

APPEAL HEARING ARCHITECTURAL STANDARDS COMMITTEE DECISION ON UNIT 03/LOT 233 NEW HOUSE/GARAGE CONSTRUCTION

BOARD OF DIRECTORS SPECIAL MEETING NOVEMBER 14, 2023

APPEAL HEARING PROCEDURES

- Staff provides an overview of the appeal– 10 min
- Appellant Unit 03/Lot 233 states their case – 10 min
- Board asks questions of staff, committee chair, and appellant – 10 minutes
- The Board may choose to adjourn to executive session for legal counsel – 20 minutes
- The board will then deliberate and act on the appeal in open session – 15 minutes
- Appellant will receive the written decision from the board within 10 days of the hearing

PURPOSE

The board of directors will consider an appeal request by the owners of Unit 03/Lot 233 to reverse the September 13, 2023 Architectural Standards Committee decision to deny the variance request for a driveway encroachment into the side setback and an exception request for eaves encroachment in the side setback.

ARCHITECTURAL STANDARDS DESIGN REVIEW PROCEDURES

Did the Committee Act Accordingly?

- ✓ Meeting Proceedings – Did the committee follow meeting procedures and guidelines?
- ✓ Variance and Exception Determination – Did the committee review variance and exception criteria and make a determination?
- ✓ Meeting Decision – Were the actions taken by the committee within their authority, consistent with rules, regulations, and practices, and fair and reasonable?

ARCHITECTURAL STANDARDS COMMITTEE

DECISION- SEPTEMBER 13, 2023

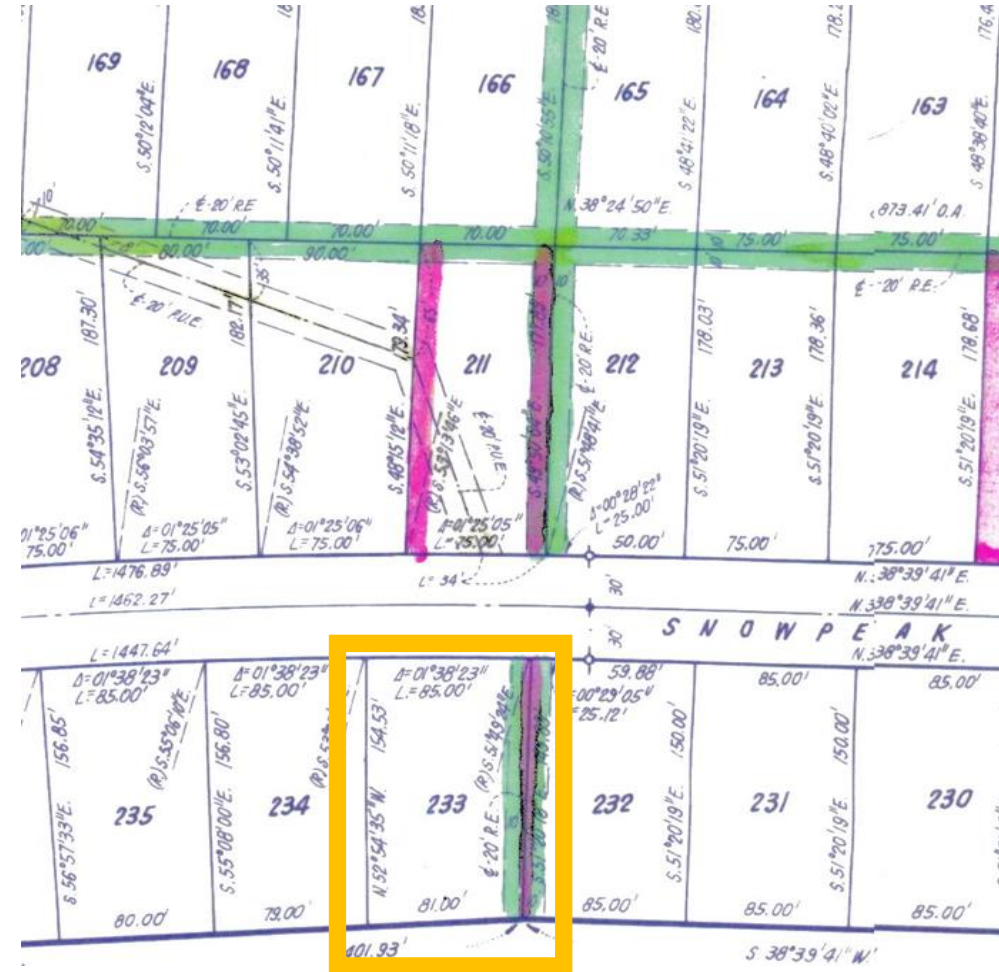
Submittal:

House/Garage 2,755 SF with variance for driveway turnout into the side set back and exception for eave into the side set back.

Committee Actions:

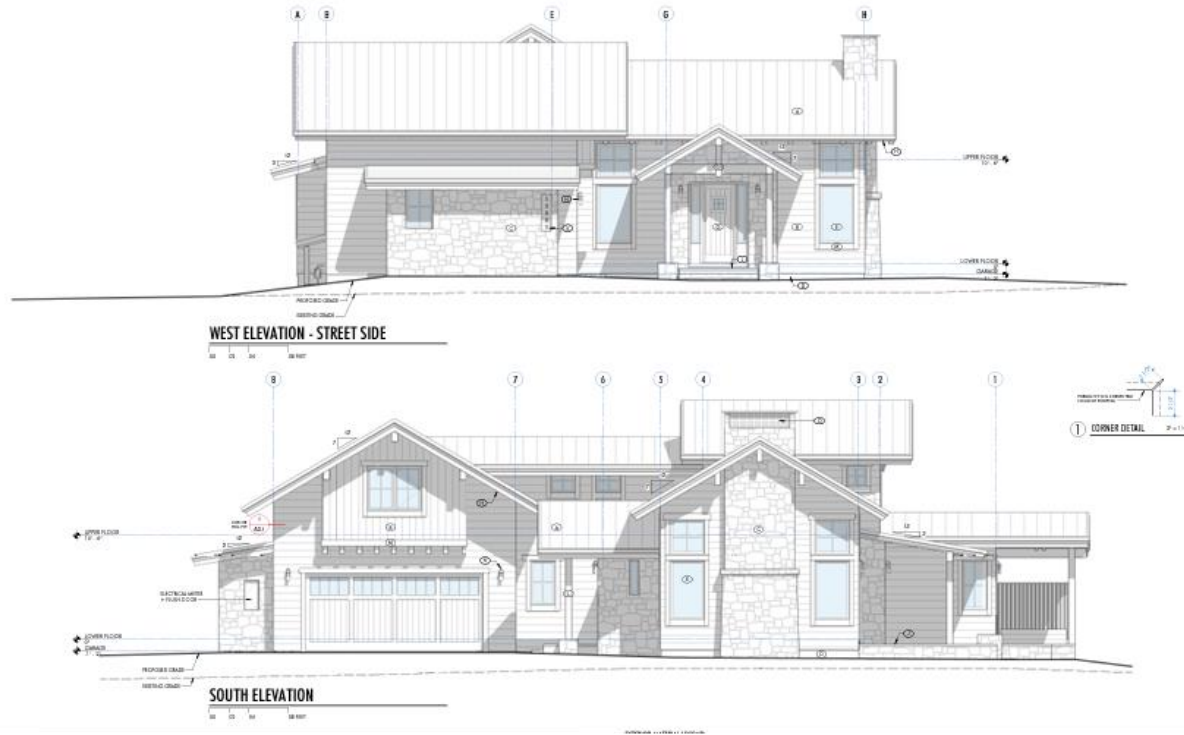
- Action 3:0 (Clarin, Staehlin, Veni) Deny the driveway variance and require that the turnout be pulled back to at least 10 feet from the side property line.
- Action 3:0 (Clarin, Staehlin, Veni) Deny the exception for eaves in the side setback.
Action 3:0 (Clarin, Staehlin, Veni) The committee agreed to approve the submittal as a whole but to deny the variance for the driveway in the side setback and to deny the exception for the eave in the side setback and to require updated plans to be submitted to the Community Standards Office for review by one member of the committee before permit issuance.

PROJECT LOCATION

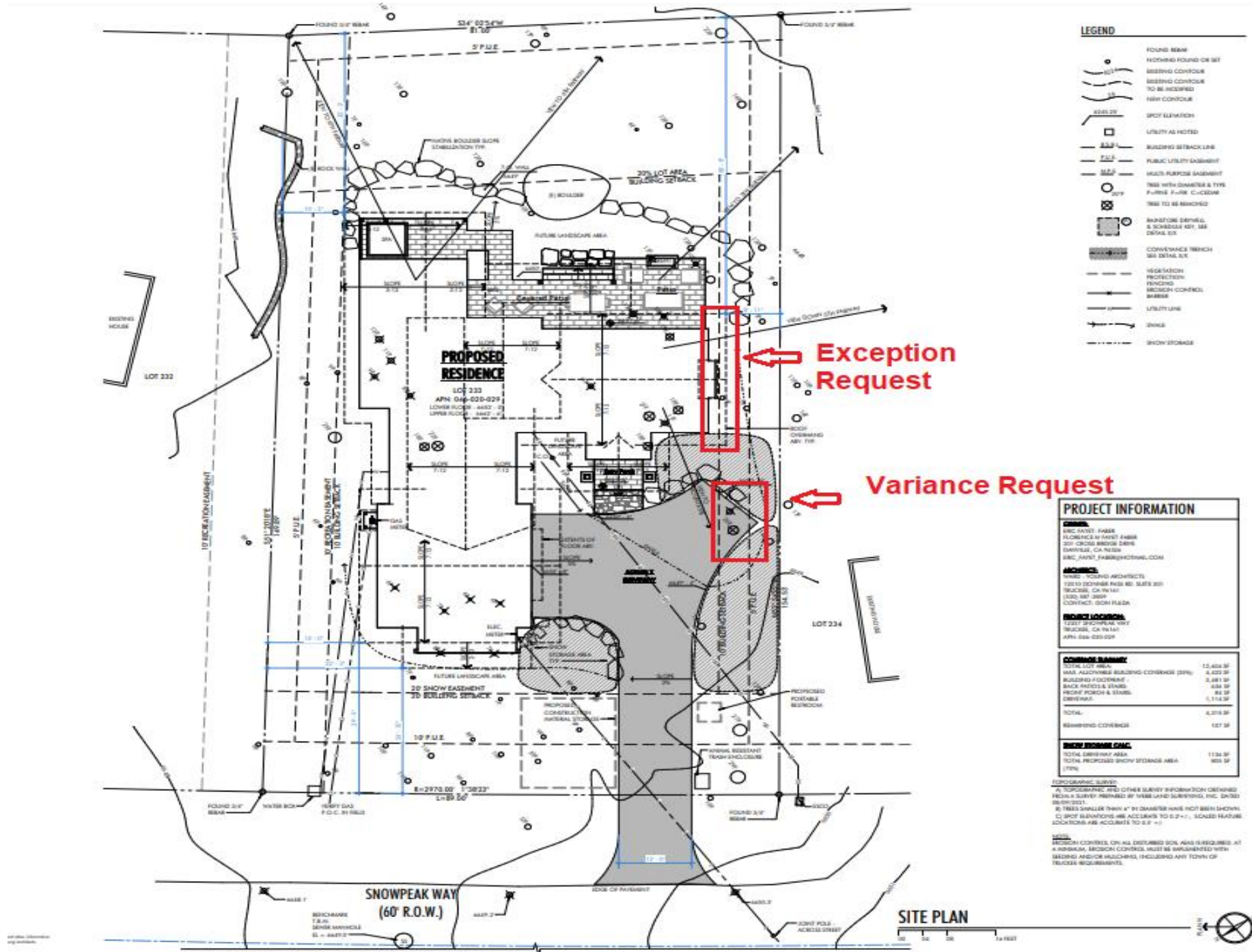


TAHOE DONNERSM

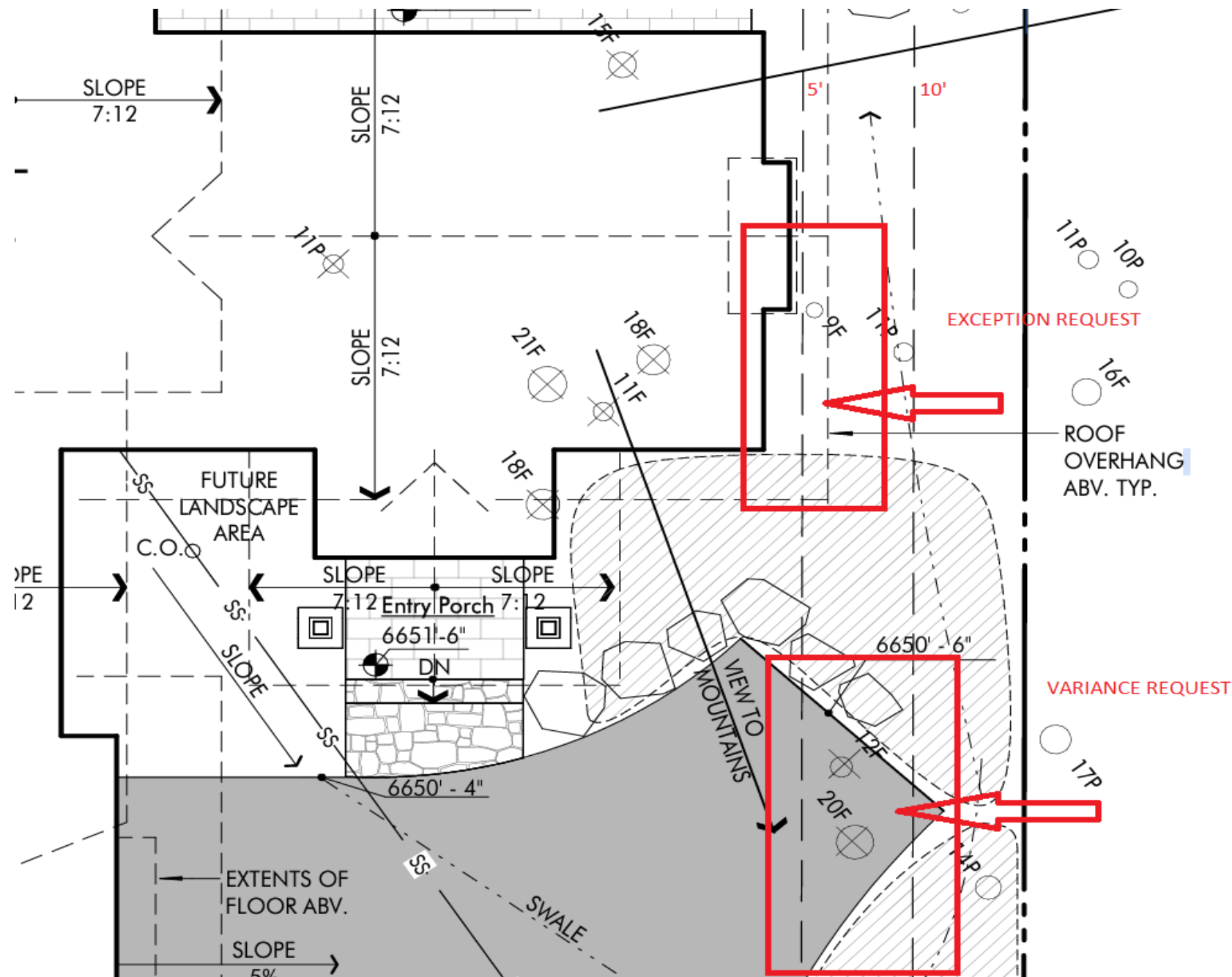
PROJECT ELEVATION + RENDERING



PROJECT SITE PLAN



PROJECT SITE PLAN



ARCHITECTURAL STANDARDS RULES, PROCEDURES AND RESTRICTIONS FOR LAND USE

A. ASC SOURCE OF AUTHORITY:

- The authority of the ASC is derived from the recorded Covenants and Restrictions (“C&Rs”), which govern and protect Tahoe Donner. It is the ASC’s responsibility to enforce the C&Rs and Architectural Standards (AS) Rules.

B. DESIGN POLICIES AND REVIEW:

1) GENERAL:

- The AS Rules and the design guidelines are based on primary policies of appropriate design as it relates to communities such as Tahoe Donner. It is not possible to make a rule for every situation. The ASC uses the design policies in the evaluation of each plan submitted for approval. The following policies were developed to benefit the applicant, the ASC and our community by reducing the possible subjective nature of the review of architectural design elements and providing a means for evaluating these plans to ensure continuity.

ARCHITECTURAL STANDARDS RULES, PROCEDURES AND RESTRICTIONS FOR LAND USE

III. SPECIFIC BUILDING REQUIREMENTS

B. SETBACKS:

No structure or improvement shall be constructed, erected, placed or maintained within setback areas. The following are setback requirements which must be observed when positioning structures on the lot.

2) SIDE SETBACK: A minimum 10' setback from the side property lines to the nearest eave line of the roof. The ASC will consider exceptions on a case-by-case basis.

DECLARATION OF COVENANTS & RESTRICTIONS (C&RS) VARIANCES

ARTICLE VIII, SECTION 3 (b) VARIANCES

Upon application by any Owner, the Environmental Control Committee shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article VIII, if specific application of the restriction will, in the sole discretion of the Committee, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Committee shall follow the procedures set forth in Article V, section 8 for the granting of architectural variances. The same right of appeal to the Board of Directors set forth in Article V, section 12 shall apply to any Committee action pursuant to this section.

DECLARATION OF COVENANTS & RESTRICTIONS (C&RS) VARIANCES

ARTICLE V - SECTION 8

The Environmental Control Committee shall be entitled to allow reasonable variances in any procedures specified in this Article, the ECC Rules, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Owner-applicants. Before a variance can be granted, however, all of the following conditions must be met:

- (a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving prior written notice to the Board and to any Owner of a Separate Interest located within 500 feet of the Separate Interest affected by the variance.
- (b) The Committee must make issuance of the variance will be criteria:
 - (i) the requested variance from any restriction contained herein of the violated requirement(s) to a good faith written determination that consistent with either of the following will not constitute a material deviation or that the proposal allows the objectives be substantially achieved despite non compliance; or
 - (ii) the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances. No variance will be granted if the ECC concludes that the request, if granted, will result in a material detriment, or create an unreasonable nuisance with respect, to any portion of the Properties.

DECLARATION OF COVENANTS & RESTRICTIONS (C&RS)

SIDE SET BACK EXCEPTIONS

ARTICLE VI - SECTION 2 (c)(ii)

A side yard set back area, the minimum width of which shall be ten feet along any single inner side lot line of such Lot. The ten-foot side yard set back is required in order to avoid snow shedding from the Residence onto the adjacent Lot and to prevent a row house appearance of adjoining Residences. The Committee shall be entitled to permit exceptions to this side yard set back requirement to a minimum of five feet, without compliance with the variance procedures specified in Article V, section 8, when such is deemed necessary to accommodate special circumstances which would otherwise lead to burdensome costs to the Owner. Side yard set backs shall be measured from the eave of the Residence's roof, rather than from the foundation.

APPELLANT APPEAL BASIS

Driveway Variance Request:

The encroachment involves minimal grading with no vertical construction. The resultant driveway will not be visible from off-site, and the driveway is 4'-5" from the side setback line providing more separation and space for snow storage and landscaping screening. The variance request is for the minimum necessary relief and the neighbors were notified per the requirement of C&Rs Article V section 8. No comments were received.

Roof Overhang Exception Request:

To accommodate the overhang, we requested a 1'1" exception to the 10' side setback. Article VI, Section 2 (ii) states the prescriptive 10' side setback "is required in order to avoid snow shedding from the Residence to the adjacent Lot and to prevent a row house appearance of adjoining residences".

The proposed gable end will not shed onto the adjacent lot and it cannot be argued that the granting of the exception will contribute in any way to a "rowhouse appearance". The neighbors were notified of the exception request and no comments were received.

APPEAL HEARING PROCEDURES

- Staff provides an overview of the appeal– 10 min
- Appellant Unit 03 Lot 233 states their case – 10 min
- Board asks questions of staff, committee chair, and appellant – 10 minutes
- The Board may choose to adjourn to executive session for legal counsel – 20 minutes
- The board will then deliberate and act on the appeal in open session – 15 minutes
- Appellant will receive the written decision from the board within 10 days of the hearing

RECOMMENDED ACTION

By Motion:

The Board of Directors,

1. Denies the appeal made by the Owner of Unit 03, Lot 233; and
2. Upholds the September 13, 2023 decision of the Architectural Standards Committee.