma <vinitavarma@hotmail.com>
Sent: Monday, July 07, 2014 11:24 PM
To: Lisa Carnahan
Cc: Jennifer Montgomery; Shirlee Herrington; Teri Ivaldi; Jennifer Merino; Leah Rosasco; Linda Brown; Steve Kastan; vinita varma; James Roberts; dancqc@yahoo.com; bookemdano50@att.net; Beverly Roberts; viewpoints@sacbee.com
Subject: Response to Staff Report

Ms. Carnahan,

This is in response to the findings and comments made by yourself, the Planning Commission and the Lundbergs' counsel in relation to your Staff Report, which was presented at the Planning Commission hearing on May 22, 2014, in Auburn.

I have read your draft Staff Report that was prepared for the hearing in April. Your final report is a complete about-face on your findings for the draft report. How did your findings change? What prompted this radical departure?

1. Zoning Ordinance:

You stated that the Zoning Ordinance, at the time the original home on the Lundberg property was built, allowed unenclosed porches, or stairways, fire escapes or landing places to extend into the side setback by three feet. According to setback requirements that were provided to me by the Planning Department and the North Lake Tahoe Fire Protection District, this did not include decks thirty inches or more above natural grade, porches, or other indoor or outdoor living areas.

If it was intended as you claim, why was the wording of the Ordinance changed to specifically exclude above-grade decks? I believe it was changed because it was never intended to be interpreted to include above-grade decks and the language was added to reflect that. If the builder of the deck wanted to avail of that loophole, a variance should have been applied for when it was allowed. As Commissioner Gray pointed out, the decks in question are completely new and do not resemble the previous one. No part of the original deck structure has been retained and, therefore, has to be considered a new structure, not an 'existing' one.

The minutes of the Planning Commission meetings discussing the change in language of the Ordinances should reflect their intent and the need to modify the language. This documentation should have been included in

support of your interpretation of their intent. Please share this with myself and the Kingswood West community, as your interpretation will be brought up in future matters concerning side setbacks and their enforcement in every community. Precedent is being set. If it is not a special privilege, everyone should be allowed to avail of your interpretation.

I have been told that any structure, which fit this exemption to the setback at the time, had to be cantilevered. This deck has a significant support post with a concrete foundation in the mandatory setback. How does this deck meet the criteria for this exemption?

Before making your recommendation that the variance be granted, I am assuming that you performed your due diligence to ensure that the foundation of the Lundberg structure, footing included, does not encroach onto my property.

2. 'Existing':

You stated that 'there is merit to the arguments that the pre-existing residence and upper deck had been in place for approximately 36 years, the remodeled house and upper deck do not encroach any farther into the setback than the original house and deck, and that the most recent site plans for the residence and deck remodel were reviewed and approved by both the TRPA and Placer County, with the upper deck designated as 'existing' by County staff.'

There are two ways to look at this -

a) Placer County Planning Department is vigilant in their job and bases their decision and approvals on fact without bias, after performing their due diligence.

In this case, the plans approved by the County in 1978 and 1981 show that the house was built in conformance to side setback requirements of the time, which included a minimum of 5 feet on the southern border. When did the house come to lie at the property line? Between 1981 and 2010, several permits have been issued to this property. How can you say with any surety that this house has been in that position for 36 years? Where is the documentation to support your statement?

Illegal Placement of a Temporary Power Pole on My Property:

At the hearing, the Lundbergs' counsel stated that their temporary power pole was wrongly placed and they relied on that as the boundary line. The power pole is over 7.5 feet into my property. I spoke to the official-in-charge at Liberty Utilities. He told me that the power pole is placed by the builder (in this case, the Lundbergs) and it has to be tagged by Placer County, before they hook up the power. Under what authority did you allow this pole to be placed on my property? Who was responsible for verifying that it was located within the envelope of the Lundbergs' property before tagging it? What measures did they fail to perform to ensure proper placement?

According to my topographic survey, which I will discuss later, a power pole has illegally been on my property since at least 2003. When was this deck really built? Why was a power pole on my property 7 years prior to the latest remodel?

b) Placer County issues approvals without performing their due diligence or carrying out the mandate of their job. In which case, you have failed the community that you work for.

On the 2010 site plan, County staff circled the edge of the upper deck as 'existing' at the property line. How does that constitute approval? In 2010, five foot minimum setbacks were required. How could you not go back to check the records, in your possession, to verify that this deck was allowed to be there in the first place?

You claim that it is commonplace for plans to be approved without a survey. In the same paragraph, you stated that the house and deck were represented to meet the setback. How did you approve the site plan when such an inconsistency existed?

The site plan places the corner of the deck on the property line. What are the chances of that being accurate without a licensed survey?

When preparing plans and applying for permits, did the Lundbergs never refer to the original plans of the home? How did they determine what was allowed and how much they could add to their square footage? Don't you keep a record when someone comes to the counter to access documents and which documents they have accessed? It is impossible to believe that the Lundbergs did not have prior knowledge of this encroachment.

How did staff determine the location of the property line and the corner of the deck? Was the property line strung? Who did it? Were they licensed to do so? What measures did Placer County take to verify its accuracy?

Commissioner Gray stated that the property line had to be strung before the new foundation could be poured. Who verified and signed off on this?

Topographic Survey:

I have a topographic survey, done by a licensed surveyor, which shows the Lundberg deck to be on my property in 2003. Placer County does not want to acknowledge this document, stating that it was not submitted to them for verification. By that statement, I will assume that Placer County verifies every map that is submitted to them. What measures are utilized to do this? What did you do to verify Matt Webb's Survey?

I can understand your reluctance to acknowledge my survey. Doing so would mean that you approved a deck to be illegally rebuilt on someone else's property. I agree with your statement that the upper deck did not encroach any further than it already was. The deck was already standing on my property in 2003 as evidenced.

Since you do not want to acknowledge the documentation that I have, you need to be forthcoming with documentation to support your statements. If you had acted in accordance with your mandate, there is no need for supposition. Supposition cannot replace the law.

Corner of the House:

The corner of the house did not encroach into the setback before this remodel. Your statement that it is not encroaching any farther into the setback than before is false. The corner of the house has been brought into the setback by the Lundbergs.

We have never sought to have the Lundbergs remove the corner of their house, though it is within our right to do so. In contrast, moving a deck will be of little consequence.

Where is the Lundbergs' Survey?

You and the Lundbergs' counsel have stated that the findings on my survey will be used to avoid dispute. We waited over a year for the Lundbergs to provide their survey/surveys. You delayed corrective action to give them the opportunity to submit a survey. Let's see it. If you or the Lundbergs want to claim that they are accepting my survey to avoid dispute, they can do so after we have seen what was found.

I spoke to Dennis Meyer, the person they claimed was preparing their survey. He told me that he was never hired to record a survey, rather he was asked to do some discovery. He told me that his findings were basically consistent with ours. He said that we deserved closure to this issue and would ask his clients if he could share

his findings with us. Shortly thereafter, the Lundbergs' counsel sent an email demanding that I refrain from contacting their surveyor. If his findings were in their favor as they claim, they should welcome an exchange, instead of feeling threatened by it.

I did not object when Alvina Lundberg called my surveyor and hurled accusations at him. Instead, I paid for a second survey so he could better establish his findings.

I have spoken to Carl Gustafson, who prepared the Lundbergs' site plan. He said he knew they were trouble from the onset. He said that the Lundbergs did not want the corners verified and the plan was drawn according to information provided by them.

The community-at-large knows that the Lundbergs have been aware of their encroachment for years. Dan Wickman, the Lundbergs' neighbor to the north, has told the Planning Commission that Alvina and himself were aware of the location of all the corner markers, including the two located between the Lundbergs and myself, when they prepared the maps for their boundary line adjustment. I spoke to Ken Foster, who prepared those maps. He said the corners were identified, but the boundary line and encroachment between myself and the Lundbergs were not documented.

Construction of the Lower Deck:

How did you miss that the lower deck was encroaching into the side setback? This was a new encroachment. It was in stark deviation from your 'existing' site plan. You were not aware of it until we brought it up. The site plan is in your possession. It appears that things haven't changed much over the years. There is still a failure to recognize violations. What is the point of submitting plans to you, if you are not going to ensure their strict application? What exactly is the function of the Planning Department?

At the hearing, you stated that a Stop Work Notice was issued for both decks. I received an email in which George Rosasco states that a Stop Work Notice was issued for the deck encroaching onto our property. When we enquired with the County, we were told that the notice did not include the lower deck or rest of the house and the Lundbergs could continue their work on them. How did you allow work on an illegal deck constructed after 2010, within the setback, to continue? The Lundbergs cannot claim financial hardship when they continued with construction after we made our complaint in October 2012.

At the Planning Commission hearing, the Lundbergs' accepted the Commission's decision to deny the variance for the illegally constructed lower deck and agreed to remove it within 60 days. Have the Lundbergs now appealed this decision? In their appeal application for the upper deck, they mention that a horizontal girder, that is part of the lower deck and was never allowed in the approved site plan, must remain. They are also planning to keep a triangular portion of this deck, which was never included in the site plan or approved.

Has the deck been removed yet? Will it be removed in its entirety by the 60 days deadline? Are you going to enforce this decision of the Planning Commission or will the Lundbergs be given a free pass yet again?

Another Illegal Encroachment:

In your conditions for approval of the Lundberg variance, you require that they process an abandonment of the public's interest in the portion of the 10' Multipurpose easement that is affected by the encroachment of a portion of the existing garage.

According to the 2010 site plan, the garage was to be built outside of the 10' easement. The Lundbergs have 'accidentally' encroached into that setback also. Placer County did not catch this one either, before construction reached an advanced stage.

The garage did not exist in the easement prior to the remodel. A variance has not been applied or issued for this. Why aren't you asking for one? In an example you gave to support your approval of this variance, someone who wanted to build on top of an existing garage was required to apply for a variance BEFORE starting construction.

How does this not constitute a granting of special privilege? The Lundbergs are encroaching on two sides now. It appears to be that you are rewarding them for breaking the laws, while expecting the rest of us to live by them.

Extension into the Mandatory 30' Snow Storage Easement:

The site plan allowed the Lundbergs to extend the front of their home into this easement. How was this allowed? Where is the Variance for this? This should be applicable to everyone.

Another 'Accidental' Deviation from the Plan:

The Lundbergs have placed their bear box several feet away from the approved position on the site plan. The affected neighbors had to make a complaint to Placer County. Why was it allowed to be placed deviant to the site plan? How did you miss that? A provision addressing that should have been included in your report.

TRPA:

I have been in touch with Joanne Marchetta's office. I was told that, unless the parcel is on the lakefront, the TRPA relies on Placer County to verify the accuracy of the site plan before signing off on it. If you believe this to be incorrect, I would appreciate a written response from you stating that so I can contact TRPA regarding this.

3. The Lundbergs have acted in good faith:

I must ask on what line of thinking this statement was based.

a) 'The Lundbergs have attempted to resolve the encroachment issue by removing the portion of their upper deck which had been encroaching.'

A Stop Work Notice was issued on May 20, 2013. A Notice Of Violation was issued on November 7, 2013. Only then, after applying for yet another extension, did the Lundbergs remove the portion of their deck, that you have allowed to remain on my property since September 2012. They did not try to resolve anything. They were forced to and have waited till the very last minute to comply with anything that does not favor them.

To top that, the Lundbergs claim that they have already compromised by removing the portion of the deck that was on my property and cannot be expected to compromise further. How do you endorse someone with this line of reasoning?

b) You stated that 'either approval of a variance or a property line adjustment would be the method utilized to correct the problem' of an encroachment.

What you are saying here is that if I am not happy with the lot that I have purchased and wish to build my house a certain way, I can encroach into someone else's property and get a property line adjustment to rectify my greed? How is that not injurious to the person who spent their hard earned money to buy something that probably means something to them? Is that how you protect the rights of every resident and taxpayer of Placer County who contribute to your paycheck?

If the Lundbergs had any good intention, they would have bought this property from the previous owners for what they wanted for it and spared me this travesty.

e) The Lundbergs have cut down more than a dozen grown trees on my property to enhance their view. They were fined by the TRPA for this. Does someone who respects the property rights of others indulge in such acts of vandalism and trespass?

The Lundbergs have had numerous run-ins with the neighbors. I am told that your Sheriff should have quite a file documenting her trespasses and illegal actions. How many crimes is she going to be allowed to commit before Placer County chooses to take action against her?

4. Fire and Safety:

Several of us have spoken to Chief Alameda regarding this case and your statement. You have misrepresented his opinion of this situation. He told me that he would have never signed off on this remodel if he knew there was an encroachment. He also told me that your handling of this situation has prompted a review and change in the fire policy for the entire basin. There will be no further rubber-stamping without a review for plans submitted by the Planning Department. I do not believe that such drastic action would have been taken if this was not a matter of concern.

Yes, I will build according to current code. Is the Lundbergs' residence built to current code requirements for fire safety? In their letter to Michael Johnson in November 2013, the Lundbergs stated that their building permit was issued in 2010 with the stipulation that the work be completed by Spring 2011, or they would be subject to increased fines and the requirement to install a house sprinkler system. It is July 2014 and their remodel is far from complete. Has the sprinkler system been installed?

You have stated that I am not at any additional risk from the Lundberg home encroaching into the setback. Are you ensuring me that you will accept responsibility if a fire should spread from the Lundberg structure to mine or vice versa? If you do not enforce the setback and claim I am not at risk by failing to do so, the County will need to accept responsibility if such an event should occur. The spirit and intent of the setbacks are being violated.

Snow Shedding:

Commissioner Gray stated that 5 foot setbacks are needed on both sides of the property line to accommodate the heavy snow loads experienced in this region. A variance will expose both our homes to significant damage year after year. I will observe the setback. If a variance is granted, the Lundbergs will not. Who is going to be responsible for damage caused by the lack of adequate setbacks when they arise?

Lundberg Building Permits:

Several contractors in the neighborhood have shared their concern about the indefinitely extended building permits that Placer County has issued to the Lundbergs. Is this another special privilege that has been granted to them?

I have been told that the average person building a house is given 2 years to complete their project, with the ability to be granted a 1 year extension if required. The Lundberg permits have been active for at least 4 years. They are not close to completing their project. Your Stop Work Notice was only issued for the deck.

5. Access:

You stated that 'in discussions with Ms. Lundberg, she has stated that any future maintenance required on the house or deck can be accomplished from the Lundbergs' side of the property. In staff's site visit of the property, there appeared to be ample room for the Lundberg's to maintain the deck and house from their side of the property line, without the need to trespass on Ms. Varma's property. Therefore, Ms. Varma's concern of the Lundberg's perceived lack of access to the deck and house are unfounded.'

I consider this statement to be extremely disturbing and a personal attack. How many separate acts of trespass constitute a crime? By stating that my concern is unfounded, you are condoning the illegal felling of over a dozen trees on my property, building an illegal deck on my property, maintaining an illegal power pole on my property, illegally grading and dumping spoils on my property, vandalizing my fence, illegally maintaining erosion control fencing on my property, parking construction equipment on my property and being caught on film on my property. Please explain your understanding of the term 'unfounded' and 'trespass.'

Considering your statement, there may be credence to Alvina Lundberg's claim that Placer County asked her to cut my fence, enter my property and remove her illegally placed erosion control fencing. Under what authority did you grant her permission to do this? Is that the reason the Sheriff declined to take action when presented with indisputable evidence? Did you grant her permission to cut my trees also? She seems to think so and you seem to hold her statements in high regard.

By condoning such behavior, you are agreeing that all of us have the right to use another's property to further our agenda without fear of repercussions. The sheriff will not act because this is accepted and any concerns are 'unfounded.'

If you choose to deny what I have stated here, I will ask you what skewed and suspect logic did you base your statement against me on? A single act of trespass is illegal. If you condone such criminal activity, what does that make you?

6. Use of Varma's property:

You have stated the need to prevent further financial hardship for the Lundbergs. In your presentation, you claimed that they would not be able to use their sliding glass door if the setback is enforced. Is that sufficient reason to grant a variance? I have been told that their slider opens on the other side and modification of the deck will not affect their ability to use it. Why are you not concerned about the financial hardship that you are causing me?

I will build my home at the setback. I will build my home according to Code. The Lundbergs' encroachment will affect where I place my home. In turn, it will affect the Lundbergs. I cannot invest the fortune that this house will cost me based on your feeble assurances. I will be forced to build my home in a manner to provide me with as much security from fire and to protect my privacy from individuals who have already caused me significant financial harm and personal injury.

A granting of a variance to setbacks does affect the enjoyment of my property. You are adding a significant financial burden to me by forcing me to build around a mistake made by you, rather than according to my lot. By doing that, you are causing injury to the financial wellbeing of my family. This is not something I will take lightly.

In Conclusion:

I think I speak for the rest of the community in reminding you what the true spirit of the Zoning Ordinances is. As my counsel referenced at the hearing, each party foregoes the right to use its land as it wishes, in exchange for the assurance that neighboring properties be similarly restricted. Reciprocity is key.

By allowing these encroachments, you are compromising the aesthetic of my lot and the neighborhood at large. You are opening the door to violations.

The granting of this variance does constitute a grant of special privileges inconsistent with limitations upon other residential properties in the vicinity and in the zone district. How many other properties in Kingswood West have such a problem? How is the topography of the Lundbergs' lot significant compared to all of the surrounding properties? How did everyone else build without encroaching into the side setbacks? If you cannot find examples in the neighborhood, you are granting a special privilege.

You have stated that the variance for the upper deck is for 4.1 square feet. That is grossly incorrect. The variance that you are asking for is for 33.5 square feet. A variance had to be issued for the entire corner of the house in the setback. A variance has to be issued for the entire part of the upper deck in the setback. Contrary to your statement, this is not a minimum departure from the requirements. The Lundbergs have several departures that need to be addressed.

It is evident to the community-at-large that your primary concern is not for the welfare of us as a whole. As the Planning Commissioner said, the County missed this and caused the problem by doing so. In the interest of every individual in Placer County, you need to take responsibility for that mistake and act accordingly in everyone's best interest. That is what we are paying our taxes for.

Awaiting your response.

Vinita Varma

cc rrexparris

From: Michael D. O'Lear [<mailto:bookemdano50@att.net>]
Sent: Tuesday, July 08, 2014 12:41 PM
To: Lisa Carnahan
Subject: Regarding the Vinita Varma problem with the Lundbergs.

Ms. Carnahan,

My wife and I sent an email to be read at the hearing, but I do not know if it was read. We did not attend for two reasons. One we were to be several hundred miles away on business, and two, we believed the outcome to be self evident. Having spent 20 years in and out of the judicial system, I had the false impression that justice would be served.

We were astonished upon hearing that the Lundbergs were granted such special privileges. In 1994 we did a large remodel of our home at 1357 Kings Way and "jumped through the hoops" as required by the Planning Commission which took over 1 year to become "legal". We were turned down in our attempt to move our front deck out further toward the street, as it would encroach on the 30' snow storage.

Your findings in this matter gives the impression that you decide cases as the old New Jersey saying, "everything is legal in Jersey till you get caught", but worse, even when caught, you grant special privileges. I am not just astonished, I am appalled. Ms. Lundberg has never played by the rules, while she knows them well. I'll bet she was not fined the \$120,000 for illegally cutting down the 12 trees on the Vinita Property, so she has learned the "crime does pay".

I will advise the Varma's that we will not miss any possible future hearing that may result from this, even if we have to fly the 2500 miles back home to attend.

Sincerely,

Michael D. and Joan M. O'Lear



**RECOMMENDED CONDITIONS OF APPROVAL – VARIANCE
'LUNDBERG RESIDENCE" FOR UPPER DECK (PVAA 20140026)**

THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.

1. Approval of this Variance (PVAA 20140026) allows a maximum three-foot encroachment into the five-foot setback for the upper deck and all appurtenances thereto. (PLN)
2. The applicant shall defend, indemnify, and hold harmless the County of Placer, the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorney's fees awarded in any proceeding brought in any State or Federal court, challenging the County's approval of that certain Project known as the Lundberg Variance (PVAA 20140026). The applicant shall, upon written request of the County pay, or at the County's option reimburse the County for, all reasonable costs for defense of any such action and preparation of an administrative record, including the County staff time, costs of transcription and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating to the approval of the Project. Upon written request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provisions of this condition. (PLN)
3. A portion of the existing detached garage is affected by an existing 10' Multipurpose Easement (MPE) (ref: Kingswood West, recorded in Book I of Maps, Page 73). Prior to any Building Permit final approval, the applicant shall process an abandonment of the public's interest in the portion of the easement that is affected by the encroachment (contact the County Right-of-Way agent, John Weber at 530-745-7564). (ESD)
4. This Variance (PVAA 20140026) shall expire on August 1, 2016, unless previously exercised with a final inspection for the upper deck. (PLN)

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5 ALAN AND ALVINA LUNDERG

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8 **PLACER COUNTY BOARD OF SUPERVISORS**

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10 ALAN AND ALVINA LUNDERG

11 Appellants,

12 vs.

13 VINITA VARMA,

14 Respondent.
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Case No.: ER13-037

**DECLARATION OF CARL RICHARD
GUSTAFSON**

1 I, CARL RICHARD GUSTAFSON, declare:

2 1. I have personal knowledge of the facts contained in this declaration, and if called
3 today as a witness, I could and would testify competently to such matters.

4 2. I am a registered professional California licensed Civil Engineer, #18629 issued
5 March 21, 1969. That license authorizes me to do land surveying. I have practiced primarily in the
6 Tahoe-Truckee area since 1969. The Lundbergs first contacted me in 2006 to create a
7 Topographical/As-Built map of their 1970's era home, located at 1346 Kings Way, Tahoe Vista,
8 California. During my subsequent survey of that property, I sighted the Lundberg's southern
9 property line with an assistant, and found that the corner of their existing deck touched the property
10 line. This fact was shown on the final Topographical/As-Built map I prepared for the Lundbergs, a
11 true and correct copy of which is attached to this declaration as **Exhibit A**. When I submitted the
12 attached Topographical/As-Built map to the Lundbergs, I believed that it accurately depicted the
13 location of the existing 1970's era home in relation to the southern property line.

14 3. In my survey practice over the years, I have encountered numerous setback and
15 encroachment occurrences. In the cases when I was hired to address those issues, I was able to
16 resolve the matter by submitting a Minor Property Line Adjustment to Placer County.

17 4. After I learned of the present dispute involving the location of the Lundberg's new
18 home, I obtained a copy of the original 1970's Site Plan for 1346 Kings Way. A true and correct
19 copy of that Site Plan is attached as **Exhibit B**. One of the problems with that site plan was that it
20 wasn't prepared by a licensed surveyor.

21 5. In my opinion, Placer County should require Topographical maps be prepared by a
22 California licensed Land Surveyor since they are the basis for Site Plans in Building documents.
23 That would help reduce the numerous setback and encroachment problems that have occurred.

24 6. I have also reviewed the 1970's Murray & McCormick Improvement Plans that were
25 prepared for 1346 Kings Way. Those plans showed the property line going between two water
26 boxes that are actually both located south of the Lundberg's property. It appears that this error
27 misled the original 1970's contractor, and resulted in the contractor building the southern portion of
28 the deck too close to the property line. In the Topographical/As-Built map I prepared for the

1 Lundbergs, I showed that these water boxes were incorrectly placed and that the Lundberg's utilities
2 are about 5 feet farther to the south of their property line.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 9 day of July, 2014, at Olympic Valley, California.

5 
6 CARL RICHARD GUSTAFSON

7 **NOTE: Exhibits A & B referenced in this**
8 **declaration where not received by County staff**
9 **as of 07-16-14. sih**



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PLACER COUNTY BOARD OF SUPERVISORS

10 ALAN AND ALVINA LUNDERG

11 Appellants,

12 vs.

13 VINITA VARMA,
14

15 Respondent.

Case No.: ER13-037

DECLARATION OF PETER S. GERDIN

1 I, PETER S. GERDIN, declare:

2 1. I have personal knowledge of the facts contained in this declaration, and if called
3 today as a witness, I could and would testify competently to such matters. I am providing this
4 declaration in support of Alan and Alvina Lundbergs' request for a variance for 1346 Kings Way,
5 Placer County, California ("Subject Property").

6 2. I have been a licensed architect in the state of California, No. C-1384 7, since May
7 24, 1983, working the entire time in the Truckee/North Tahoe area.

8 3. I presented my first set of Building Addition Plans for the Subject Property to the
9 Tahoe Office of the Placer County Planning Department in 2008, and submitted my first set to the
10 Planning and Building Departments on February 26, 2009. These plans were approved by the
11 Planning and Building Departments, and reviewed for Code Compliance on February 11, 2010. A
12 Permit was issued (#32807.09) for these plans that showed a deck encroachment into the side
13 setback.

14 4. Under a June 11, 2010 Agreement for Services, I revised these previously approved
15 plans to include an extension (22' width x 4'-8' depth) to the front of the house. The same deck
16 encroachment shown on the plans the County approved under Permit No. 32807.09, was shown on
17 these revised plans. These new plans were submitted in August 2010, and approved by the Planning
18 and Building Departments. The County issued a new permit on May 12, 2011, using the same
19 permit number (32807.09) as before.

20 5. In working with the Lundbergs on this project, our intention was to reconstruct the
21 house and deck, as built in the 1970's, utilizing essentially the same footprint for the house (with the
22 exception of the above-noted extension to the front of the house), and exactly the same footprint for
23 the deck.

24 6. The Lundbergs provided me with an "as-built" Topographic Survey from Carl
25 Gustafson, Civil Engineer, dated May 29, 2007, which we used as our Site Plan for the project. I
26 determined that this survey showed the correct house location on the lot and the corner of the
27 existing southern deck touching the property line. The remodel plans the County approved under
28 Permit No. 32807.09 showed the upper deck in the same location as the existing original deck.

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