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PLANNING COMMISSION MEETING November 5, 2019

FILE NUMBER: 2019-001
PROPERTY OWNER: Anthony and Mary Foster
TYPE OF APPLICATION: Variance

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LASSEN COUNTY PLANNING COMMISSION
STAFF REPORT
November 5, 2019

FILE NUMBER:	Variance #2019-001
APPLICANT:	Anthony and Mary Foster
TYPE OF APPLICATION:	Variance
GENERAL LOCATION:	The project site is located at 475-795 Hobo Camp Road, Susanville, CA 96130
ASSESSOR'S PARCEL NUMBER:	107-111-18
PROJECT SITE ZONING:	R-1 (Single-Family Residential District)
GENERAL PLAN:	"Low Density Urban Residential," <i>Susanville Vicinity Area Plan, 1984</i>
ENVIRONMENTAL DOCUMENT:	Exempt from CEQA pursuant to Section 15305 of the CEQA Guidelines
ASSIGNED STAFF:	Stefano Richichi, Associate Planner

AUTHORITY FOR APPLICATION:

Variance Provision, Lassen County Code Section 18.110 et seq. established regulations.

REGULATING AGENCIES:

Agency

Planning Commission

Dept. of Planning and Building Services

Identified Permits/Approvals

Recommendation to Board of
Supervisors

Building Permit(s)

PROJECT DESCRIPTION: Proposal to construct a 1,584-square-foot residence within the setback area of an approximately 0.44-acre parcel. Specifically, the applicants are requesting a 15-foot front yard setback instead of the 20-foot front yard setback required by Lassen County Code Section 18.22.050(3). The subject parcel is zoned R-1 (Single-Family Residential District).

At its October 8, 2019, meeting, the Board of Supervisors upheld the Director of Planning and Building Services' determination that said front yard setback was to be measured from the "official plan line" or easement line for Hobo Camp Road and not from the front property line, which is in the easement for Hobo Camp Road, given the definition of a "yard" as found at Lassen County Code Section 18.14.1290. See the attached September 18, 2019, letter to the Board of Supervisors, as well as Parcel Map No. 41-8-82 for Arturo Terzi, recorded at Book 22, Page 9 O.R. Lassen County, for more information.

PROJECT SITE CHARACTERISTICS: The project site is located approximately 2,000 feet west of the intersection of Richmond Road and South Street (near the Honey Lake Valley Community Pool) at 475-795 Hobo Camp Road, Susanville, CA 96130 (APN 107-111-18). Existing improvements on site include

three walls intended to function as a basement for a residence (neither the basement nor the residence were ever completed).

The project site is not within the 100-year flood zone as described by the Federal Emergency Management Agency.

ACCESS/REQUIREMENTS: Access is by way of Hobo Camp Road, which is not a County-maintained road, and South Street, which is a County-maintained road.

SURROUNDING PROPERTY CHARACTERISTICS AND ZONING: Parcels in the immediate vicinity consist of both unimproved land and residential uses owned by private landowners created by Parcel Map No. 41-8-82 for Arturo Terzi, recorded at Book 22, Page 9 O.R. Lassen County, as well as City-owned property to the west.

	Zoning	Parcel Size (acres)	Land Use Designation (<i>Susanville Vicinity Area Plan, 1984</i>)
North	R-1	1.42	“Low Density Urban Residential”
East	R-1	0.53	“Low Density Urban Residential”
South	R-1	0.39	“Low Density Urban Residential”
West	R-1-A	3	“Estate Residential”

R-1 (Single-Family Residential District)

R-1-A (Single-Family Residential District, Agricultural Combining District)

GENERAL PLAN: The subject parcel’s land use designation is “Low Density Urban Residential” in the *Susanville Vicinity Area Plan, 1984*. Said plan describes said land use designation as follows:

Includes residential areas receiving a full range of urban services such as community sewer and water services. May allow high density residential development and may include multi-family units. Density will usually exceed one dwelling unit per acre.

In addition, the *Susanville Area Plan, 1984* states as follows:

Policy 17.1: Lassen County recognizes that urban residential uses are necessary to achieve the County’s goals of compact urban growth and providing housing opportunities for all socio-economic segments of the community. Therefore urban residential uses of both low and high density shall be encouraged in areas where the County’s other goals, objectives and policies can also be attained. Urban residential development shall be served by a full range of services including community sewer, water, and paved streets. Multi-family and lower cost units should be encouraged in suitable locations to provide a range of housing types and costs.

Implementation Measure 17.13: Areas designated as Urban Residential, Low Density on the land use map shall be zoned “R-1”, Single-Family Residential.

The *Lassen County General Plan, 2000*, also identifies the following goals and policies in relation to neighborhood quality:

- Neighborhoods which offer safe and pleasant living environments for the residents of Lassen County (Goal L-8).
- Reasonable development and design review standards which protect communities from poorly designed development which detracts from the overall quality of the area (Goal L-10).
- The County supports the need to maintain safe and pleasant living environments and, in consideration of related land use decisions, shall require mitigation of impacts which significantly threaten such qualities (Land Use Policy 21).
- The County will continue to utilize design review districts in selected areas in order to ensure that buildings and other substantial developments are designed and constructed so as not to be of unsightly, undesirable or obnoxious appearance to the extent that they will hinder the orderly and harmonious development and appearance of the neighborhood (Land Use Policy 23).

LOCAL GOVERNMENTAL SERVICES:

- Fire protection is provided by the Susan River Fire Protection District
- Police protection is provided by the Lassen County Sheriff's Department and the Susanville Police Department
- School service is provided by the Susanville Elementary School District and Lassen Union High School District
- Sewer service is provided by Susanville Sanitary District
- Water service is provided by the City of Susanville Public Works Department

LASSEN COUNTY CODE: Lassen County Code Section 18.22.050(3), which pertains to R-1 districts, states that the front yard setback required is 20 feet.

Lassen County Code Section 18.110.010 states:

When practical difficulties, unnecessary hardships or results inconsistent with the purpose and intent of this title (the Lassen County Code) may result from the strict application of certain height, yard, or area requirements thereof, variances in such requirements may be granted as provided in this chapter.

Lassen County Code Section 18.110.040 requires that the Planning Commission make written findings of facts showing whether the qualifications under Section 18.110.020 apply to the land, building, or use for which a variance is sought and whether such variance is in harmony with the general purposes of the Lassen County Code. These findings must then be submitted to the Board of Supervisors. The findings of the Planning Commission, and ultimately the Board of Supervisors, must make in order to approve a variance application are found at Lassen County Code Section 18.110.020, and read as follows:

- (1) That there are exceptional or extraordinary circumstances, or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, and/or uses in the same district;*
- (2) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner;*
- (3) That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood. (Ord. 467 § 40, 1984).*

DISCUSSION: The applicant states that the subject parcel “is wide and shallow in depth” and that “the back retaining wall... is constructed using on-site rocks and boulders that take up another 3-5 feet from the building site, thus limiting that actual building depth. To remove the existing cinder block walls and footings would be cost prohibitive.” The applicant believes that these facts demonstrate “exceptional or extraordinary circumstances” as described above.

Furthermore, the applicant asserts that the granting of the application is necessary for the preservation and enjoyment of the applicant’s property rights, and that the application, if granted, would not materially affect adversely the health or safety of persons residing or working in the neighborhood, nor will the granting of the variance be materially detrimental to the public welfare nor injurious to property nor to improvements in said neighborhood.

Resolutions both approving and disapproving the proposed variance application are attached with this staff report.

ENVIRONMENTAL DOCUMENT: The Environmental Review Officer of Lassen County has determined that this proposal is exempt from the California Environmental Quality Act (CEQA) review under Section 15305 of the CEQA Guidelines, which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to... minor lot line adjustments, side yard, and *set back variances* not resulting in the creation of any new parcel.

Staff conducted a site visit as part of the review of this application and confirmed that the exceptions found at Section 15300.2 of the 2019 CEQA Guidelines do not apply to this variance application. Said exceptions would preclude the use of a categorical exemption for this project.

RESOLUTION NO. _____

RESOLUTION OF THE LASSEN COUNTY PLANNING COMMISSION RECOMMENDING
THAT THE BOARD OF SUPERVISORS APPROVE VARIANCE #2019-001,
ANTHONY AND MARY FOSTER

WHEREAS, the Planning Commission of Lassen County, after due notice and a public hearing conducted November 5, 2019, has considered Variance Application #2019-001 filed by Anthony and Mary Foster, to allow for the construction of a residence approximately five feet into the required front yard setback (20 feet), located at 475-795 Hobo Camp Road, Susanville, CA (APN 107-111-18); and

WHEREAS, the Environmental Review Officer of the County of Lassen has determined that the project is exempt from the requirements of the California Environmental Quality Act under Section 15305 of the 2019 California Environmental Quality Act Guidelines.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The foregoing recitals are true and correct.
2. The Lassen County Planning Commission finds as follows:
 - a. That the proposed project is consistent with the *Susanville Vicinity Area Plan, 1984*, and the provisions of the Lassen County Zoning Ordinance.
 - b. That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application that do not generally apply to land, buildings, and/or uses in the same district. In particular, the exceptionally rocky topography of the subject parcel would greatly hinder construction if the normal setback were imposed; moreover, such rocky terrain is unusual for (and does not generally apply to) parcels zoned R-1.
 - c. That the variance from the front setback requirement is necessary for the preservation and enjoyment of substantial property rights of the petitioner.
 - d. That the proposed 5-foot variance from the front yard setback requirement will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, nor be detrimental nor injurious to property or improvements in the neighborhood nor to the general welfare.
3. The Planning Commission hereby concurs with the Environmental Review Officer that the project qualifies for an exemption from the California

Environmental Quality Act under Section 15305 of the 2019 California
Environmental Quality Act Guidelines.

4. The Planning Commission hereby recommends that the Board of Supervisors
approve Variance Application #2019-001.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of
Lassen, State of California, on the 5th day of November, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Chairman
Lassen County Planning Commission

ATTEST:

Maurice L. Anderson, Secretary
Lassen County Planning Commission

RESOLUTION NO. _____

RESOLUTION OF THE LASSEN COUNTY PLANNING COMMISSION RECOMMENDING
THAT THE BOARD OF SUPERVISORS DISAPPROVE VARIANCE #2019-001,
ANTHONY AND MARY FOSTER

WHEREAS, the Planning Commission of Lassen County, after due notice and a public hearing conducted November 5, 2019, has considered Variance Application #2019-001 filed by Anthony and Mary Foster, to allow for the construction of a residence approximately five feet into the required front yard setback (20 feet), located at 475-795 Hobo Camp Road, Susanville, CA (APN 107-111-18); and

WHEREAS, the Environmental Review Officer of the County of Lassen has determined that the California Environmental Quality Act does not apply to projects that are disapproved, pursuant to Section 15270 of the 2019 California Environmental Quality Act Guidelines.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The foregoing recitals are true and correct.
2. The Lassen County Planning Commission finds as follows:
 - a. That the proposed project is not consistent with the *Susanville Vicinity Area Plan, 1984*, and the provisions of the Lassen County Zoning Ordinance.
 - b. That there are not exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application that do not generally apply to land, buildings, and/or uses in the same district.
 - c. That the variance from the front setback requirement is not necessary for the preservation and enjoyment of substantial property rights of the petitioner.
 - d. That the proposed 5-foot variance from the front yard setback requirement will, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, and be detrimental or injurious to property or improvements in the neighborhood and to the general welfare.
3. The Planning Commission hereby recommends that the Board of Supervisors disapprove Variance Application #2019-001.

RESOLUTION NO. _____

Page 2 of 2

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Lassen, State of California, on the 5th day of November, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Chairman
Lassen County Planning Commission

ATTEST:

Maurice L. Anderson, Secretary
Lassen County Planning Commission



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

September 18, 2019

Maurice L. Anderson, Director
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
Phone: 530 251-8269
Fax: 530 251-8373
email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

TO: Board of Supervisors
Agenda Date: October 8, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director *MLA*

SUBJECT: Appeal of the Director of the Department of Planning and Building Services' August 19, 2019, interpretive action regarding required setbacks for a residence proposed at 475-795 Hobo Camp Road, filed by Anthony Foster (Assessor Parcel Number 107-111-18).

ACTION REQUESTED:

1. Conduct a public meeting pursuant to Lassen County Code Section 18.122.050; and
2. Grant the appeal, or
3. Disapprove the appeal.

SUMMARY:

As authorized at section 18.122.050 of Lassen County Code, Mr. Anthony Foster has filed an appeal (attached) of an August 19, 2019, determination made by the Director of the Department of Planning and Building Services (Director) in regard to the front yard setback (e.g. yard) required for the above referenced parcel. Specifically, the Director determined that a 20-foot front yard setback is required. Further, the Director determined that, in accordance with section 18.14.1290 (attached), said setback is from the "official plan line" for Hobo Camp Road. Hobo Camp Road is described on the parcel map recorded at Book 22, Page 9 of the Official Records of Lassen County and is also described in an easement issued by the Bureau of Land Management recorded at Book 407 of Official Records, Page 320.

In accordance with the above section, the 20-foot setback is from either the property line to any proposed building, or, if applicable, the setback is from the "official plan line" for Hobo Camp Road to any proposed building. In pertinent part, section 18.14.1290 reads as follows:

"...the measurement shall be taken from the line of the building to the nearest lot line, however, that if any official plan line has been established for the street on which the lot faces or if any future width line is specified therefor by the provisions of this title, **then such measurement shall be taken from such official plan line or such future width line to the nearest line of the building.** (Emphasis added).

The Lassen County Code does not provide a definition for the official plan line of a street. Thus, in accordance with Lassen County Code Chapter 18.122 (attached), and in response to a written request from the property owner submitted on July 22, 2019 (attached), the Director determined that the easement line for Hobo Camp Road is the official plan line described in the above section. The

easement line for Hobo Camp Road was determined to be the official plan line because it is shown on both a recorded parcel map, approved by the Board of Supervisors, Planning Commission and others as well as being described in a recorded document.

In his July 22, 2019, letter, the property owner requested a five-foot reduction in the front yard setback as measured from the easement line for Hobo Camp Road; as part of his August 28, 2019, appeal letter, the property owner is now requesting a three-foot reduction in the front yard setback from the easement line for Hobo Camp Road (or a 17-foot front yard setback in lieu of the above-described 20-foot setback). If the Board upholds the Director's determination, a variance application would be required to consider the proposed reduced setback.

Again, the above is a summary only. More detailed analysis and discussion can be found in the Director's August 19, 2019, determination, the applicants appeal received August 28, 2019, the applicant's original request received July 22, 2019 and the other attached documents.

MLA:smr

Enclosures: Appeal from Mr. Foster filed August 28, 2019
Letter from the Department of Planning and Building Services dated August, 19, 2019
Letter from Mr. Foster submitted July 22, 2019
Parcel Map No. 41-8-82 for Arturo Terzi, recorded at Book 22, Page 9 O.R. Lassen
County

PLA/Admin/Files/318.03.18.01/2019/Foster Appeal/Board Letter

RECORD TITLE INTEREST CERTIFICATE

I the undersigned hereby certify as follows:

1. I and all of the parties having any record title interest in the real property subdivided by this map, within the meaning of paragraphs 66456 and 66445 of the Government Code of California.

2. I do hereby consent to the preparation and recordation of this map.

Arturo Terzi

NOTARY ACKNOWLEDGMENTS

State of California
County of Yuba

On 14 day of February, 1983, before me, the undersigned, a Notary Public and for said State, personally appeared

Arturo Terzi
known to me to be the person whose name Arturo Terzi are subscribed to the within instrument and acknowledged that Arturo Terzi executed the same.

WITNESS my hand and official seal

Signature _____
Printed Name Arturo Terzi

COUNTY TAX COLLECTOR'S CERTIFICATE

I, Beatrice Price, Tax Collector of Lassen County, certify that there are no tax liens against 107-111-01-11 as hereon set forth, or unpaid State, County, Municipal, or Local taxes or special assessments collected as taxes, except taxes which are a lien but not yet due or payable. I estimate the latter to be in an amount not to exceed \$39.90

Beatrice Price
Beatrice Price, Lassen County Tax Collector

SUPERVISOR'S CERTIFICATE

The Lassen County Board of Supervisors approved this Parcel Map for TERZI

This 25 day of FEBRUARY, 1983, per Section 5 of County Ordinance No. 435 Approval of this Map does not imply acceptance of the roads shown as access easements into the County maintained system and no road maintenance service will be performed by the County prior to the acceptance by the Board of Supervisors.

Jane Delaney
Chairman, Board of Supervisors

LASSEN COUNTY PLANNING COMMISSION

I, Robert K. Sorvaag, Secretary of the Lassen County Planning Commission, hereby certify that Parcel Map as shown hereon is substantially as it appeared on the approved tentative map, and any approved alterations thereof.

Robert K. Sorvaag
Robert K. Sorvaag, Secretary

SURVEYOR'S CERTIFICATE

This Map correctly represents a survey made by me in conformance with requirements of the Land Surveyor's Act at the request of Arturo Terzi in Nov. 1982.

Jimmy Shively
L.S. No. 4723

COUNTY SURVEYOR'S CERTIFICATE

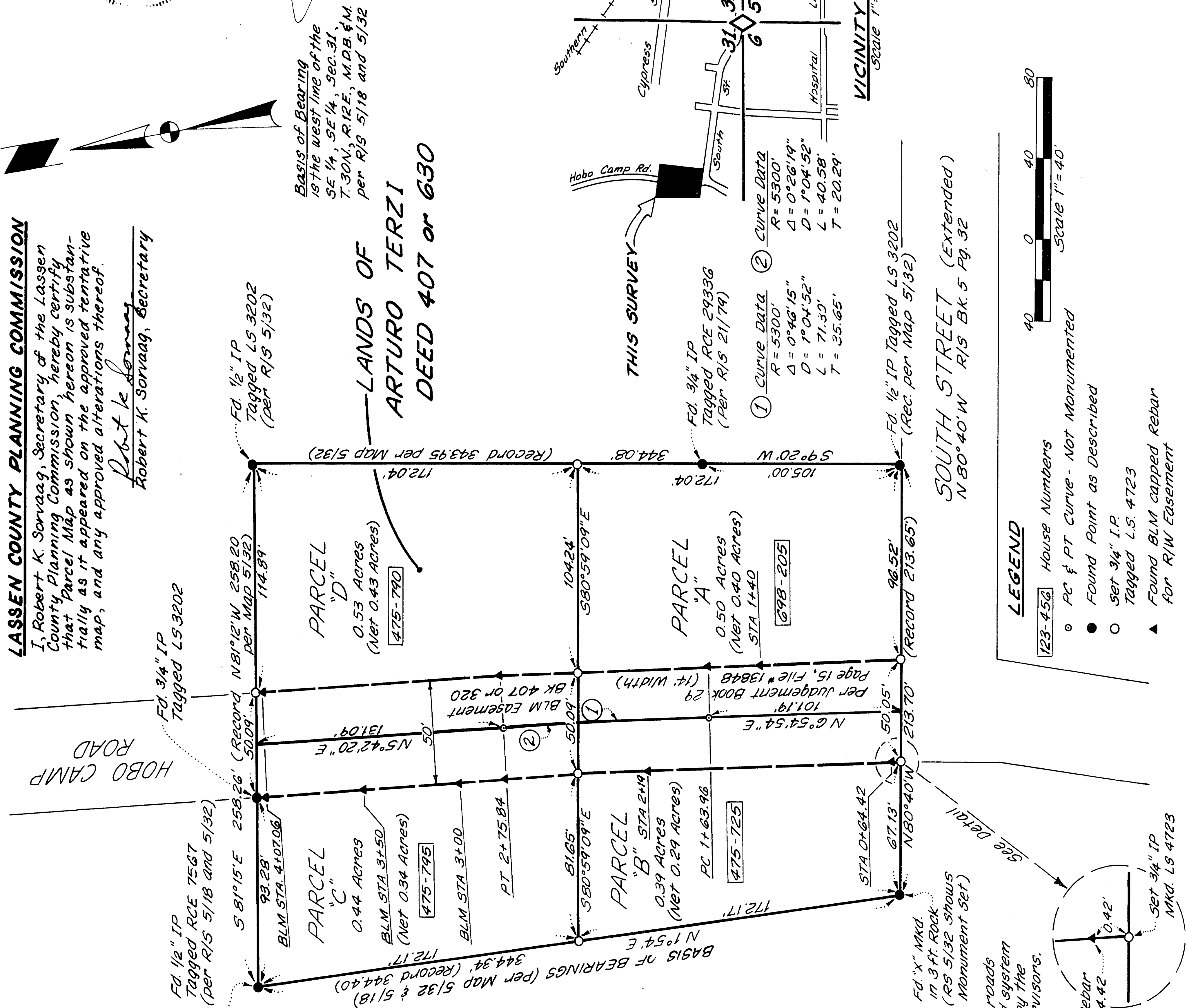
This Map has been examined for conformance with the requirements of the Land Surveyor's Act

This 25 day of MARCH, 1983
John D. Mitchell
County Engineer / Surveyor
L.S. No. 3519
R.C.E. No. 23969

RECORDER'S CERTIFICATE

Filed this 30 day of MARCH, 1983
at 10:00 AM, in Book 22
of Maps at Page 9, at the request of Jimmy Shively
Fee \$6.00
File No. 1229

Emilia J. Shively
Lassen County Recorder



LEGEND

- 123-456 House Numbers
- PC & PT Curve - Not Monumented
- Found Point as Described
- Set 3/4" I.P. Tagged L.S. 4723
- Found BLM capped Rebar for R/W Easement

SOUTH STREET (Extended)
N 80°40'W R/S BK 5 Pg. 32

PARCEL MAP
NO. 41-8-82

FOR
ARTURO TERZI

OF A PORTION OF
THE SE 1/4 OF THE SE 1/4
SEC. 31, T.30N., R.12E., M.D.B. & M.
LASSEN COUNTY, CALIFORNIA

Variance #2019-001, Foster





VARIANCE APPLICATION

FILING FEE: \$571.00
DEPARTMENT OF PLANNING AND BUILDING SERVICES
707 Nevada Street, Suite 5 · Susanville, CA 96130-3912
(530) 251-8269 · (530) 251-8373 (fax)
www.co.lassen.ca.us

RECEIVED

OCT 08 2019

LASSEN COUNTY DEPARTMENT OF
PLANNING AND BUILDING SERVICES

FILE NO. VA #2019-001

Form must be typed or printed clearly in black or blue ink. All sections must be completed in full.

This application consists of two pages; only attach additional sheets if necessary.

Property Owner/s	Property Owner/s
Name: <u>Anthony Foster</u>	Name: <u>Mary Foster</u>
Mailing Address: <u>65 Small St</u>	Mailing Address: <u>65 Small St</u>
City, ST, Zip: <u>Susanville CA 96130</u>	City, ST, Zip: <u>Susanville CA 96130</u>
Telephone: <u>817-228-0388</u> Fax: <u>—</u>	Telephone: <u>530-250-5927</u> Fax: <u>—</u>
Email: <u>adfoster52@gmail.com</u>	Email: <u>mjez2011@gmail.com</u>

Applicant/Authorized Representative*	Agent (Land Surveyor/Engineer/Consultant)
Same as above: <input checked="" type="checkbox"/>	Correspondence also sent to: <input type="checkbox"/>
Name:	Name:
Mailing Address:	Mailing Address:
City, ST, Zip:	City, ST, Zip:
Telephone: Fax:	Telephone: Fax:
Email:	Email: License #:

Project Address or Specific Location: <u>475-795 Hobo Camp Rd</u>			
Deed Reference: Book: <u>107</u>	Page: <u>11</u>	Year: <u>—</u>	Doc#: <u>—</u>
Zoning: <u>Residential</u>		General Plan Designation:	
Parcel Size (acreage): <u>.44</u>	Section: <u>31</u>	Township: <u>30N</u>	Range: <u>R12E</u>

Assessor's Parcel Number(s):	- -	- -	- -
<u>107-111-1811</u>	- -	- -	- -

Project Description:
<u>Build a one-story house with a walk-out basement and detached garage/workshop CHANGE BUILDING SETBACK FROM 20' TO 15'</u>

SIGNATURE OF PROPERTY OWNER(S): I HEREBY ACKNOWLEDGE THAT: I have read this application and state that the information given is both true and correct to the best of my knowledge. I agree to comply with all County ordinances and State laws concerning this application.	*SIGNATURE OF APPLICANT/AUTHORIZED REPRESENTATIVE (Representative may sign application on behalf of the property owner only if Letter of Authorization from the owner/s is provided).
<u>Anthony Foster</u> Date: <u>10-08-19</u>	<u>Mary Foster</u> Date: <u>10-08-19</u>

See associated process form for required attachments and instructions.

-TO THE LASSEN COUNTY PLANNING COMMISSION-

In accordance with the provisions of the Zoning Ordinance of the County of Lassen, application is hereby made for a variance in the strict application of the regulations of said Ordinance to permit:

On property located at 475-795 HOBO CAMP RD +
Lot "C" Block 18 Tract 107-11 Owner Foster (Terzi)

The answers to the following questions are submitted to substantiate my petition for a variance:

- a. Are there exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application which circumstances or conditions do not apply generally to land, buildings, and/or uses in the same district? (Explain)

See attached

- b. Is the granting of the application necessary for the preservation and enjoyment of the property rights of the petitioner?

Yes.

- c. Will the granting of this application, under the circumstances of the particular case, materially effect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, or will it be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood?

No.

(Additional sheets may be attached to and made a part of this application).

Variance Application, Item a:

Our original request was for a variance of 15 feet and was amended to 17 feet when resubmitted hoping that it would be approved. In this variance request we would like to obtain a 15 foot to 17 foot approval (preferably a 15 foot).

The lot is wide and shallow in depth and we will be building within an existing foot print using the ICF block wall system. The ICF blocks are approximately 14 inches deep with an additional 2 feet distance between the original wall and the ICF wall.

In addition, the back retaining wall of the property is constructed using on-site rocks and boulders that take up another 3-5 feet from the building site, thus limiting the actual building depth.

To remove the existing cinder block walls and footings would be cost prohibitive.

SITE Plan

475-795 Hobo Camp Rd.

Not to scale

