



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Kim Toulouse, Chair
Clay Thomas, Vice Chair
Kristina Hill
Lee Lawrence
Brad Stanley
Trevor Lloyd, Secretary

Thursday, August 2, 2018
1:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, July 11, 2018, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Toulouse called the meeting to order at 1:30 p.m. The following members and staff were present:

Members present:

Kim Toulouse, Chair
Clay Thomas, Vice-Chair
Kristina Hill
Lee Lawrence
Brad Stanley

Members absent:

None

Staff present:

Chris Bronczyk, Planner, Planning and Building Division
Kelly Mullin, AICP, Senior Planner, Planning and Building Division
Chad Giesinger, Senior Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Mike Large, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division
Katy Stark, Planning and Building Division

2. *Pledge of Allegiance

Member Lawrence led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Large recited the Ethics Law standards.

4. *Appeal Procedure

Mr. Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

As there was no response to the call for public comment, Chair Toulouse closed the public comment period.

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of August 2, 2018. The motion, seconded by Member Thomas, passed five in favor and none opposed.

7. Approval of July 11, 2018 Minutes

Chair Toulouse had some corrections for July 11, 2018:

Vice Chair Thomas called meeting to order, not Chairman Toulouse.

Vice Chair Thomas had corrections:

He said on page 4, a board member needs to be identified. He said he believe the sentence spoken by Member Hill regarding undisturbed land where the 98 homes were proposed needed clarification. He would like to identify the board member who spoke on page 8, 4th paragraph. Mr. Snelgrove was the De Facto project manager. On page 10, 3rd paragraph, wanted to clarify the sentence by the Vice Chair regarding grading.

Member Thomas moved to approve the minutes of July 11, 2018 as amended. The motion was seconded by Member Stanley and passed five in favor, none opposed.

8. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

E. Variance Case Number WPVAR18-0004 (Eekhoff Residence) – For possible action, hearing, and discussion to approve a variance to reduce the eastern front yard setback from 30 feet to 20 feet, to reduce the western front yard setback from 30 feet to 20 feet and to reduce the northern side yard setback from 15 feet to 8 feet. The setback reductions are needed to bring a home into conformance with Washoe County Code requirements. The home has already been issued a building permit by Washoe County and is currently under construction.

- Owner/Applicant: Todd and Marci Eekhoff
- Location: 5545 E. Hidden Valley Dr.
- APN: 051-293-07
- Parcel Size: .58 Acres
- Master Plan: Suburban Residential
- Regulatory Zone: Medium Density Suburban
- Area Plan: Southeast Truckee Meadow
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 804, Variances
- Commission District: 2 – Commissioner Lucey
- Staff: Trevor Lloyd
Washoe County Community Services Department
Planning and Building Division

- Phone: 775-328-3617
- E-mail: tlloyd@washoecounty.us

Chair Toulouse opened the public hearing.

Disclosures: Chair Toulouse disclosed that he is an acquaintance of Mr. Eekhoff; he use to work with Mr. Eekhoff's wife. There was no contact with the applicant regarding the project. DDA Large said he felt this wasn't a conflict.

Disclosures: Member Lawrence said Marcie Eekhoff is his ex-niece and Presley is the grandniece. He said he wishes to recuse himself. DDA Large agreed. Member Lawrence left the meeting at 3:39 p.m.

Trevor Lloyd, Washoe County Planning Manager, provided a staff report presentation.

Member Stanley asked about the timing and how the grading issue will be handled. He asked how the issues came to light and how will it be corrected. Mr. Lloyd said it's up to the applicant to show how they will meet those requirements; a certificate of occupancy will not be issued until those requirements are met. He said we don't do the designing. Member Hill asked about their progress. Mr. Lloyd said they are far along in the project. There wasn't a stop work order issued. The applicant understands they are taking a risk.

Member Thomas spoke about the distance from the north property line and the stem wall; he said there isn't enough room, especially with the steepness of the area. Mr. Lloyd said the slope likely won't be there. There is 8 feet to the property line. He said the fence is within the property line. Eight feet is sufficient amount of space. It's adequate room to plant and stagger trees.

Chair Toulouse said he doesn't like these types of requests. He said he understands the mistake with modifiers. He asked about the grading. Mr. Lloyd said the grading doesn't match the code or the approved plans, and that's why we are asking for a revised planned. It wasn't approved grading per the plan.

Member Stanley asked at what point this would become an enforcement issue. Mr. Lloyd said we are attempting to rectify it through this process. If not approved, it will go to code enforcement. Member Stanley asked if the sloping will be reduced or will there be a retaining wall. He asked what the options will be for them to resolve it. Mr. Lloyd said it's up to the applicant as long as they meet the grading requirements.

Jeff Frame, project architect for the applicant, provided a project presentation. He showed the assessor's parcel map, Hidden Valley modifiers, survey of the lots, original Hidden Valley subdivision, and original site plan. He said the north face of the property is not parallel with the property line. He showed the amount of space to the property line, between 8-15 feet. He spoke about preliminary grading. He said the view from the house is straight on to the golf course. He showed the orientation in regards to the neighbor's house. He said it's rough grading to be mitigated – proposing a retaining wall parallel to property line. There is a public utility easement and they are speaking to NV Energy to abandon the easement. He said the retaining wall is a preliminary design. He showed the front and north property elevation. He said there aren't a lot of windows on the north side of the property to overlook the neighbor and there will be landscaping for screening.

Chair Toulouse asked how the grading wasn't depicted on the plans. Mr. Frame said he isn't sure since he isn't the grader. He said it can be mitigated with retaining walls.

Member Stanley asked what happens if the NV Energy utility easement abandonment isn't granted. Mr. Frame said they aren't counting on it anyway.

Member Thomas asked if the area plans were overlaid. Mr. Frame said it was designed for the same location per the area plans. Member Thomas said if MDS setbacks were considered, then the Hidden Valley setbacks were an oversights. Mr. Frame said he wasn't aware of the more restrictive setback. Mr. Frame said Hidden Valley did away with their reviewing committee.

Todd Eekhoff said he purchased the property in 2013 in hopes to build a dream retirement home. He said they submitted for a permit in 2017, got the permit, and started building in the spring of 2018 and then got notification of the mistake. He said they continued to build under that permit. He said the views are of the golf course. He said he has been turned into the Fire Marshal. It's one thing after another. It's been tough.

Member Thomas asked about the meeting with Mr. Lloyd regarding the setbacks. Mr. Eekhoff said we assumed the permit was to code. He said he wasn't issued a stop work order. He said he was told it needs to be brought into compliance. He said he trusted he was being guided in the right direction. He said he didn't intend to go into this and not comply. Member Thomas asked how far along in the project was he

when he was notified. Mr. Eekhoff said they had installed the stem walls. Since the notification, the sub floors, concrete, garage, and ¾ of framing of the house has been completed.

Chair Toulouse opened public comment.

Todd Bader spoke on behalf of the Shaver Trust which is the property to the north of applicant's property. He provided photographs of condition of property prior to construction in 2013, pictures of the state of construction when the issue came up, and picture of the view from neighbor's property, and of encroachments on northeast and southwest. There are encroachments on all 4 sides of the home. He showed the setback violations of 3 feet contrary to what had been presented earlier. He said the Board needs to make special findings. He said there are none. The Board needs to find this is detrimental to his client. There is 900 square feet of encroachment. The Board cannot make the findings it's supposed to make. Please deny.

Carl Cahill said he opposes this variance application. He said he speaks on behalf of other neighbors. He spoke about the Hidden Valley modifiers and required setbacks. This will result in major deviations. We oppose this variance request. He said he retired from the Health Department. He asked how they didn't recognize these violations. He asked if they knew of the violations prior to construction. He said these violations were known by professionals; it's a blaring case to seek forgiveness rather than permission. He asked why construction was rushed. He said he believes there was an effort to install viable investment which will make your decision harder.

Deane Shaver said he was a general building contractor and registered civil engineer. He said he dealt with codes and ordinances all of his life. He said in mid May, he saw a pad, footing, and stem walls. He said he went to the County Planning Department and it took him 10 minutes to find that the building was not up to code. The architect has a professional team who are responsible; they needed to do their due diligence. It was a problem error. The code should be complied with. He asked why we have codes, ordinances, or the Hidden Valley Area Plan if we don't follow it. It's a dangerous situation. He said you cannot grow trees within 8-10 feet. He said there is a slope. There needs to be fill on top of the footing. He said it will be hard to get trees to fit in that space.

Chair Toulouse closed public comment.

Chair Toulouse asked the architect if he ever built anything in Hidden Valley. The architect said no.

Member Thomas asked if the floorplan fit in the original footprint or would a variance be required. Mr. Lloyd said it would fit within the standard MDS setbacks.

Member Stanley asked about process in regards to variances. Mr. Lloyd explained the process of issuing a variance. He said there must be unique circumstances of the property itself. This is a procedural matter more than a special circumstance.

Member Hill asked how we are supposed to make those findings for those special circumstances. Mr. Lloyd said this falls under the category of 'other unique circumstance' at the discretion of this board.

Member Thomas asked Mr. Eekhoff when he was noticed on May 25, why he continued to move forward. Mr. Eekhoff said he had a permit and he asked if he was supposed to stop. He said he wasn't issued a stop work order, the County said he would have to get a variance. He said his attorney advised him to continue to work. The construction slowed down because of these issues. He said it's taking longer; it's not being rushed. He said we are paying money on construction loan interest. He said he is presenting his case – he said this wasn't his intention. It's been modified several times prior to building. He said he is taking the advice of attorney, architect, building manager, and contractor.

Member Hill said this is an exceptional hardship on the owner if we don't approve.

Member Thomas said he hates these situations to bring it into compliance. We are dealing with a situation that has already taken place. He said he has difficulty with these things. It was a series of errors by homeowner and the County.

Member Stanley said he agrees. He said the Hidden Valley modifiers have been around for 15 years. He said he is troubled that the information wasn't more obvious and readily available. He said it's difficult because there isn't a good solution.

Member Toulouse said he has a great deal of distaste for these types of situations. We are not bringing it into compliance, but rather granting a variance. He said he cannot make the findings.

MOTON: Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number WPVAR18-0004 for Eekhoff residence, with the Conditions of Approval included as Exhibit A for this matter, having made all four required findings in accordance with Washoe County Code Section 110.804.25. Member Stanley seconded the motion. Member Hill, Stanley, and Thomas were in favor of the motion to approve. Chair Toulouse opposed the motion. The motion carried 3 to 1.

1. **Special Circumstances.** Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. **No Detriment.** The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. **No Special Privileges.** The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. **Use Authorized.** The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

4:25 p.m. Member Lawrence re-entered the meeting.

Mr. Lloyd read the appeal process.

12. *General Public Comment

As there was no response to the call for public comment, Chair Toulouse closed the public comment period.

13. Adjournment

The meeting adjourned at 5:25 p.m.

Respectfully submitted by Misty Moga, Independent Contractor.

Approved by Board in session on _____, 2018

Trevor Lloyd
Secretary to the Board of Adjustment