

APPEAL HEARING ARCHITECTURAL STANDARDS COMMITTEE DECISION FOR A PROJECT SUBMITTAL AT UNIT 04 / LOT 312

BOARD OF DIRECTORS SPECIAL MEETING January 9, 2024

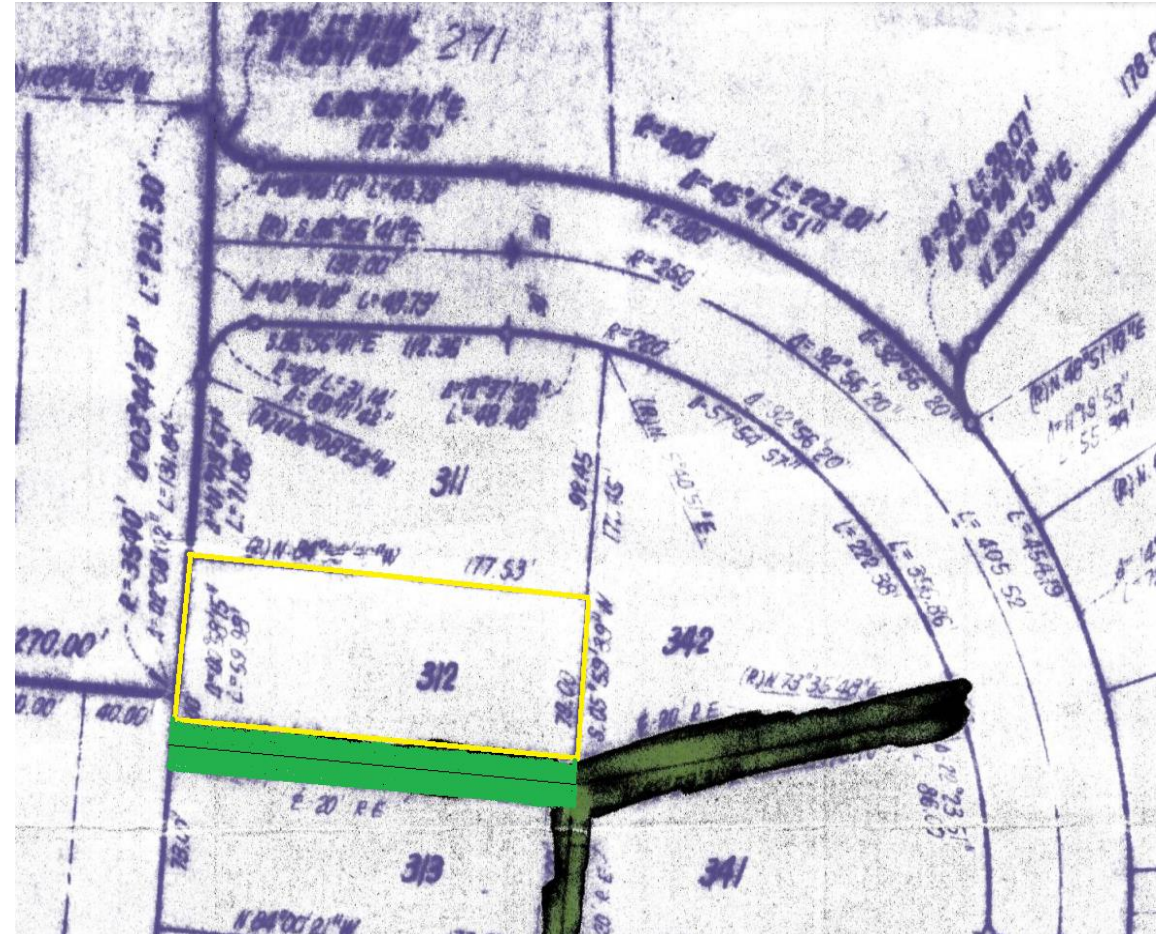
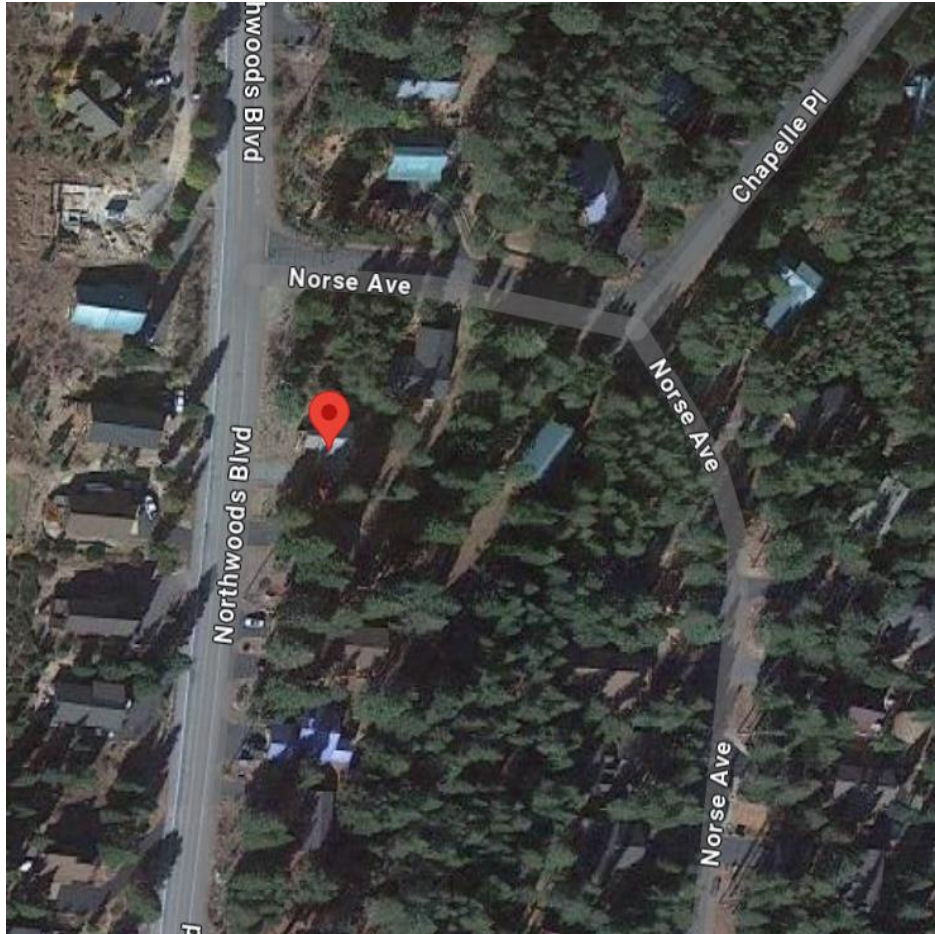
APPEAL HEARING PROCEDURES

- Staff provides an overview of the appeal– 10 min
- Appellant Unit 04 / Lot 312 states their case – 10 min
- Board asks questions of staff, committee chair, and appellant – 10 minutes
- The board will then deliberate and act on the appeal in open session – 10 minutes
- The 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 04 / Lot 312 to reverse the November 15, 2023, Architectural Standards Committee decision to deny the variance for the eaves in the recreational easement.

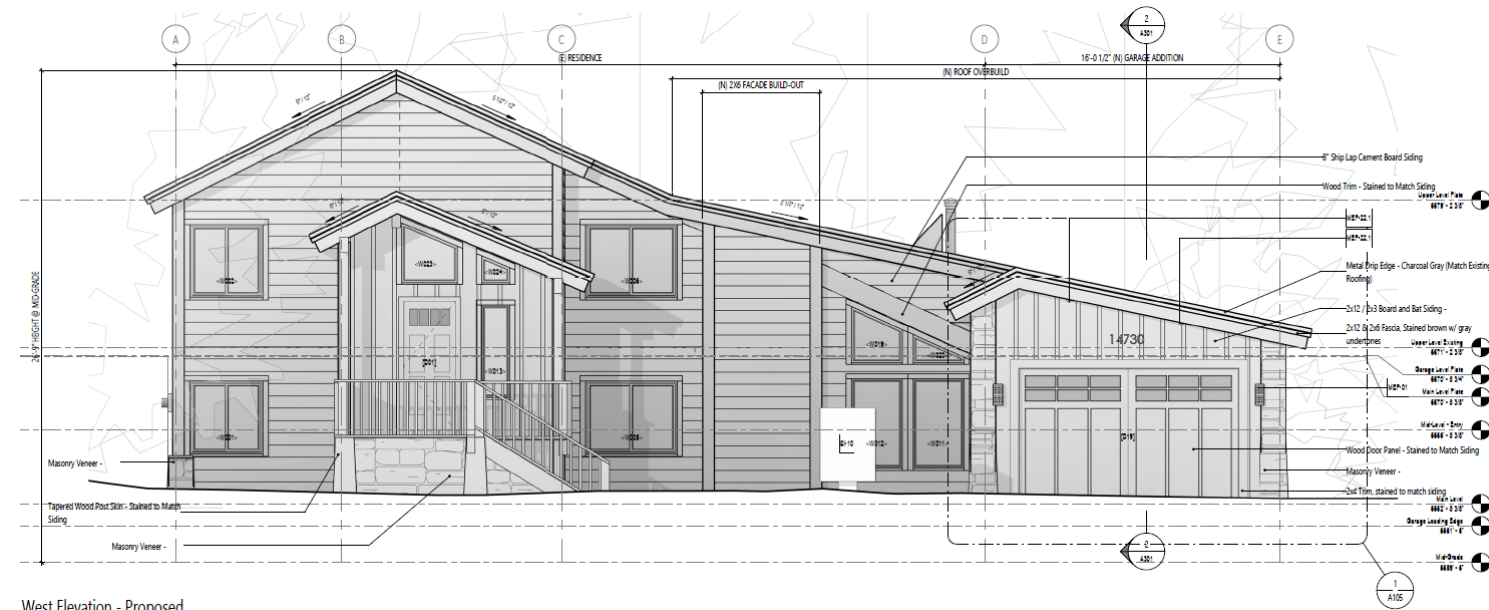
PROJECT LOCATION



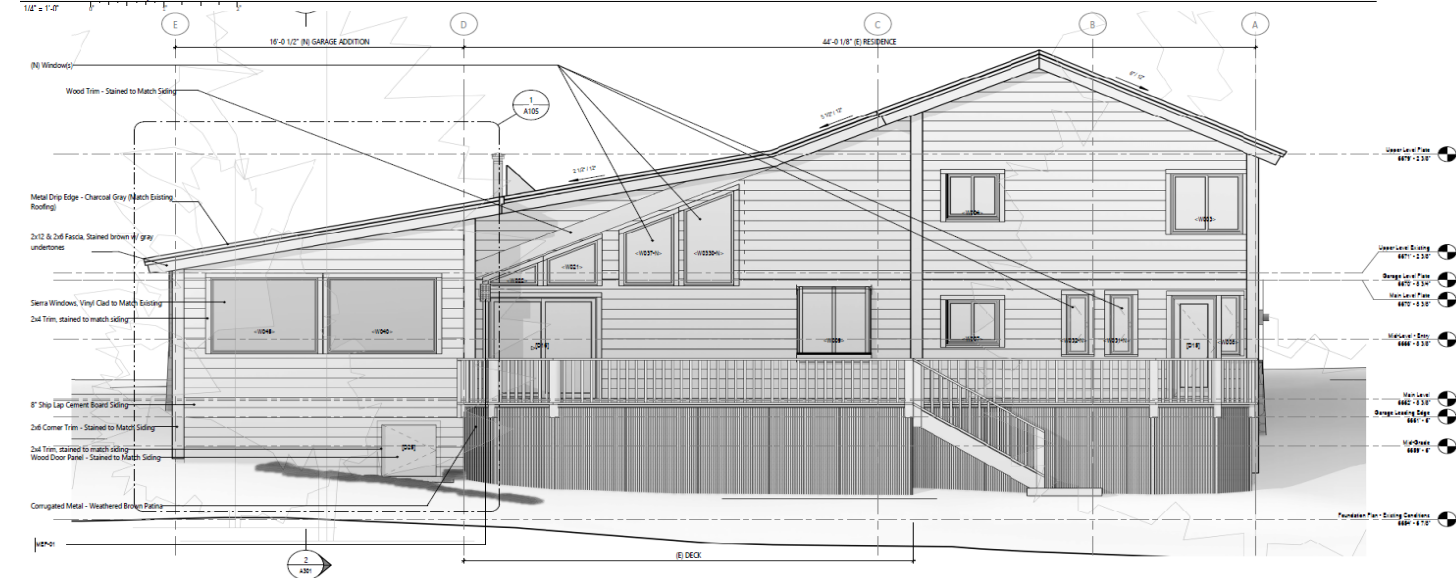
PROJECT LOCATION



PROJECT ELEVATION + RENDERING



West Elevation - Proposed



East Elevation - Proposed



NOT FOR CONSTRUCTION

PRELIMINARY



TAHOE DONNER

[illegible]

[illegible]

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.

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 (**Article V**), **the ECC Rules, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII** (bold emphasis added) 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) 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** (bold emphasis added), 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 outlined in Article V, section 12 shall apply to any Committee action pursuant to this section.

DECLARATION OF COVENANTS & RESTRICTIONS (C&RS) EASEMENTS

ARTICLE IX - SECTION 2

Recreational Easements. Recreational easements are shown on the Subdivision Maps. Within these easements, no structure of any kind shall be placed, erected, constructed or maintained, and no tree or vegetation shall be felled, cut, trimmed, pruned or removed, except as may reasonably be required by the Association to construct and maintain trails and park sites therein and/or for the construction and maintenance of public and private utility easements shown on the Subdivision Maps. Such easements shall at all times be open and accessible to the Members of the Association, their guests and invitees and such other persons as may from time to time be designated by the Association, for right of way and general park purposes, subject to reasonable rules and regulations established by the Association.

ARCHITECTURAL STANDARDS COMMITTEE DECISION

NOVEMBER 15, 2023

Submittal:

New Attached Garage w/ Reading Nook

Committee Actions:

- Decision: Action 3:0 (Whitten, Sonder, Clarin) The committee agreed to approve the project conditional upon payment of the deposit and to approve the exception for eaves in the side setback but to deny the variance for those eaves in the recreational easement, requiring updated plans for one member review before permit issuance with a recommendation that the variance be approved by the Board of Directors in the event an appeal is filed by the applicant, due to the hardship of having to build a substandard garage if the variance were denied(All Applicable Action by the ASC).

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?

APPELLANT APPEAL BASIS

The ASC indicates that they did not know if the committee had the authority to approve a variance for a recreational easement. If the committee had this authority, the ASC indicated that they would approve the variance, as they had approved the exception, and they recommended that owners bring an appeal to the Board to clarify the matter.

APPEAL HEARING PROCEDURES

- Staff provides an overview of the appeal– 10 min
- Appellant Unit 04/ Lot 312 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
- The 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 04 / Lot 312; and
2. Upholds the November 15, 2023, decision of the Architectural Standards Committee.

THANK YOU