



COUNTY OF PLACER
Community Development Resource Agency

**Planning Services
Division**

Michael J. Johnson, AICP
Agency Director

Paul Thompson
Deputy Director of Planning

HEARING DATE: March 28, 2013
ITEM: 4
TIME: 10:40 am

TO: Placer County Planning Commission
FROM: Development Review Committee
DATE: February 21, 2013
SUBJECT: **APPEAL OF A ZONING ADMINISTRATOR DECISION
VARIANCE (PVAA 20120334)
TUMA RESIDENCE
CATEGORICAL EXEMPTION**

GENERAL PLAN AREA: North Tahoe Area General Plan

PLAN AREA STATEMENT: 025-Kingswood East Residential

ASSESSOR'S PARCEL NUMBER: 111-110-040

STAFF PLANNER: Allen Breuch

LOCATION: The project is located at 7612 Forest Glen Drive in the Tahoe Vista area.

APPLICANT: David Hopp, David Design and Development Inc., on behalf of Rafid Tuma

APPELLANT: Louis Basile, Porter Simon Professional Cooperation, on behalf of Laurie Stevenson

PROPOSAL:

Laurie Stevenson is appealing the Zoning Administrator's approval of a Variance (PVAA 20120334) to the side yard setback requirement of 5 feet from property line to 2 feet (one-foot to eave) in order to construct an addition to an existing residence on the easterly side of the property line.

CEQA COMPLIANCE:

The project is Categorically Exempt from the provisions of CEQA per Section 15305 CEQA Guidelines and Section 18.36.070 (Class 5 A. - Minor Alterations in Land Use Limitations) of the Placer County Environmental Review Ordinance.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:

Public notices were mailed to property owners of record within 300 feet of the project site. Other appropriate public interest groups and citizens were sent copies of the public hearing notice. Community

Development Resource Agency staff and the Departments of Public Works, Environmental Health, and the Air Pollution Control District were also transmitted copies of the project plans and application for review and comment.

PROJECT DESCRIPTION:

On November 14, 2012, David Design and Development, Inc. submitted an application for a Variance to the side yard setback requirement of 5 feet from property line to allow for the construction a garage addition with living space above. The addition is proposed on the easterly side of the existing house and would be located 2 feet (one-foot to eave) from property line (Attachment B).

BACKGROUND:

On January 2, 2013, the Zoning Administrator heard the Variance request. At that hearing, the Zoning Administrator considered the report (Attachment C) from the Development Review Committee, who recommended approval of the Variance request, as well as an email from the easterly adjacent property owner, Thomas O'Rourke who had no objection to the Variance. The Zoning Administrator also received correspondence from Jeanne and David Nestle who recommended denial of the Variance since the Kingswood Estates Homeowners Association Covenants, Conditions and Restrictions (CC&Rs) stipulated a 10-foot side yard setback would reduce property values and create a greater fire risk. Another email was received from Tim Alameda, North Tahoe Fire Protection District, requiring the applicant to meet the fire district requirements (Attachments D). At the hearing, the Zoning Administrator received testimony from Laurie Stevenson, a neighbor, who spoke in opposition to the Variance. Ms. Stevenson cited the potential for the addition to have a visual and aesthetic impact and that the addition did not meet the Kingswood Estate CC&R's which required a 10-foot setback.

On January 2, 2013, the Zoning Administrator took action to approve the Variance request, provided that the applicant understood their responsibilities to obtain approvals from the Homeowner Association prior to construction of the addition. The Zoning Administrator found special circumstances specific to the site and the proposed location of the residential addition. The special circumstances related to the steep topography of the property, the heavy tree coverage, and the limited area on the parcel that would be suitable for the living area addition and expansion to the existing one-car garage.

On January 10, 2013, Louis Basile, on behalf of Laurie Stevenson, filed an Appeal of the Zoning Administrator's approval of the Variance to the side yard setback.

SITE CHARACTERISTICS:

The subject property is 11,780 square-feet in area and fronts on Forest Glen Road. The Kingswood Estates No. 1 Subdivision where the subject lot is located was originally created in 1966 with the subject residence developed in 1977.

The site is characterized by rocky terrain and sparsely arrayed pine and cedar trees. The average slope across the entirety of the property is approximately 18 percent. The property is developed with a one-story 1,500 square foot single-family home with paved parking and an attached one-car garage.

EXISTING LAND USE AND ZONING:

	<u>Land Use</u>	<u>Plan Area Statement</u>
Site	Residential	025 Kingswood East Residential
North	Residential	025 Kingswood East Residential
South	Residential	025 Kingswood East Residential
East	Residential	025 Kingswood East Residential
West	Residential	025 Kingswood East Residential

DISCUSSION OF ISSUES:

Letter of Appeal:

The following is an analysis and responses of the issues raised by Louis Basile on behalf of Laurie Stevenson in the Appeal of the Zoning Administrator's approval of the Variance (Attachment E).

Issue 1 - Compliance with "Action on a Variance" of Placer County Code Section 17.60.100 (D) 1. a., b., e., and f.

The appellant states that approval of the Variance to the side yard setback must show findings before the *Zoning Administrator can approve or conditionally approve a request for a Variance*. The appellant asserts that the following findings were not made:

Section 17.60.100(D) 1.a- There are special circumstances applicable to the property including size, shape, topography, location or surroundings, and because of such circumstances, the strict application of this chapter would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification

The appellant states that the staff report and findings show no special circumstances depriving the property of privileges enjoyed by other properties in the vicinity. Specifically, encroaching into the side setback is a maximum departure and would also violate the CC&Rs of Kingswood Residents Association which requires a 10-foot setback. A declaration was also submitted by Laurie Stevenson showing 34 homes on Forest Glen Drive not encroaching into the side setback for purposes of a garage.

Response - Staff disagrees with this issue on the grounds that the staff report and analysis, staff testimony and related documentation clearly demonstrated that the proposed garage expansion was dictated by the special circumstances associated with the location of the existing single-family dwelling and the steep topography of the site. Additionally, the rear of the lot contains a deep depression with the level portion of the lot being towards the street. Furthermore, the proposed expansion results in only 84 square feet of garage area within the setback which was the minimum required to construct a two-car garage.

Alternative designs for the garage such as tandem parking were considered behind the residence, but would result in the removal of a 36" cedar tree or would result in a loss of snow storage from the street when considered in the front of the residence. The applicant also stated that there is a limited amount of impervious coverage available which would further limit the location of the addition.

The 39 lots on Forest Glenn Drive within the Kingswood Estates No. 1 Subdivision, not including the cul-de-sac lots and Lots 67 and 68, have a wider lot width than the subject lot of 65 feet. The narrow lot width of the subject property is also a special circumstance that would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Staff concluded and the Zoning Administrator agreed that there were special circumstances due to the steep topography and the location of the existing house and design and the narrow lot width. The proposed addition with garage was the most effective design solution to fulfill the basic intent of covered parking.

Section 17.60.100(D) 1.b. - *The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zone district.*

The appellant states that the Variance constitutes a granting of special privileges that are inconsistent with the 10-foot setback limitations of the existing CC&Rs for the Kingswood Residential Association.

Response - The County adopted setbacks for the Kingswood East Plan Area Statement (PAS 025) allow a total of 15 feet minimum of 5 feet side yard setback. The adopted setbacks contained in the Plan Area Statement supersede the Placer County Zoning Ordinance. Private homeowner associations CC&Rs can be more restrictive and the applicant is responsible to obtain separate approvals from their HOA, as well as obtaining outside agency approvals such as but not limited to TRPA, the local fire district, and the public utility district. The Zoning Administrator and County staff made it clear at the January 2, 2013 hearing that it was the applicant's responsibility to obtain any additional reviews and approvals from these outside agencies including the applicable HOA.

Staff review of other properties in the vicinity of the subject property found that approval of the Variance would not constitute a granting of special privileges. The majority of the residences on Forest Glenn Road are two-stories and have covered two-car parking. The subject property is developed only with a single story 1,500 square foot residence with a one-car garage. Staff review also determined that there are existing residences already within the 10-foot Homeowners Association side yard setback Those properties are located at 7640, 7642, 7645, 7670, and 7682 Forest Glen Road. Therefore, the approval of this Variance does not contribute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and in the same zone district.

Section 17.60.100(D)1.e. - *The Variance is consistent with the Placer County General Plan and any applicable community plan or specific plan*

The appellant states that the Variance is not consistent with applicable specific plan within the Kingswood Estate Subdivision as set forth in its CC&Rs

Response- The staff review of the Variance and analysis determined that the request complied with the North Tahoe Area General Plan. Specifically, the Plan Area Statement for "Kingswood East-Residential" allows the continued use of low density single-family dwelling with two vehicles being parked on-site. The Variance does not authorize a use that is not permitted within the zoning district nor does it authorize a use inconsistent with the Placer County General Plan. The Variance proposed allows for the construction of a two-car garage while maintaining little earth disturbance, tree removal, and preventing significant demolition to the existing residence to accommodate the addition and two-car garage.

Section 17.60.100(D)1.f.- *The Variance is the minimum departure from the requirements of this ordinance necessary to grant relief to the applicant, consistent from Subsection a. and b., above.*

The appellant states that the Variance granted is not the minimum departure from the requirements and in fact would be the maximum departure by allowing the proposed addition to be within one foot of the property line.

Response- Staff met with the applicant and discussed alternatives for a two-car garage on the site. It was determined that in order to meet the width for a two-car garage given the existing location and structural design of the house, tree locations, topography and the available snow storage areas, the proposed location of the expansion 2 feet from the side property line was the most practical and the minimum departure from the requirements of the North Tahoe Area General Plan.

Issue 2 - Applicant, Rafid Tuma, has attempted to circumvent the requirement of Covenants, Conditions, & Restrictions (CC&Rs) of Kingswood Estates Homeowners Association, Inc. by requesting Placer County to grant the Variance for encroachment into the side setback

The appellant states that the Kingswood Estates Homeowners Association recorded its CC&Rs on August 18, 2009 and Rufid Tuma had purchased the property afterwards and was therefore aware of the CC&Rs 10-foot side yard setback requirement. The appellant representative also submitted two declarations from the appellant and John Nelson providing explanatory materials to support the Appeal request (Attachment E). The Declarations include statements with five exhibits discussing the appellant's concerns with the proposed side yard setback Variance.

Response - It is the responsibility of the homeowner to ensure that they are in compliance with requirements of CC&Rs. The applicant has the right to submit a Variance application to the County for review and consideration to our existing County Codes and rules and regulations.

As stated at the Zoning Administrator hearing, it is the responsibility of the property owner to obtain approval from the outside agencies as well as the Homeowners Association that has applicable jurisdiction for the property.

In review of the declaration of Laurie Stevenson, staff has determined that several sections (1 through 4) are informational only relating to being a resident of the Kingswood Estate Subdivision and her obtaining additional opposition letters to the Variance after the Zoning Administrator Hearing which do not require a response. However, staff has responded to sections 5 through 8 of the declaration as they are relevant to the Appeal:

Response to Section 5 of the declaration – This section states that the applicant has not applied for architectural review to the H.O.A. for the proposal to build within the setbacks. As stated above, it is the responsibility of the homeowner to ensure that they are in compliance with requirements of CC&Rs. The applicant has the right to submit a Variance application to the County for review and consideration to our existing County Codes and rules and regulations.

Response to Section 6 of the declaration- This section notes that the County approval is contrary to what is required by the Kingwood Residence Association for side setbacks and that the Association did not attend the Zoning Administrator hearing because they were not notified in a timely manner and were unaware of the proposed Variance. Zoning Code Section County Code section 17.60.140 "Public Hearings" have very specific public notice requirements when a project is set for public hearing. Specifically the public notice shall be mailed at least 10 days prior before the hearing to the applicant, local agencies (such as water and sewer districts and TRPA), any persons requesting to be

noticed, to all property owners within 300 feet from the subject property and notices are posted on the property. Staff confirmed that the Public Notice for the Zoning Administrator hearing was mailed out on December 21st 2011 which was 12 days prior to the hearing and included the Kingswood Residence Association and an affidavit was submitted from David Hopp that the subject property was posted with Public Hearing Notices of the January 2, 2013 Zoning Administrator hearing of the proposed Variance.

Response to Section 7 and 8 of the declaration – These sections note that any structure shall comply with the CC&Rs guidelines which includes but not limited to lot coverage, mass, distance between houses and the density and location of neighboring trees. Photographs were also submitted with several residences on Forest Glen Road including the subject property depicting the open space between structures. It is the responsibility of the applicant to obtain separate approvals from their HOA, as well as obtaining outside agency approvals such as but not limited to TRPA, the local fire district, and the public utility district. The Zoning Administrator and County staff made it clear at the January 2, 2013 hearing that was the applicant's responsibility to obtain any additional reviews and approvals from these outside agencies including the applicable HOA.

In review of John Nelson declaration and exhibits, staff has determined that the declaration is informational only to the Kingswood Residents' Association Architectural Review Committee of their rules and regulations and do not require a response.

The appellant's conclusion requests that the Planning Commission grant the Stevenson Appeal based on the above facts. If the Planning Commission denies with the Appeal, the appellant is requesting a condition be added to require HOA approvals to the side yard setback prior to the issuance of a building permit by Placer County.

RECOMMENDATION:

Staff recommends the Planning Commission deny the Appeal and uphold the Zoning Administrator's decision to approve the Variance for the Tuma Residence subject to the following findings and attached Conditions of Approval (Attachment A).

FINDINGS:

CEQA

This project is categorically exempt from environmental review pursuant to provisions of Section 15305 of the California Environmental Quality Act Guidelines and Section 18.36.070 (Class 5 - Minor Alterations in Land Use Limitation) of the Placer County Environmental Review Ordinance.

VARIANCE:

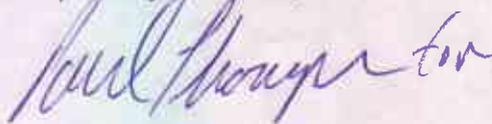
Having considered the staff report, supporting documents and public testimony, the Planning Commission hereby finds that:

1. There are special circumstances applicable to the property, including the narrow lot width, the steep 18 percent slope, the location of a 36" cedar tree, and the existing location and lay out of the single-family residence, and because of such circumstances, the strict application of this chapter would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The proposed location of construction is located within an area which will require the least amount of disturbance and minimal impact to the existing 36" cedar tree and other native vegetation.
2. The granting of this Variance does not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and in the zone district as it has been determined that other properties in the vicinity on Forest Glenn Drive have been constructed

closer than 10 feet from the side property line and include two-stories and covered two-car parking spaces.

3. The granting of this Variance does not authorize a use that is not otherwise authorized in the Kingswood East Residential Plan Area Statement (PAS 025) in which the property is located.
4. The granting of the Variance does not, under the circumstances and conditions, applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements in that there is minimal living space proposed within the side yard setback. The garage will provide easier with safer vehicle access and shelter for pedestrians entering the house during winter snow storms.
5. The Variance is consistent with the Placer County General Plan and the North Tahoe Area General Plan in that single-family residences are permitted uses in the Kingswood East Plan Area Statement (PAS 025).
6. The Variance is the minimum departure from the requirements of the Ordinance necessary to grant relief to the applicant, consistent with Chapter 17.60.100 (D) (1) (a) (b) (Action on a variance), Placer County Code in that the applicant explored other possible alternative site locations for the garage, and living space above, however, in order to meet the width for a two-car garage given the existing location and structural design of the house, tree locations, topography and the available snow storage areas, the proposed location of the expansion to 2 feet from the side property line was the most practical and the minimum departure from the requirements of the Kingswood East Plan Area Statement (PAS 025).

Respectfully submitted,



Allen Breuch
Supervising Planner

ATTACHMENTS:

- Attachment A – Conditions of Approval
- Attachment B – Vicinity/ Site Map
- Attachment C – Zoning Administrator Staff Report
- Attachment D – North Tahoe Fire Protection District and Jeanne and David Nesstle emails received at the ZA hearing
- Attachment E – Letter of Appeal

CC: Louis A. Basile – Appellant representative
David Hopp - Property Owner representative
Michael Johnson – C/DRA Director
Paul Thompson – Deputy Planning Director
Karin Schwab - County Counsel's Office
Sharon Boswell – Engineering and Surveying
Justin Hansen - Environmental Health
APCD
Subject/chron files



**RECOMMENDED CONDITIONS OF APPROVAL – VARIANCE
"TUMA RESIDENCE" (PVAA 20120334)**

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. The Variance (PVAA20120334) is approved for a side yard setback of approximately 2 feet to building (one foot (1') to eave) from the westerly side property line where typically five (5') feet from the property line is required for the construction of approximately 84 square foot of garage area and 84 sq.ft. of living area above on the parcel located at 7612 Forest Glenn Drive (APN 111-110-040-000) as described within this staff report dated December 26, 2012 and as shown on the site plan, elevations, and floor plans and as approved on January 2, 2013 and on file in the Community Development Resource Agency, except as modified by the conditions of approval.

2. The effective date of approval shall be January 2, 2013, unless the approval is appealed to the Planning Commission. In accordance with Sections 17.58.140(D) and 17.58.160(B) (1) of the Zoning Ordinance, the approval of the Variance shall be valid for twenty-four (24) months after its effective date. At the end of that time, the approval shall expire and become null and void unless the time limits of the Variance are extended per Section 17.58.160(B) (1).

3. The Planning Director may authorize minor alterations to the approved plans and conditions of approval in accordance with Section 17.58.180(A) of the Zoning Ordinance. Major changes and alterations to the approved plans and conditions of approval shall be reviewed and approved by the Zoning Administrator in accordance with Section 17.58.180(B) of the Zoning Ordinance.

4. Prior to Building Permit issuance, Community Development and Resource Agency with a letter from the appropriate fire protection district describing conditions under which service will be provided to this project.

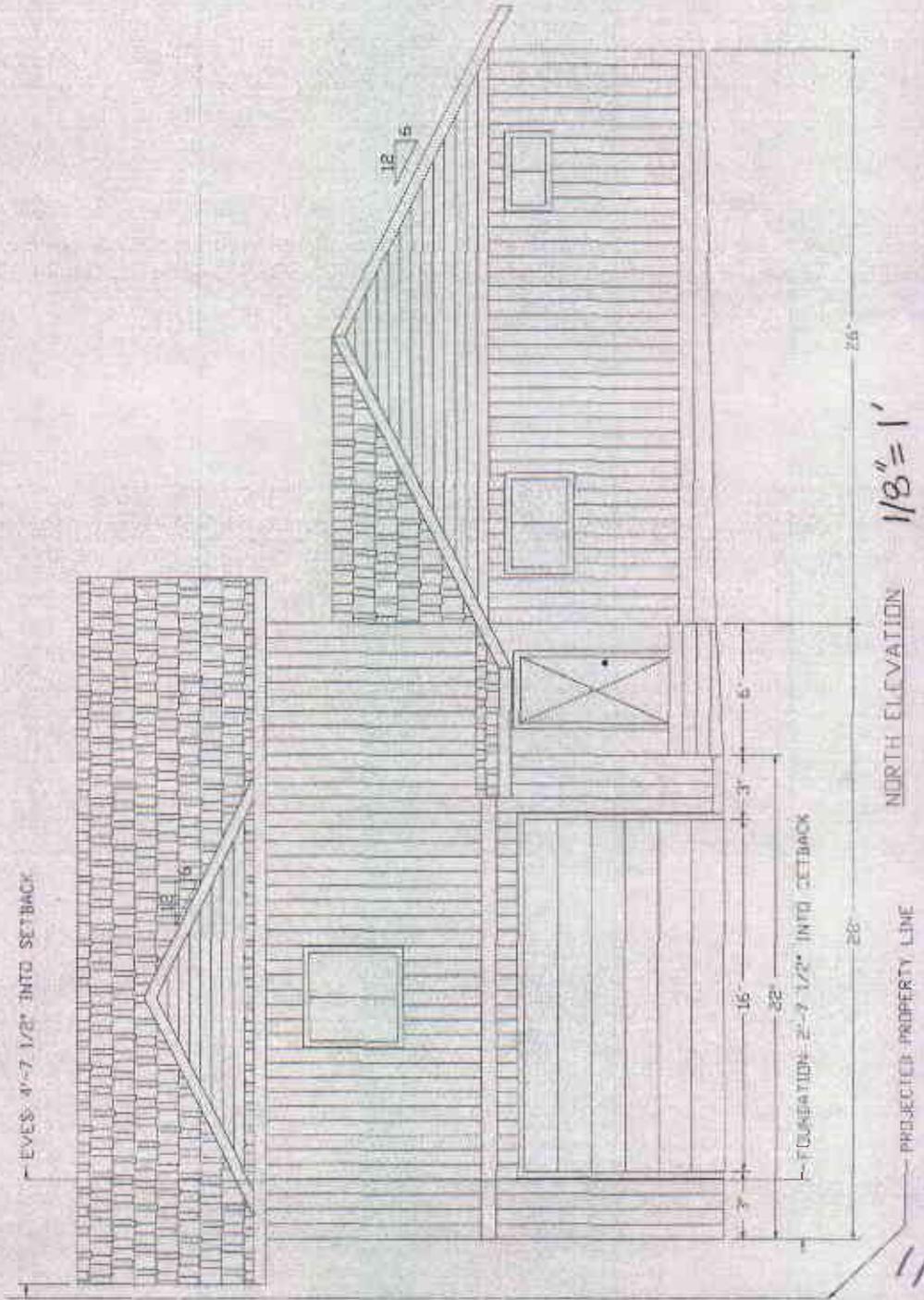
5. Prior to Building Permit issuance, dedicate to Placer County a 20' wide snow storage easement along the property frontage on Forest Glen Drive. The County Surveyor will prepare the legal description of the Snow Storage Easement and the description can be obtained by contacting the ESD. The easement needs to be signed and notarized by the applicant prior to Building Permit issuance.

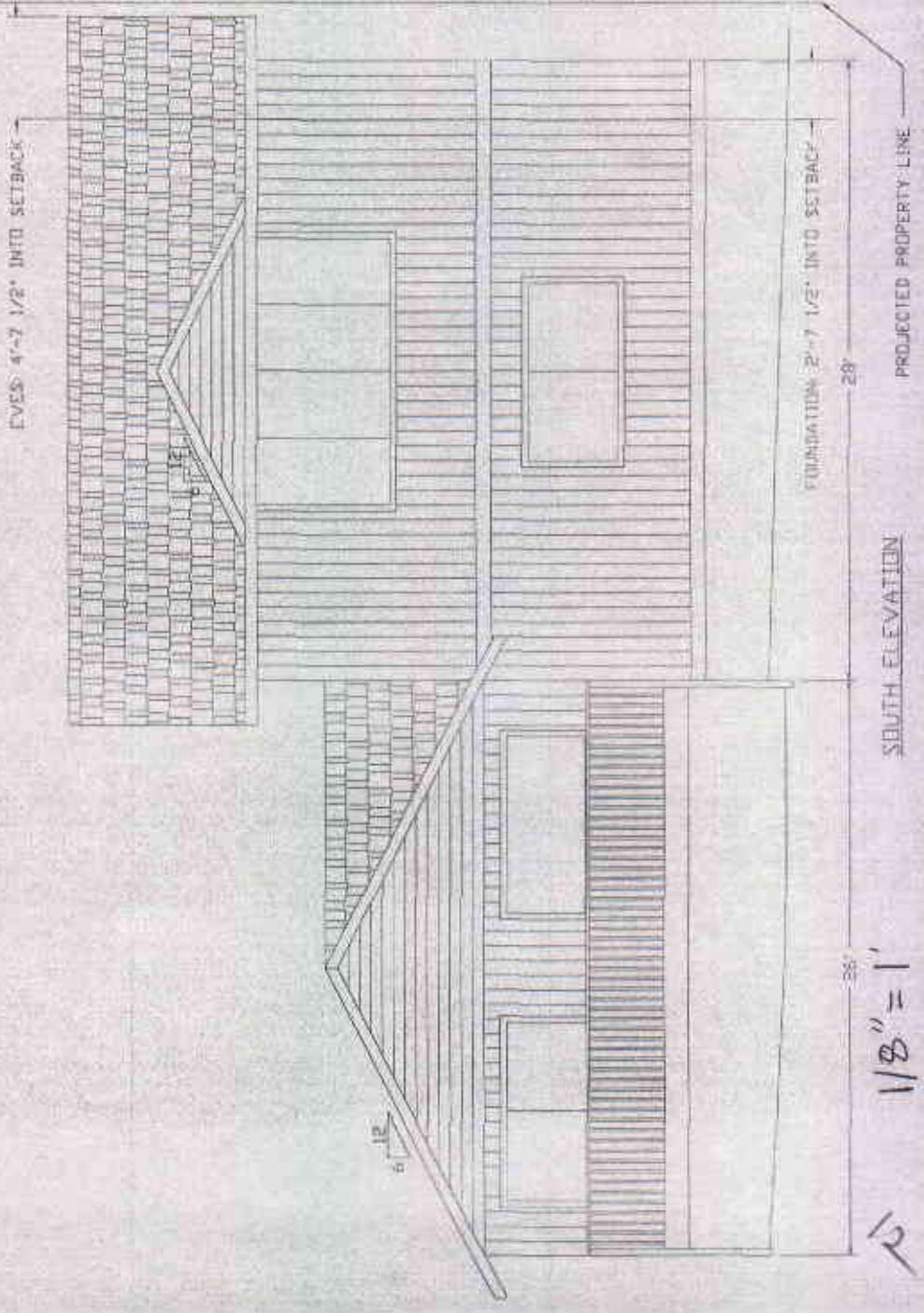
6. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer, the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorney's fees awarded by a certain development project know as the *Tuma Variance*. The applicant shall, upon written request of the County, pay for, or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, 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 request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provision of this condition.

EXERCISE OF PERMIT

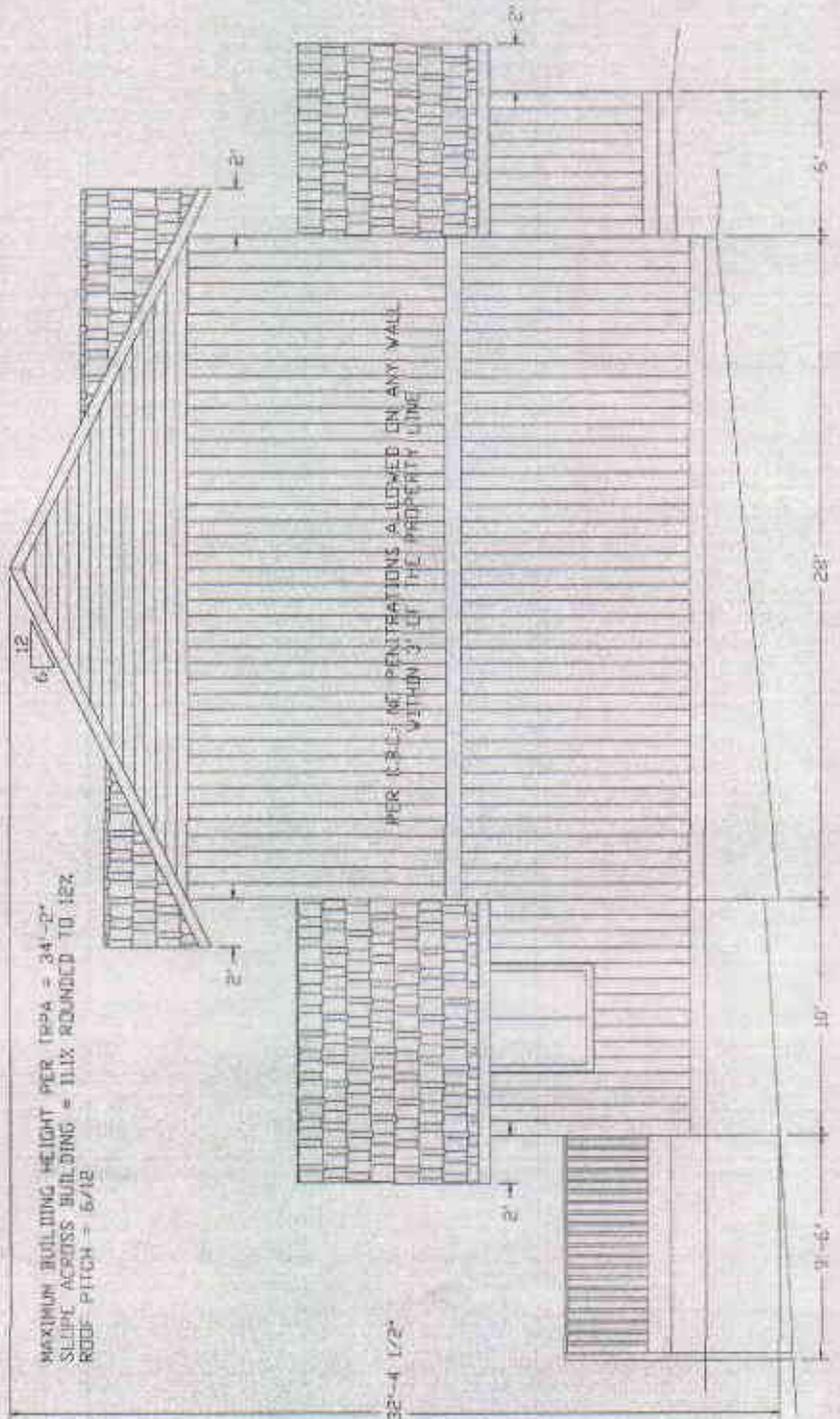
7. Approval of this Variance shall expire on April 2, 2015 unless exercised by issuance of a Building Permit and construction of a foundation for the single family residence and entry deck.

20120034
RECEIVED
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CDRA





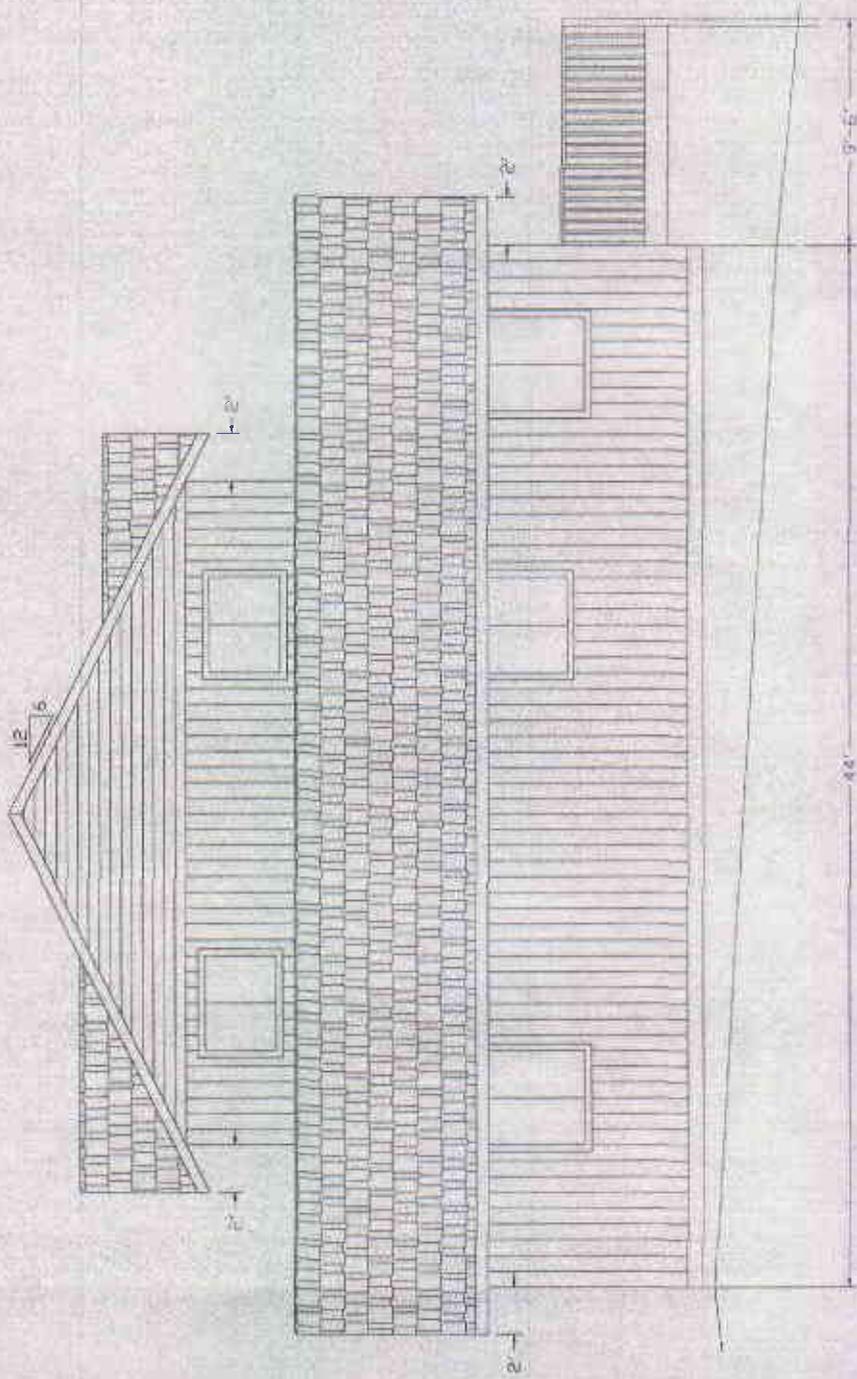
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MAXIMUM BUILDING HEIGHT PER TRPA = 34'-2"
 SLOPE ACROSS BUILDING = 11% ROUNDED TO 12%
 ROOF PITCH = 6/12

APPENDIX 32-4 1/2"

EAST ELEVATION 1/8" = 1'



WEST ELEVATION

1/8" = 1'

14



COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING

HEARING DATE: January 2, 2013
TIME: 1:30 pm

TO: Zoning Administrator
FROM: Development Review Committee
DATE: December 26, 2012
SUBJECT: Variance (PVAA 20120334) – Tuma side yard setback

PLAN AREA: North Tahoe Area General Plan

ZONING: Plan Area Statement 025 "Kingswood East Residential"

STAFF PLANNER: Allen Breuch, Supervising Planner

LOCATION: 7612 Forest Glen Drive, "Kingswood Estates No.1 Subdivision, Lot 69"

APN: 111-110-040-000

APPLICANT: David Hopp from David Design and Development representing the property owner, Rafid Tuma

PROPOSAL: Variance to reduce the side setback requirement to allow for the construction of a two car garage with living space above to an existing single-family dwelling. Request is for a reduction of the five-foot side yard setback to approximately 2 feet to building (one foot (1') to eave) from the westerly side property line where typically five (5') feet from the property line is required.

CEQA COMPLIANCE:

This project is categorically exempt from environmental review pursuant to provisions of Section 15305 of the California Environmental Quality Act Guidelines and Section 18.36.070 of the Placer County Environmental Review Ordinance (Class 5) – Minor Alterations in Land Use Limitation). The Zoning Administrator will be required to make a finding to this effect.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:

Public notices were mailed to property owners of record within 300 feet of the project site. Appropriate agencies, public interest groups, and citizens were sent copies of the public hearing notice. Community Development Resource Agency, Environmental Health Services and the Departments of Engineering and Surveying and Public Works staff were transmitted copies of

15

the project plans and application for review and comment. Comments received from agency staff have been incorporated into this report. One email was received from the westerly property owner which was in support of the project.

PROJECT DESCRIPTION:

The applicant is requesting consideration of a Variance to reduce the side setback requirement to allow for the construction of a two car garage with living space above to an existing single-family dwelling. Request is for a reduction of the five-foot side yard setback to approximately 2 feet to building (one foot (1') to eave) from the westerly side property line where typically five (5') feet from the property line is required.

BACKGROUND:

The parcel in question is an interior 11,780 square-foot parcel, fronting Forest Glen Road. The site is characterized by rocky terrain and sparsely arrayed pine and cedar trees. An average 18% slope is across the entirety of the property with a one-story 1,500 square foot single-family home with paved parking.

The proposed two car-garage will be accessed from Forest Glen Road and attached to the existing home on its westerly side. The parcel is served by public water and public sewer from the North Tahoe Public Service District

DISCUSSION / ANALYSIS:

The applicant is requesting the Zoning Administrator consider allowing for the construction of a two car garage and living space above within the side yard setback. The proposal within the side yard setback would include approximately 84 sq.ft. of garage on the first floor and an additional 84 sq.ft. of living area directly above. The proposed two car garage width is 22' measured from the exterior of the garage. Taking into account the framing and building width of the walls, the minimum interior width of the garage would be reduced to 18', which is the minimum allowed to meet the zoning requirement for parking vehicles side by side. The proposed roof ridged is designed to have any water runoff or snow luff to fall away from the side yard property encroachment line. However, the roof eave will encroach to within one foot of the property line.

The location of the garage and second story is dictated by the location of the existing single-family residence and the topography of the site and based on minimizing disturbance and tree removal. The single-family residence is currently located approximately 35 feet from the front property line with a 20' zoning setback requirement. The topography and location of the existing house makes it impractical to locate the proposed two car garage anywhere else on the property without obtaining a variance to a required zoning setback. Any relocation of the proposed garage would require substantial structural changes to the residence and would make it only practical.

According to the applicant, multiple options were considered for the location and design. However, because of the topography, the site layout and constraints, and the design and location of the existing residence, it was not found to be an acceptable solution.

The proposed project would minimize disturbance in that the existing area that will be used and the project would allow for the use of the existing driveway encroachment and maintain

the existing undeveloped street frontage for snow storage. With the proposed addition there will be no reduction in the number of on-site parking spaces, but it would allow the required vehicle parking to be enclosed and protected from snow, ice and hail.

Staff analysis concludes that special circumstances are applicable to the project because the steep topography of the site and potential traffic safety concerns, as well as the location of the existing improvements, which restricted the use of the site for construction of a garage and living space above.

RECOMMENDATION:

The Development Review Committee recommends that the Zoning Administrator **approve** this Variance (PVAA 20120334) based upon the following findings. Recommended conditions of approval are attached.

FINDINGS:

CEQA

This project is categorically exempt from environmental review pursuant to provisions of Section 15305 of the California Environmental Quality Act Guidelines and Section 18.36.070 of the Placer County Environmental Review Ordinance (Class 5)-- Minor Alterations in Land Use Limitation). The Zoning Administrator will be required to make a finding to this effect.

VARIANCE:

Having considered the staff report, supporting documents and public testimony (if any), the Zoning Administrator hereby finds that:

1. There are special circumstances applicable to the property, including the small size, and awkward shape of the parcel, topography, location or surroundings, and because of such circumstances, the strict application of this chapter would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification in that the development of the parcel with a two car garage and second story above are dictated by the location of the existing single-family residence, the topography of the site and the reduction in tree removal and site disturbance.
2. The granting of this Variance does not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and in the zone district because the circumstances that exist on the subject parcel, particularly the 18% average site slope. The proposed location of construction is located within an area which will require the least amount of disturbance and minimal removal of existing trees and vegetation.
3. The granting of this Variance does not authorize a use that is not otherwise authorized in the zone district in which the property is located.
4. The granting of the Variance does not, under the circumstances and conditions, applied in the particular case, adversely affect public health or safety, is not materially

detrimental to the public welfare, nor injurious to nearby property or improvements in that there is minimal living space proposed around the existing front door within the required front yard setback. The garage will provide easier with safer vehicle access and shelter for pedestrians entering the house during winter snow storms.

5. The Variance is consistent with the Placer County General Plan and the Zoning Ordinance in that Single-Family Residences are permitted uses per the "Kings Wood East" residential zoning district. Furthermore, the construction of a two car garage is consistent with the intent of the Residential General Plan designation of the North Tahoe General Plan.

6. The Variance is the minimum departure from the requirements of the ordinance necessary to grant relief to the applicant, consistent with Chapter 17.60.100 (D) (1) (a) (b) (Action on a variance), Placer County Code in that the applicant explored other possible alternative site locations for the garage, and living space above, however, due to location of the existing residence, the topography, and available areas for snow storage made this location the most practical.

ATTACHMENTS:

Attachment A - Proposed Conditions of Approval

Attachment B – Memo from Engineering and Surveying Department

Attachment C – Memo from Environmental Health Services

Attachment D - Memo from Building Services

cc: Sharon Boswell - Engineering and Surveying Department
Justin Hansen - Environmental Health Services
Jack Venable-Building Services
David Hopp - Applicant

Allen Breuch

From: Alameda, Tim [alameda@ntfire.net]
Sent: Monday, December 17, 2012 2:50 PM
To: Allen Breuch
Subject: Variance PVAA 20120334

Good Afternoon Allen,

NT Fire reviewed the variance request for the 7612 Forest Glen Drive, Tahoe Vista, project (file # 20120334). Additionally, NTFPD reviewed the fire code and Pre-TRPA requirements with David Hopp, David Design and Development. NTFPD approves the 50% encroachment, 2.5 feet, request given the following:

- The addition (garage, living space wall will not have openings.
- Pre-TRPA Defensible Space requirements have been shared with Mr. David.
- The NG utilities will be relocated and protected per NTFPD code and South West Gas requirements
- Smoke and CO detection will be provided per 2010 CSBC
- NTFPD mitigation fees will be assessed given square footage over 500ft².

If there are any questions or items overlooked, please give me a call...Thank you,

Tim Alameda

Fire Marshal
North Tahoe Fire District
(530) 448-4365 (cell)

ATTACHMENT D

ATTACHMENT D

Allen Breuch

From: Jeanne Nestle [jeannenestle@charter.net]
Sent: Tuesday, January 01, 2013 3:57 PM
To: Allen Breuch
Subject: Lettter for Public Hearing For VARIANCE (PVAA20120334) Tuma

This email is in reply to a "Notice of Public Hearing" letter we received, via USPS mail and this letter is for the Public Hearing to be held on January, 2, 2013 1:30 P.M. in Squaw Valley, for: VARIANCE (PVAA 20120334) Tuma

We are requesting that the Variance requested by David Hopp on behalf of Rafid Tuma for approval to allow a side yard setback of approximately two (2') feet from easterly side of property (one-foot to eve) located at 7612 Forest Glenn Drive, Tahoe Visa, APN 111-110-040-000 is **not** approved.

Kingwood Estates, where the property is located is controlled by a homeowners association. Our CCR's clearly stipulate a required minimum set back of **"10 feet to any side lot lines"** and this was disclosed to the owner at time of purchase of the property. Less set back space reduces values of all property's in the neighborhood and also reduces the charm and openness of our neighborhood. Open areas are also a CCR requirement that was disclosed. Also, building homes, tightly packed together create a greater fire hazard in a declared wild fire area that we recently started paying extra taxes (to Cal Fire in addition to our regular property taxes) as we have been designated as a high fire risk area. We bought in this area and pay our HOA dues to protect ourselves from this unprecedented negative change to our CCR's, set back rules and increased fire danger due to houses being built so closely together.

Please do not allow this new precedent to be set for over 200 homes for the benefit of one property owner.

Thank You.

Sincerely,
Jeanne and David Nestle

ATTACHMENT D

20



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 :

TAHOE OFFICE
775 North Lake Blvd., Tahoe City, CA 96146
PO Box 1909, Tahoe City, CA 96145
530-581-6280/FAX 530-581-6282

Staff Report
due 1/31/13

(2/28/13 PC Hearing) 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).

Last Day to Appeal <u>1/14/13</u> (5 pm)		Appeal Fee \$ <u>529.00</u>	
Letter <input checked="" type="checkbox"/>		Date Appeal Filed <u>1/14/13</u>	
Oral Testimony <input checked="" type="checkbox"/>		Receipt # <u>13-0086661</u>	
Zoning <u>PAS 025 "KINGSWOOD EAST RES"</u>		Received by <u>B</u>	
Maps: 7-full size and 1 reduced for Planning Commission items		Geographic Area <u>BAST</u>	

---TO BE COMPLETED BY THE APPLICANT---

1. Project name Tuma side set back - PVAA 20120334

2. Appellant(s) Laurie Stevenson (530) 546-7043 same
 Telephone Number
 Address P.O. Box 54 Tahoe Vista CA 96148
 City State Zip Code

3. Assessor's Parcel Number(s): 111-110-040

<u>Application being appealed</u> (check all those that apply)	<u>Application Number</u>
<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>PVAA 20120334</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: Zoning Administrator
(see reverse)

6. Appeal to be heard by: Planning Commission
(see reverse)

7. Reason for appeal (attach additional sheet if necessary and be specific):
Laurie Stevenson appeals from the granting of the above-referenced variance for the reasons set forth on Attachment 7 (see next page)

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

TAPLN Application and Brochure M
1/16/13
via email

ESD: Rebecca Taber / Sharon Boswell
Facility Services: Janelle Heinzler
Environmental Health
Parks: Andy Fisher
Air Quality: Lisa Carnahan
Air Pollution Control District
Planner: Allen Breuch

Karin Schwab + Paul Thompson

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

Signature of Appellant(s)

James Swenson
[Signature]

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.

PLANNING APPEAL

ATTACHMENT 7

7. Reason for Appeal:

Stevenson appeals from the granting of the variance on the following grounds:

1. Applicant, Rafid Tuma, has not complied with Placer County Code Section 17.60.100, D., 1., a., b., e., and f.; and
2. Applicant, Rafid Tuma, has attempted to circumvent the requirements of the Covenants, Conditions & Restrictions (CC&Rs) of Kingswood Estates Homeowners Association, Inc. (also, "Kingswood Residents Association") by requesting Placer County to grant the variance for encroachment into the side set back.

Appellant's reasoning is set forth as follows:

1. Applicant, Rafid Tuma, has not complied with Placer County Code Section 17.60.100, D., 1., a., e., and f.:

Placer County Code 17.60.100 sets forth findings which must be present before the Zoning Administrator can approve or conditionally approve a request for a variance. Section 17.60.100, D., 1. provides that "approval or conditional approval may be granted only when the granting authority first determines that the variance satisfies the criteria set forth in Government Code Section 65906 which includes the criteria set forth subsections a., b., e., and f. of Section 17.60.100, D., 1. The Tuma application fails to satisfy the criteria set forth in the above sections in the following respects:

A. Section 17.60.100, D., 1., a. requires a finding of special circumstances applicable to the property for which the strict application of Chapter 17 would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Applicant has failed to provide any facts showing that the circumstances concerning the property deprives it of privileges enjoyed by other property in the vicinity. In the background description as set forth in the Staff Report there is no indication that the subject property is deprived of privileges enjoyed by other property in the area or that it has unique characteristics which requires a granting of the variance.

Applicant seeks a variance to encroach four feet into a five foot set back which would enable him to build within one foot of the property line. Such an encroachment is not only a maximum departure from the requirements of Section 17.60.100, but also would violate the CC&Rs of Kingswood Residents Association which requires a ten foot set back. Applicant seeks this set back to enable him to expand a structure into the side set back so as to increase his

garage from one car to two car garage and, in addition, build a second level to his residence. As can be seen in the attached declaration of appellant Stevenson, of the 34 homes on Forest Glen Drive which is the street on which the subject residence is located, no other homes have encroached into the side set back for the purpose of housing a garage or other storage area for vehicles. Of the 34 homes located on the street, 11 have no garage, 3 have a one car garage and 20 have a two car garage. Of the homes and residences with garages, all are located on the property within the side set back lines.

Applicant has not submitted any evidence to the Zoning Administrator to suggest that there are special circumstances regarding his property including size, shape, topography, location or surroundings, and because of such circumstances, require that he must intrude into the side set back in order to accomplish his goals. The submittal to the Zoning Administrator is devoid of any such special circumstances justifying the issuance of a variance. The neighbors' properties, which have either no garage, a one or a two car garage, consist of lot sizes, shapes and topography which are identical to applicant's property, hence, there is no evidence that applicant's situation is any different than theirs. Appellant's declaration demonstrates that applicant's property, like all the neighbors on his side of the street, is downsloping with no special or unique features that require the issuance of a variance to encroach on the set back.

B. The issuance of the variance would clearly constitute a grant of special privileges to applicant that are inconsistent with all of the limitations placed upon the other properties in the vicinity. All of the properties in the vicinity are subject to the CC&Rs of the Kingswood Residents Association. These CC&Rs were recorded prior to the time that applicant purchased his property. Hence, he purchased his property either with actual or constructive notice of the CC&Rs. The CC&Rs, among other things, clearly place a side set back restriction of ten (10) feet on all properties within the Kingswood subdivision. As set forth in the Declaration of John Nelson submitted herewith, no other properties within the Kingswood Estates subdivision have been granted a variance to encroach within the ten (10) foot side set back. The purpose of this requirement in the CC&Rs is to maintain the "harmony of external design and location in relation to surrounding structures and topography" as set forth in the Architectural Review Rules and Regulations which apply throughout the subdivision.

The variance as granted provides applicant with a special privilege which no others in the Kingswood Estates subdivision enjoy.

C. The variance is not consistent with the applicable specific plan within the Kingswood Estates subdivision as set forth in its CC&Rs. As will be shown in paragraph 2, below, the allowance of a variance to build a structure within one foot of the common boundary line between the subject property and its neighbor is wholly inconsistent with the specific plan set forth in recorded CC&Rs of the Kingswood Residents Association.

D. The variance granted is not the minimum departure from the requirements of Section 17.60.100 that is consistent with subsections 17.60.100, D., 1., a. and b. In fact, the variance as granted would be a maximum departure in that it allows building within one foot of the common boundary line between the subject property and the neighboring property.

2. Applicant, Rafid Tuma, has attempted to circumvent the requirements of Covenants, Conditions & Restrictions (CC&Rs) of Kingswood Estates Homeowners Association, Inc. by requesting Placer County to grant the variance for encroachment into the side set back.

The Kingswood Estates Homeowners Association, Inc. recorded its CC&Rs on August 18, 2009. Applicant purchased his residence thereafter. Hence, his property is subject to the CC&Rs. The CC&Rs charge the Kingswood Residents Association with the responsibility of discharging the duties pursuant to its CC&Rs, Bylaws and Articles of Incorporation. The CC&Rs authorize Kingswood Residents Association to provide for architectural control of homes and residences and maintain an Architectural Control Committee. Pursuant to this charge, it developed *Architectural Rules and Regulations* which affect all of the property within the Kingswood subdivision.

The Rules and Regulations states that the design of any structure must comply with the guidelines set forth therein. In this regard, any structure:

“...shall bear a harmonious relationship to the land and its neighbors, in terms of lot coverage, mass, and degree of individual expression. The style of any proposed structures, the style of neighboring structures, the distance between houses, the density and location of neighboring trees and number of other houses in a given open area are all factors which will be considered by the Committee.”

In further promoting the foregoing, the CC&Rs and the Rules and Regulations both contain minimum side set back requirements of ten (10) feet with respect to all residences and structures including the prohibition of constructing any roof overhang, deck or other structure within the side set back. From a reading of the declarations of appellant and John Nelson, it is readily apparent that Kingswood Residents Association has gone to great lengths to follow the mandate of the CC&Rs and Rules and Regulations with respect to the minimum side set back. There do not appear to be any structures within the Kingswood Estates subdivision which has allowed for a set back for a residence to be built within the ten foot set back.

To date, applicant, who is charged with knowledge of the contents of the CC&Rs and Rules and Regulations has not approached the *Architectural Control Committee* to either file plans for the remodeling of his structure and/or to request a variance to intrude into the side set back. Hence, it appears that applicant is attempting to circumvent the requirements of the

aforementioned governing documents in order to gain a variance from Placer County. As noted in the previous section, the variance, as granted, constitutes a grant of special privileges that are wholly inconsistent with the limitations on other property owners in the vicinity, i.e., Kingswood Estates subdivision and is wholly inconsistent with the Kingswood Residents Association's specific plan. Accordingly, the within appeal should be granted.

3. Conclusion.

For the reasons above stated, the Planning Commission should grant the Stevenson appeal because (1) applicant has not satisfied the requirements of Section 17.60.100 of the Placer County Code and (2) applicant should not be encouraged or allowed to circumvent the requirements of the CC&Rs and Rules and Regulations of Kingswood Residents Association. If the Planning Commission disagrees in any respect with the within appeal and upholds the decision of the Zoning Administrator, appellant requests that as a specific condition of approval of the variance that applicant must be required to first obtain a variance from the Kingswood Residents Association and its Architectural Control Committee to intrude into the side set back prior to the issuance of a building permit by Placer County.

Respectfully submitted,



LOUIS A. BASILE,
Attorney for Appellant
LAURIE STEVENSON

Louis A. Basile
Kelley R. Carroll*†
Peter H. Cuttitta*
Steven C. Gross*
Brian C. Hanley*
Stephen C. Lieberman
James L. Porter, Jr.*
James E. Simon



Catherine E. Blaber*

Dennis W. De Cuir, A Law
Corporation, Of Counsel

† Certified Specialist in Estate
Planning, Trust & Probate Law
* Also licensed in Nevada

January 14, 2013

RECEIVED
JAN 14 2013
CDRA

Placer County Planning Commission
Post Office Box 1909
Tahoe City, CA 96145

Re: Appeal of Variance for Tuma Residence
PVAA 20120334

Ladies and Gentlemen:

Enclosed please find a copy of the above-referenced appeal by the appellant Laurie Stevenson. The appeal consists of the following:

1. Planning Appeals form;
2. Declaration of Laurie Stevenson; and
3. Declaration of John Nelson.

Unfortunately, because Mr. Nelson was out of the area today, we do not have the original signature on his declaration. However, he will be signing it tomorrow, and I will have it delivered to your office a signed copy of his declaration.

Please note that the appeal filing fee of \$529.00 was paid directly to your office on Thursday, January 10, 2013.

If you have any questions with respect to the foregoing, please do not hesitate to contact me.

RECEIVED
JAN 14 2012
CDRA

Very truly yours,

LOUIS A. BASILE

LAB/mw
Enclosures
cc: Laurie Stevenson

{00330118.DOC 1 }

23

Louis A. Basile
Kelley R. Carroll*†
Peter H. Cuttitta*
Steven C. Gross*
Brian C. Hanley*
Stephen C. Lieberman
James L. Porter, Jr.*
James E. Simon



Catherine E. Blaber*

Dennis W. De Cuir, A Law
Corporation, Of Counsel

† Certified Specialist in Estate
Planning, Trust & Probate Law
* Also licensed in Nevada

January 10, 2013

Placer County Planning Commission
Zoning Administrator
Attention: Allen Breuch
Post Office Box 1909
Tahoe City, CA 96145

RECEIVED
JAN 10 2013
CDRA

Re: Tuma Side Set Back
PVAA 20120334

Dear Zoning Administrator:

Please be advised that the undersigned represents Laurie Stevenson with respect to the above-referenced matter. Ms. Stevenson, a neighbor of Rafid Tuma, appeals the Zoning Administrator's granting of a variance encroaching into the side set back on the Tuma property. My understanding is that the Zoning Administrator granted the variance on January 2, 2013 which would allow the ten day appeal period to run on Saturday, January 12, 2013.

In speaking to Mr. Breuch, he agreed that the deadline for the filing of the appeal would be Monday, January 14, 2013 by 5:00 p.m. provided that I notified the Planning Commission of Ms. Stevenson's appeal and submit the filing fee for the appeal in the amount of \$529.00. Hence, please consider this notice of the Stevenson appeal, and I am herewith submitting Ms. Stevenson's check payable to Placer County in the amount of \$529.00 as and for a filing fee.

Further to my discussion with Mr. Breuch, I will be submitting a packet consisting of the actual appeal on Monday, January 14, 2013.

Very truly yours,

LOUIS A. BASILE

LAB/mw
Enclosure
cc: Laurie Stevenson

{00329803.DOC 1 }

25

DECLARATION OF LAURIE STEVENSON

I, Laurie Stevenson, declare and state under penalty of perjury the following:

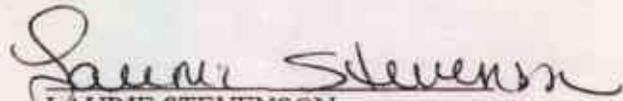
1. I am an individual and I make this declaration in support of an appeal filed by myself to Variance number PVAA 20120334 approved for Rafid Tuma for property located at 7612 Forest Glen Drive, Kingswood Estates No. One Subdivision, Lot 69.
2. I have been a resident of Kingswood Estates Subdivision for over twenty (20) years and I have appealed the decision of the Zoning Administrator to grant a variance to Rafid Tuma to encroach into the side set back for the purpose of building a structure into the side set back.
3. I am familiar with the entire subdivision of Kingswood Estates. I have reviewed all of the homes on Forest Glen Drive which are in the immediate vicinity of the Tuma residence. There are 34 in total. Of the 34 homes, none appear to encroach into the ten foot side set back which is a requirement of the Conditions, Covenants and Restrictions ("CC&Rs") of Kingswood Estates Homeowners Association, Inc. Of the homes located on Forest Glen Drive 11 do not have any garages, 3 have a one car garage and approximately 20 have a two car garage. Of the homes located on the same side of the street as the subject residence, which is downsloping, I have not seen any home or residence, either without a garage or with a 1 or 2 car garage which was built within a ten foot side set back as required by the CC&Rs.
4. In addition to the foregoing, I have canvassed homeowners within the area who are aware of the variance issued to Mr. Tuma. Of several people that I have talked to, they are opposed to the variance. I have attached to this declaration copies of oppositions signed by different homeowners as Exhibit "A" and incorporated herein by reference,
5. In addition to the foregoing, it is apparent that Mr. Tuma has not, as yet, applied to the Kingswood Estates Homeowners Association, Inc. for architectural review of his request to build into the side set backs. In this regard, I have attached a letter from Glenn Karnofsky, Director of the Kingswood Estates Homeowners Association, that is marked Exhibit "B" and incorporated herein by this reference.
6. As set forth in Mr. Karnofsky's letter, Mr. Tuma's variance is contrary to what Kingwood Residents Association would allow for set backs. Further, the Association did not attend the hearing on Mr. Tuma's variance application because it did not receive notification in a timely manner and it was unaware of either the hearing and/or any variance appeal since Mr. Tuma did not provide any notification. As noted in Mr. Karnofsky's declaration the Kingswood Residents Association and Kingswood Estates Homeowners Association are the same entity.
7. One of the reasons that I bought my residence was because of the manner in which each of the homes and residences in the Kingswood Estates subdivision are situated to one

another. In this regard, they are spaced approximately 20 feet apart, allow for open space and view corridors, and give each homeowner a feeling of privacy without overcrowding and/or intrusiveness. In this regard, I have taken a number of pictures of the residences on Forest Glen which depict the foregoing. I have attached to this declaration 9 pictures which depict the foregoing. Each of these pictures are attached hereto, marked collectively as Exhibit "C" and incorporated herein by this reference. These pictures set forth the open space which is prevalent throughout the entirety of the Kingswood Estates subdivision and which is in conformity with not only the CC&Rs, but also the Rules and Regulations of the Architectural Control Committee which goal is to promote "harmony of external design and location in relation to surrounding structures and topography."

8. Finally, I have attached a photograph of the Tuma residence, a copy of which is marked as Exhibit "D" and incorporated herein by this reference. On that I have superimposed in a black felt pen, cross-hatched, a drawing which depicts the Tuma residence if modified in accordance with the variance. The effect of granting the variance is to eliminate the open space between the Tuma residence and his neighbor as well as the harmony of the two homes and their locations in relation to one another.

I declare under penalty of perjury that the foregoing is true and correct and if called as a witness I would testify to the foregoing.

Dated: January 14, 2013


LAURIE STEVENSON

To: Office of Zoning Approval/Placer Co
in regards to variance PVAA20120334

The following resident homeowners of Kingswood Estates do NOT approve of the variance of the side set back lines requested at the Tuma public hearing on Jan 2, 2013.

The county has approved a variance that would allow the structure to be within 1 foot of the eastern property line.

The HOA architectural committee was never notified of the application for this variance by either the applicant or the county. The architectural committee does NOT approve of this variance.

Our homeowner's CC&R's clearly state 10 foot set back lines. Allowing a variance would start a new precedent open to over 200 homes in Kingswood Estates. Loss of set back space reduces values of all property in the neighborhood, reduces charm and openness of our area and increases fire danger.

Allowing this variance would drastically reduce any future enforcement of our CC&R's.

Donna L. Hansen
7511 Forest Glen Dr.
P.O. Box 1497
Kings Beach, CA 96143
Phone: 530-318-2132

fhansen@
yahoo

Helga + Art Sable
1105 Whitehall Ave
Box 205

Tahoe Vista, CA 96148

530 546-3675¹

Helga Q. Sable

Arthur J. Sable

To: Office of Zoning Approval/Placer Co
in regards to variance PVAA20120334

The following resident homeowners of Kingswood Estates do NOT approve of the variance of the side set back lines requested at the Tuma public hearing on Jan 2, 2013.

The county has approved a variance that would allow the structure to be within 1 foot of the eastern property line.

The HOA architectural committee was never notified of the application for this variance by either the applicant or the county. The architectural committee does NOT approve of this variance.

Our homeowner's CC&R's clearly state 10 foot set back lines. Allowing a variance would start a new precedent open to over 200 homes in Kingswood Estates. Loss of set back space reduces values of all property in the neighborhood, reduces charm and openness of our area and increases fire danger.

Allowing this variance would drastically reduce any future enforcement of our CC&R's.

CARL MIELKE - 546-7871
7563 FOREST GLENN, TAMOE VISTA.
BOX 1083, CAROLIAN BAY CA. 96140
Carl Mielke

Carrie Azer
PO Box 62
7500 Forest Glenn
TAMOE VISTA
CA 96148
Carrie Azer

Jana Block
PO Box 5776
Tahoe City, Ca 96145

1/5/13

To: Office of Zoning Approval/Placer Co
in regards to variance PVAA20120334

The following resident homeowners of Kingswood Estates do NOT approve of the variance of the side set back lines requested at the Tuma public hearing on Jan 2, 2013.

The county has approved a variance that would allow the structure to be within [redacted] of the eastern property line.

The HOA architectural committee was never notified of the application for this variance by either the applicant or the county. The architectural committee does NOT approve of this variance.

Our homeowner's CC&R's clearly state 10 foot set back lines. Allowing a variance would start a new precedent open to over 200 homes in Kingswood Estates. Loss of set back space reduces values of all property in the neighborhood, reduces charm and openness of our area and increases fire danger.

Allowing this variance would drastically reduce any future enforcement of our CC&R's.

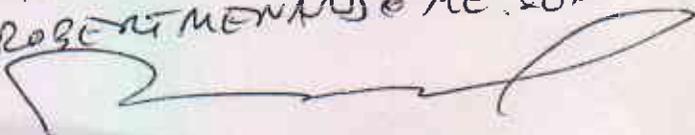
- ① DAVID & JEANNE NESTLE
7410 KINGSWOOD DR. TAHOE VISTA.
P.O. Box 12 jeannenestle@charter.net



- ② Sheldon G. & Sarah L. Ellis
7421 Kingswood Dr, Tahoe Vista CA
1802 Bayview Ave. Belmont CA 94002
sheldon.ellis@comcast.net 650-594-0287

Sheldon G. Ellis Sarah L. Ellis

- ③ ROBERT MENARD
7415 KINGSWOOD DR
TAHOE VISTA, CA
ROBERTMENARD@ME.COM¹



To: Office of Zoning Approval/Placer Co
in regards to variance PVAAZ012D334

The following resident homeowners of Kingswood Estates do NOT approve of the variance of the side set back lines requested at the Tuma public hearing on Jan 2, 2013.

The county has approved a variance that would allow the structure to be within 1 foot of the eastern property line.

The HOA architectural committee was never notified of the application for this variance by either the applicant or the county. The architectural committee does NOT approve of this variance.

Our homeowner's CC&R's clearly state 10 foot set back lines. Allowing a variance would start a new precedent open to over 200 homes in Kingswood Estates. Loss of set back space reduces values of all property in the neighborhood, reduces charm and openness of our area and increases fire danger.

Allowing this variance would drastically reduce any future enforcement of our CC&R's.

X *Judith Johnson*
7609 FOREST GLENN DR.

To: Office of Zoning Approval/Placer Co
in regards to variance PVAA20120334

The following resident homeowners of Kingswood Estates do NOT approve of the variance of the side set back lines requested at the Tuma public hearing on Jan 2, 2013.

The county has approved a variance that would allow the structure to be within 1 foot of the eastern property line.

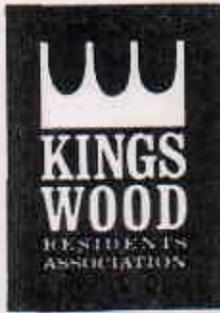
The HOA architectural committee was never notified of the application for this variance by either the applicant or the county. The architectural committee does NOT approve of this variance.

Our homeowner's CC&R's clearly state 10 foot set back lines. Allowing a variance would start a new precedent open to over 200 homes in Kingswood Estates. Loss of set back space reduces values of all property in the neighborhood, reduces charm and openness of our area and increases fire danger.

Allowing this variance would drastically reduce any future enforcement of our CC&R's.

Chilton N. Lee
CHILTON N. LEE

1090 WHITEHALL AVE
KINGSWOOD ESTATES UNIT 4 LOT 29



January 9, 2013

Tuma (Applicant)
Categorical Exemption
Supervisorial District 5 (Montgomery)

Mr. Allen Breuch

This letter is being written in conjunction with and as a party to that appeal of Ms. Laurie Stevenson who is appealing the variance granted by Placer County on January 2, 2013.

The Kingswood Estates Homeowners' Association warrants the following set of facts and assumptions to be true:

The subject property is within the Kingswood Estates Homeowners' Association jurisdiction.

The Homeowners Association has different setback requirements than the County of Placer.

The applicant applied to Placer County and was approved a variance from the County's setback requirements.

The Applicant as of the date of this letter has not applied to the Kingswood Estates Homeowners' Association for architectural review of the proposed change, as is required by the Association's CCR(s), for all building and building modifications within the Association's jurisdiction.

It is the understanding of the Association that it is the Association's rules and regulations that are the prevailing rules that will apply in this situation.

That the Association did not attend the hearing on January 2, 2013 as it did not receive the notification timely, and that the Association was unaware of any variance appeal since it was not notified by the Applicant.

Kingswood Residents Association and Kingswood Estates Homeowners' Association are the same entity.

Glenn Karnofsky
Director, Kingswood Estates Homeowners' Association

32-0 + 510707 W N 77



40 32-0 + 510707 W N 77

350-6 + 5107 5192



350-6 + 5107 5192

8

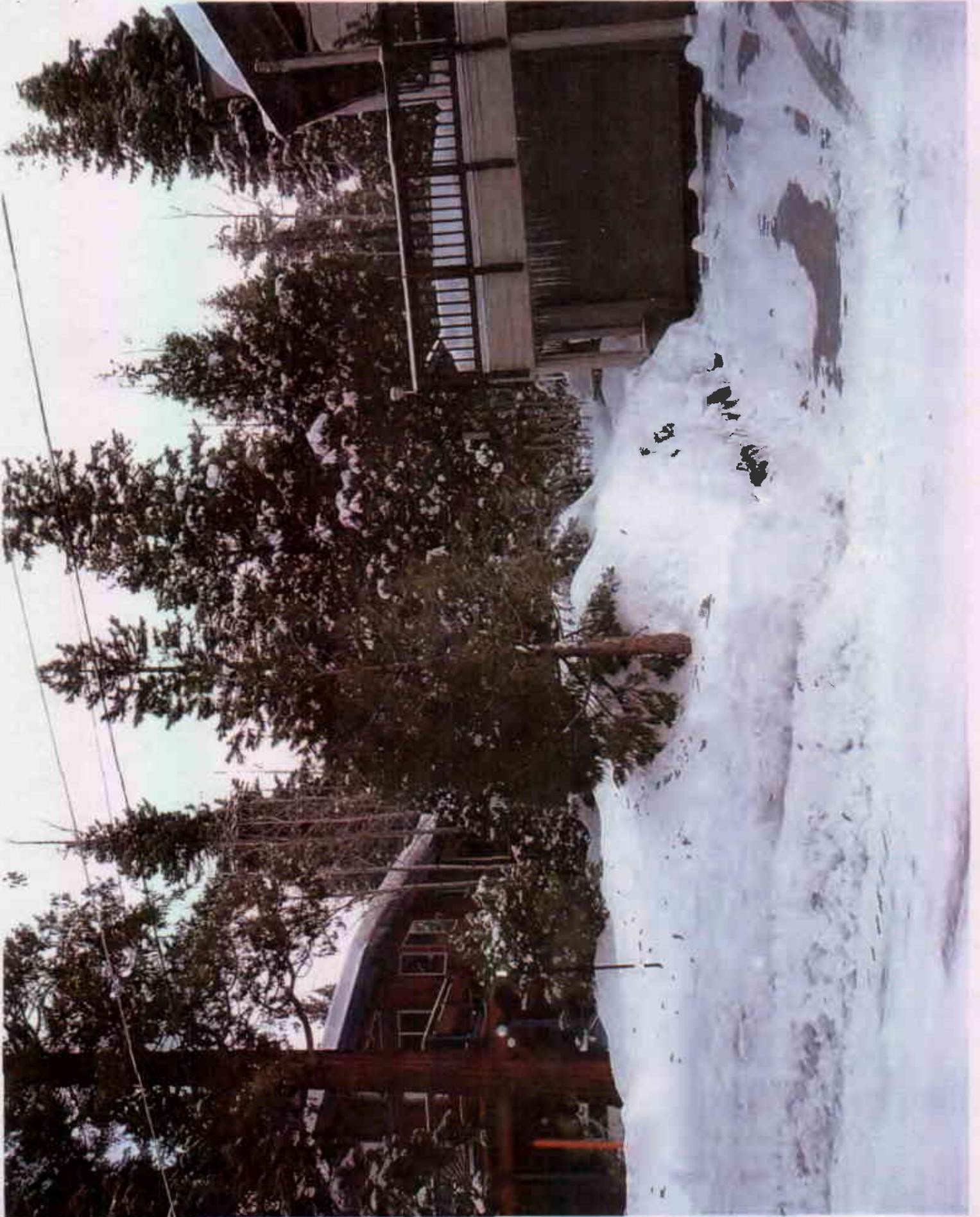
35A-0 + UNTOT UP 9



35A-0 + UNTOT UP 9

42

350-0 + MATOH - 005



350-0 + MATOH - 005

23

55A-9 + 5A70TH - 297



55A-9 + 5A70TH 2009

44

550-9 + SATORH 5092



550-9 + SATORH 5092

5/5

L-7624 Forest Glenn
C 7612 "
(Tuma Residence)
R-7405 Kingswood



DECLARATION OF JOHN NELSON

I, John Nelson, declare and state under penalty of perjury the following:

1. I am an individual and I make this declaration in support of an appeal filed by Laurie Stevenson to Variance number PVAA 20120334 approved for Rafid Tuma for property located at 7612 Forest Glen Drive, Kingswood Estates No. One Subdivision, Lot 69.

2. I have been a property owner in Kingwood Estates No. One Subdivision since 1980, and I have been a member of the Kingswood Estates Homeowners Association, Inc.'s Architectural Review Committee for the past fifteen years. I also own and operate a business named "Chad Snow Clearing" and I have been conducting snow removal services throughout Kingswood Estates since 1996.

3. As a result of being a long-time resident of Kingswood Estates, being a member of its Architectural Control Committee as well as my snow removal business I am quite familiar with the homes and residences in Kingswood Estates as well as their proximity to one another. One of the reasons why I have such familiarity is due to the Rules and Regulations of the Kingswood Estates Homeowners Association, Inc.'s (also known as Kingswood Residents Association) which were adopted on September 19, 1999. A true, full, correct copy of said Rules and Regulations are attached hereto, marked Exhibit "A" and incorporated herein by this reference.

4. One of the key elements of the Architectural Rules and Regulations is set forth in paragraph I., General Principles, and reads as follows:

"No building, fence, wall, or other structure shall be commenced, erected or maintained within the area regulated by the Kingswood Residents' Association, nor shall any exterior additions to or change or alteration therein be made until the plans and specifications and such further data as may be requested showing the nature, kind, shape, height, materials, colors, and locations, of the same shall have been submitted to and approved in writing as to harmony of the exterior design *and location in relation to surrounding structures and topography.*" (Emphasis added)

5. The Covenants, Conditions and Restrictions of the Kingswood Estates Homeowners' Association, Inc. recorded on August 18, 2009 as well as its Architectural Rules and Regulations require side setbacks of ten feet for each of the various homes and residences. The purpose of the foregoing is to conform to the general principles set forth in the Architectural Review Rules and Regulations to maintain an open space between homes. In fact, as long as I can remember, and certainly since sitting on the Architectural Control Committee, one of the goals of Kingwood Residents' Association is to maintain open space between residences and an

KINGSWOOD RESIDENTS' ASSOCIATION
ARCHITECTURAL REVIEW RULES AND REGULATIONS
Adopted September 19, 1999

The Architectural Review Rules and Regulations set forth herein are adopted and approved by the Board of Directors of the Kingswood Residents' Association pursuant to the authority of Article VI, Sections 1 and 2, of the duly adopted and recorded Declaration of Protective Restrictions.

I. GENERAL PRINCIPLES

No building, fence, wall, or other structure shall be commenced, erected or maintained within the area regulated by the Kingswood Residents' Association, nor shall any exterior additions to or change or alteration therein be made until the plans and specification and such further data as may be requested showing the nature, kind, shape, height, materials, colors, and locations, of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography.

II. ARCHITECTURAL CONTROL COMMITTEE

A. MAKEUP: The Architectural Control Committee shall consist of five (5) members. Three of the members shall be members of the Board of Directors of the Association and two (2) of the members shall be other members of the Association. All members shall be appointed by the Board of Directors. In addition, all other members of the Board of Directors shall serve as alternates. The alternates shall only participate and vote in the absence of regular members of the Architectural Control Committee. The members of the Committee shall designate a Chairperson and a Vice-Chairperson.

B. TERM: Membership in the Architectural Control Committee shall be for a period of one(1) year or until successors have been approved and are ready to enter upon the duties of the office. Any member of the Architectural Control Committee may be removed without cause by a vote of a majority of the Board of Directors or by a vote of seventy-five percent (75%) of the voting power of the members of the Association.

C. QUORUM AND VOTING: A quorum of the Architectural Control Committee shall consist of three members. Voting shall take place only at a meeting where at least a quorum of the Committee is present. In order to be adopted, a motion shall require the affirmative votes of at least three members of the Committee present at the meeting. With respect to any application before the Committee, only those Committee members who personally reviewed the application and the site of the project and had an opportunity to form opinions based upon personal observations of the neighborhood and the proposed project shall qualify to be part of a quorum and to vote.

D. REVISION TO ARCHITECTURAL REVIEW RULES AND REGULATIONS: The Architectural Control Committee can adopt reasonable rules and regulations subject to approval by the Board of Directors.

III. PROCEDURE

A. GENERAL: No building, fence, wall, or other structure shall be commenced, erected or maintained within the area regulated by the Kingswood Residents' Association, nor shall any exterior addition to or change or alteration therein be made without application to and approval from the Architectural Control Committee. Each person proposing to carry out any of such

activities shall first submit to the Kingswood Architectural Committee, PO Box 1215, Kings Beach, California 96143, furnishing the Secretary with a fee, an application, and preliminary plans as indicated below:

1. FEE: Payment of check made out to Kingswood Residents' Association in the following amount:

\$400 New major construction (including, but not limited to, new residence, addition to residence, new garage, or exterior remodel).

\$100 New minor construction (including, but not limited to, addition of storage shed or deck).

\$25 Modifications to roof material or building color.

\$0 Maintenance of existing roof or building color.

2. APPLICATION FORM: Fill out the KRA application form.

3. PRELIMINARY PLANS: Two (2) sets of blueline or blackline prints, each print showing the name of the owner, name of the architect or other person preparing the plans, lot number and subdivision number, date, and including the following drawings:

Floor Plans and Elevations of the structure (scale 1/4" = 1'0") showing the following:

a. Extent of structure - show type of heating.

General construction- post and beam, pole construction, bearing walls, laminated roof, etc.

Exterior colors of siding, trim, and roof. Color chips shall be provided. Colors shall be indicated on exterior elevations.

Roof pitch and type of roofing material.

All elevations of the structure showing exterior materials, indicating colors to be painted or stained.

A section showing relationship to existing grading and floor and roof levels, taken more or less at right angles to the contour to show how it fits on or in the ground.

b. Plot Plan:

(1/8" = 1'0") or 1" = 10'

Lot line, lot number, subdivision number, easement, building setback, North arrow, location of utilities, including sewer, gas water and electric.

Contours at 2 foot intervals.

57

Location, size, and kind of trees, over four (4") inches in diameter, taken at a point 3'0" above the ground, (Removal of trees over 4" requires authorization).

Indication of rock outcroppings.

Indication of cut and/or fill, together with the slope for each.

Indication of location of house, carport or garage, driveways, parking area, garbage container, fences, decks, walks, and walls, etc.

Indicate the location of the following items:

1. Contractor's shacks.
2. Temporary roads.
3. Storage sites for building materials (storage on roadways is strongly discouraged and may result in enforcement actions by other agencies).

- B. **STAKEOUT:** Concurrently with the filing of the application, the applicant shall cause a stakeout of the proposed improvement location including parking and driveway location on the site, and the property corners. Trees, if any, which must be removed, shall be marked.

The following stakeout protocol shall be followed:

Property corners shall be marked with lath with pink flagging strung between corners.

Structures shall be marked with lath with orange flagging strung between corners.

Parking (paved) areas shall be marked with lath with blue flagging strung between corners.

Trees proposed to be removed shall be marked with orange flagging tied around the tree at a height of four feet. **Trees shall not be marked by painting.**

This is to be done to assure the Committee that the actual building will sit on the actual site, and will tie in with the other buildings, present and future, which are to be constructed in the neighborhood, and to allow an accurate field review. The stakeout SHALL be done by a licensed surveyor to ensure that the actual location is the same as that shown on the topographical survey. The identity of the surveyor who did the stakeout shall be identified on the application and the surveyor shall sign a certification on the application.

- C. **INSPECTION OF PRELIMINARY PLANS:** Within 30 days after the filing of an application the Committee will review the preliminary plans and notify the applicant of approval, disapproval, or the requirement of additional information. A disapproval or requirement of additional information shall constitute a disapproval with one 45 day opportunity for the applicant to resubmit without the payment of an additional fee. Each resubmission thereafter shall require an additional fee of 25% of the original fee. In the

event of a resubmission the Committee will act and notify the applicant of its decision within a second 30 day period.

- D. FINAL PLANS: After approval of preliminary plans and approval of stakeout, the prospective builder shall furnish the Architectural Review Committee two complete sets of final plans as used for obtaining a building permit showing all the above points in detail.
- E. INSPECTION OF FINAL PLANS: Shall proceed as that of the Preliminary Plans, as stated above (See C).

Upon approval of plans, one full set shall be signed and returned to the member (owner) and the remaining copy will be retained in the permanent files of the Kingswood Residents' Association.

Upon receipt of a written final approval from the Chairperson of the Architectural Review Committee, the applicant shall be permitted to commence construction, as far as the Architectural Review Committee is concerned.

However, the Builder must have all necessary and required building permits from Placer County Building Department, TRPA, etc., which are granted by organizations other than the Committee. Neither the Committee nor any member thereof shall be responsible for architectural or other defects of any nature whatsoever in the applicant's plans and specifications, or in any building or other structure erected. All structures shall be built in conformity with the plans.

- F. CHANGES IN EXTERIOR BUILDING PLANS, COLORS, SITE LOCATION, ETC.: Any exterior change, however slight, from the plans approved by the Committee must be re-submitted to the Committee for re-approval. This applies to any exterior change or addition whatsoever, including, but not limited to a change in building plans, materials, windows, roof, color, site location, parking areas and the like. No additional construction or alterations may be carried out until plans for such work are submitted to the Committee for approval. If this is not done, the completed work is subject to removal or revision.
- G. COMPLETION OF BUILDING: All construction on a building shall be completed no later than 24 months after commencing work. The applicant shall notify the Committee of the date work is commenced.
- H. FINAL INSPECTION BY COMMITTEE: Upon completion of the building or upon taking occupancy of the building, whichever is earlier, written notice of completion or occupancy, as the case may be, shall be submitted to the Committee within 30 days following which the Committee shall inspect the building for the purpose of determining whether the building complies in all respects with the final plans approved by the Committee. No final approval of any building or of any addition to a building will be given by this Committee until such notice and inspection has been accomplished.

If the Committee approves the final inspection, the Chairperson will return the archival set of plans to the KRA manager. Plans must be signed by a majority of members of the

Architectural Review Committee. The KRA Manager will thereafter send a Notice of Approval to the Applicant.

The Manager will archive the approved final inspection set of plans and a copy of the notice of approval.

If the Committee disapproves the final inspection, then the Chairperson will contact the owner and inform the owner of the reason(s) for the rejection.

- I. NON-LIABILITY: Neither the Committee nor its consultant is liable for any delay incident to the foregoing procedures.

II. STANDARDS

- A. GENERAL: All buildings, fences, walls, or other structures, including any exterior addition to or change or alteration to the such shall be in harmony of external design and location in relation to surrounding structures and topography. The design of the above shall bear a harmonious relationship to the land and its neighbors, in terms of lot coverage, mass, and degree of individual expression. The style of any proposed structures, the style of neighboring structures, the density and location of neighboring trees and number of other houses in a given open space are all factors which will be considered by the Committee.
- B. STOCK PLANS: A Stock Plan is defined to be any plan which has already been used once in a unit of Kingswood Estates. Variations on plans for already constructed structures, including but not limited to changes in size, scale, minor-roof lines, deck locations, entry locations, pop-outs, siding material, color, window treatment, garage door treatment, or flip-flop shall not make a plan different and such plans shall be considered to be the same plan. To be considered a new plan, the plan must be such that it appears to be substantially different in overall appearance. There is a limit of one stock plan per KRA Unit (Units 1 through 5), for a total of five for entire association. Furthermore, buildings with the same stock plan cannot be in sight of each other.
- C. SETBACK LINES: No building or structure shall be permitted on any lot nearer than 20 feet from any street bordering the front of any lot or 20 feet from the rear property line, or 10 feet from the side property lines. This includes roof overhang, decks and any other structure or portion of any structure.
- D. FLOOR SPACE: No house with less than 1,200 square feet of floor space, counting living areas with 5' -0" minimum head clearance, and not counting car ports, garages, basements, porches, decks, etc., will be accepted. All structures shall be built in accordance with applicable government laws, ordinances, or statues and/or building codes.
- E. HEIGHT LIMIT: The maximum height of any building shall be twenty-five (25) feet above the top of the curb or building pad or site, whichever is higher.
- F. DECKS: Decks above grade shall be supported on columns or walls. Consideration should be given to setbacks and dark open space under buildings or decks, which should be avoided and may require screen walls.

be

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G. ROOF:

Structures built in open space areas should have roofs which are reasonably uniform in pitch. In wooded areas, greater variation in pitch may be acceptable. No totally flat roofs will be approved in open areas, but portions of roofs which are otherwise acceptable in pitch may be flat so long as the flat portion does not exceed 30% of the total roof areas of any structure. In open areas all roofs except the flat portion shall have a rise of not less than two and one-half (2-1/2) inches in twelve (12) and not more than sixteen (16) inches in twelve (12) of distance. In wooded areas roofs of greater or less pitch may be permitted.

OVERHANG: Roof edges of each structure preferably shall have an overhang. However, no roof overhang shall project over any setback lines.

MATERIALS: Shall be wooden shingles or wooden shakes, and or metal (Metal roofs will be limited to the earthtone colors including browns, grays, or forest green). Asphalt shingles/shakes shall be considered with approval as to colors and architectural grade.

H. EXTERIOR WALLS AND WINDOWS: The following materials will be permitted on exteriors, SUBJECT TO DESIGN APPROVAL OF QUALITY, COLOR AND DESIGN:

WOOD

timbers
board
board & batten
plywood
plywood & battens (limited application)
wood siding
wood shingles
imitation stone
log siding (imitation or real), subject to approval

MASONRY

all types of stone or brick
poured concrete & concrete block (limited application)
foundation & retaining walls
imitation brick or stone, subject to approval

MISCELLANEOUS

glass block, subject to approval
cement plaster (limited application)

THE FOLLOWING MATERIALS WILL NOT BE PERMITTED ON THE EXTERIOR OF ANY STRUCTURE:

asphalt siding
metal siding, raw or painted
concrete or concrete block as a total facade
transite shingles
vinyl siding

OTHER MATERIALS: New materials, as they become available, and other materials not listed above, will be given special consideration by the Committee provided their use harmonizes with existing structures.

- I. EXTERIOR COLOR AND FINISHES: The use of color shall generally be restricted to colors which harmonize with colors found in the immediate surroundings. Subdued earth tones are encouraged and harsh, bright pure colors or pastels **will not** be approved. The body of the house must be flat paint or stain. Milled timbers, boards, plywood and wooden siding shall receive paint or stain.
- J. PARKING SPACE: A **minimum** of 700 square feet of paved off-street parking shall be provided, of which a **minimum** of 400 square feet shall be outside parking and the balance may be inside an enclosed garage.
- K. CUT OR FILL: Cut or fill shall be replanted and/or stabilized.
- L. TELEVISION ANTENNAE, LAUNDRY LINES: The size and location of all external outdoor antennae, satellite discs, etc. shall require approval. **No satellite dish over 24" will be approved.**
- All garbage or trash containers, laundry lines, and other such facilities must be placed in walled-in areas so that they are not visible from the adjoining properties or from the streets. Garbage or trash containers shall be the minimum size practical. KRA encourages bear-proof, metal construction.
- M. REMOVAL OF PLANTS: No trees over 4" in diameter taken at a point 3' above the ground may be removed or cut down without written permission of the Committee. Where trees are damaged during the process of building construction, owner will restore or replace such tree within 12 months of dwelling completion. **REPLACEMENT SHALL BE WITH A TREE SIMILAR TO THE DAMAGED TREE IN SPECIES, SIZE, AND MASS.**
- N. VARIANCES: The restrictions or provisions contained in Article VIII of the Covenants and Restrictions may be waived by the Committee *if a majority of the Committee so decides*, after receiving a written request from the owner.
- O. CAMPERS, TRAILERS: No live-in vehicle will be allowed on the lot while construction is in progress.

- P. FENCES AND WALLS: No fence, wall or hedge higher than four feet shall be erected or maintained on any lot, nor shall such fence, wall or hedge be constructed or maintained on any easement areas. Chain link fences are prohibited.
- Q. PLANTING AND REPLANTING: Replanting of cut and fill areas, as well as other areas on the lot where landscaping is called for must be carried out as soon as possible, but must be completed within one year after the date the building is completed. Planting must be of substantial size and irrigation must be provided to insure survival of plants.

IV. EFFECTIVE DATE

that no
original

These Architectural Review and Regulations shall be effective on and apply to all applications submitted or resubmitted on or after September 19, 1999, except additional fee shall be required for a resubmission if a fee was paid for the submission prior to September 19, 1999.

KINGSWOOD RESIDENTS ASSOCIATION ARCHITECTURAL REVIEW FORM

LOT #: _____
DATE RECEIVED: _____

Dear Resident:

Thank you for submitting your plans for construction and/or improvements to your lot in Kingswood Estates. Please note the 20' front setback, 20' setback from the street, and 10' side setback restrictions, which include any structure or overhang. Also note all exterior finish materials and color restrictions. After reading the KRA Architectural Review Committee Restrictions, please complete the following questionnaire:

OWNER NAME:	_____
NAME OF APPLICANT (if different than owner):	_____
OWNER'S MAILING ADDRESS :	_____
PHONE NUMBER:	_____
PHYSICAL ADDRESS OF PROPERTY:	_____
LOT & UNIT NUMBER (KRA account number):	_____
ARE TWO SETS OF PLANS BEING SUBMITTED? (KRA will retain a copy):	_____
FEE ENCLOSED: NEW MAJOR CONSTRUCTION (including but not limited to residence, addition to residence, new garage, or exterior remodel: \$400 :	_____
NEW MINOR CONSTRUCTION (including, but not limited to , addition of storage shed or deck) \$100 :	_____
MODIFICATIONS TO ROOF MATERIAL OR BUILDING COLOR \$ 25 :	_____
MAINTENANCE OF EXISTING ROOF OR BUILDING COLOR 0	_____
CHECK LIST:	
HAVE YOU INCLUDED COLOR SAMPLES FOR HOUSE AND ROOF?	_____
ARE YOU REQUESTING A VARIANCE? (if "yes" please complete variance request form)	_____
HAS PLACER COUNTY APPROVED THESE PLANS?	_____
HAS THE T.R.P.A. APPROVED THESE PLANS?	_____
WHAT ARE THE PLANNED DATES OF CONSTRUCTION COMMENCEMENT AND COMPLETION?	_____
HAS THE PROPERTY BEEN STAKED OUT?	_____

The Kingswood Residents' Association Board of Directors will review your plans within thirty days of submitting this form. At that time all but one copy of your plans will be returned to you with a preliminary approval or disapproval with explanation. If the Board disapproves your plans you must make the necessary corrections and resubmit your plans. Any changes or minor modifications of approved plans must be resubmitted for approval. Resubmitted plans may require an additional fee. Failure to comply with the rules and regulations of the Kingswood Residents' Association will initiate appropriate legal action. You are required to notify the association upon completion of construction.

I have read and understand the Architectural Review Committee Restrictions and hereby agree to the conditions set forth therein. I have also read and understand the above information and hereby agree to the conditions set forth hereinabove.

SIGNATURE: _____ DATE: _____

(DO NOT WRITE BELOW THIS LINE - ASSOCIATION USE ONLY)

These plans have been: _____ APPROVED _____ DISAPPROVED, with the following explanation: _____

_____	_____	_____	_____
DATE	DATE	DATE	DATE

Louis A. Basile
Kelley R. Carroll*†
Peter H. Cuttitta*
Steven C. Gross*
Brian C. Hanley*
Stephen C. Lieberman
James L. Porter, Jr.*
James E. Simon



Catherine E. Blaber*

Dennis W. De Cuir, A Law
Corporation, Of Counsel

† Certified Specialist in Estate
Planning, Trust & Probate Law
* Also licensed in Nevada

January 15, 2013

RECEIVED
JAN 15 2013
CDRA

Placer County Planning Commission
Post Office Box 1909
Tahoe City, CA 96145

Re: Appeal of Variance for Tuma Residence
PVAA 20120334

Ladies and Gentlemen:

Enclosed please find the original Declaration of John Nelson which is to be attached to the Planning Appeals form previously submitted on January 14, 2012 with respect to the above-entitled matter.

Thank you for your courtesy and cooperation with respect to the foregoing.

Very truly yours,

LOUIS A. BASILE

LAB/mw
Enclosure
cc: Laurie Stevenson

DECLARATION OF JOHN NELSON

I, John Nelson, declare and state under penalty of perjury the following:

1. I am an individual and I make this declaration in support of an appeal filed by Laurie Stevenson to Variance number PVAA 20120334 approved for Rafid Tunia for property located at 7612 Forest Glen Drive, Kingswood Estates No. One Subdivision, Lot 69.
2. I have been a property owner in Kingswood Estates No. One Subdivision since 1980, and I have been a member of the Kingswood Estates Homeowners Association, Inc.'s Architectural Review Committee for the past fifteen years. I also own and operate a business named "Chad Snow Clearing" and I have been conducting snow removal services throughout Kingswood Estates since 1996.
3. As a result of being a long-time resident of Kingswood Estates, being a member of its Architectural Control Committee as well as my snow removal business I am quite familiar with the homes and residences in Kingswood Estates as well as their proximity to one another. One of the reasons why I have such familiarity is due to the Rules and Regulations of the Kingswood Estates Homeowners Association, Inc.'s (also known as Kingswood Residents Association) which were adopted on September 19, 1999. A true, full, correct copy of said Rules and Regulations are attached hereto, marked Exhibit "A" and incorporated herein by this reference.
4. One of the key elements of the Architectural Rules and Regulations is set forth in paragraph I, General Principles, and reads as follows:

"No building, fence, wall, or other structure shall be commenced, erected or maintained within the area regulated by the Kingswood Residents' Association, nor shall any exterior additions to or change or alteration therein be made until the plans and specifications and such further data as may be requested showing the nature, kind, shape, height, materials, colors, and locations, of the same shall have been submitted to and approved in writing as to harmony of the exterior design and location in relation to surrounding structures and topography." (Emphasis added)
5. The Covenants, Conditions and Restrictions of the Kingswood Estates Homeowners' Association, Inc. recorded on August 18, 2009 as well as its Architectural Rules and Regulations require side setbacks of ten feet for each of the various homes and residences. The purpose of the foregoing is to conform to the general principles set forth in the Architectural Review Rules and Regulations to maintain an open space between homes. In fact, as long as I can remember, and certainly since sitting on the Architectural Control Committee, one of the goals of Kingswood Residents' Association is to maintain open space between residences and an

open feeling between the occupants of the residences. I cannot remember any situation in which the Kingswood Residents Association through its Architectural Review Committee ever allowed a variance for a structure to encroach within the set backs required under the CC&Rs and the Rules and Regulations.

6. Other than perhaps on a corner lot which involved perhaps a one foot encroachment into a setback I am not aware of any situation in which Kingswood Residents Association and the Architectural Control Committee has approved a project which allowed for an intrusion into the side setback that would otherwise defeat the purpose set forth in the general principles of the CC&Rs and Review Rules and Regulations.

I declare under penalty of perjury that the foregoing is true and correct and if called as a witness I would testify to the foregoing.

Dated: January 14, 2013



JOHN NELSON