



Board of Adjustment Staff Report

Meeting Date: August 2, 2018

Agenda Item: 8E

VARIANCE CASE NUMBER: WPVAR18-0004 Eekhoff Residence

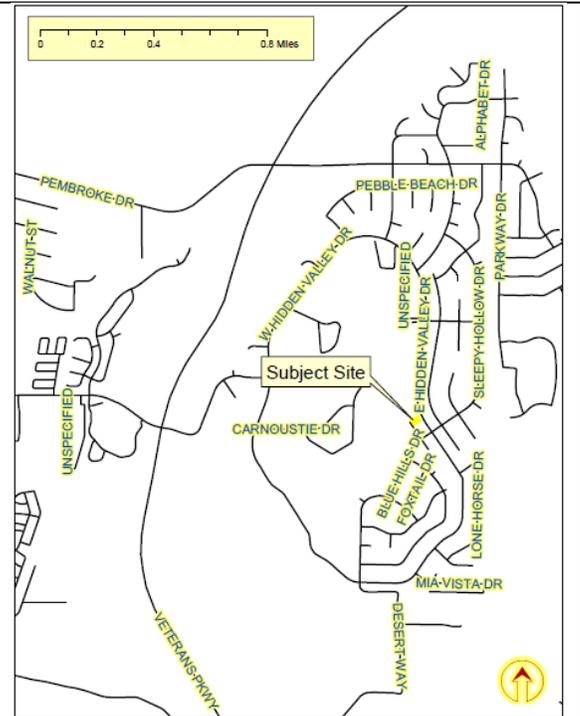
BRIEF SUMMARY OF REQUEST: Setback reduction for two front yards and one side yard to bring a home under construction into conformance with code requirements.

STAFF PLANNER: Planner's Name: Trevor Lloyd
Phone Number: 775.328.3617
E-mail: tlloyd@washoecounty.us

CASE DESCRIPTION

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 RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

POSSIBLE MOTION

I move 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 Development Code Section 110.804.25.

(Motion with Findings on Page 13)

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Variance Definition

The purpose of a Variance is to provide a means of altering the requirements in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved; and to provide for a procedure whereby such alterations might be permitted by further restricting or conditioning the project so as to mitigate or eliminate possible adverse impacts. If the Board of Adjustment (Board) grants an approval of the Variance, that approval is subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

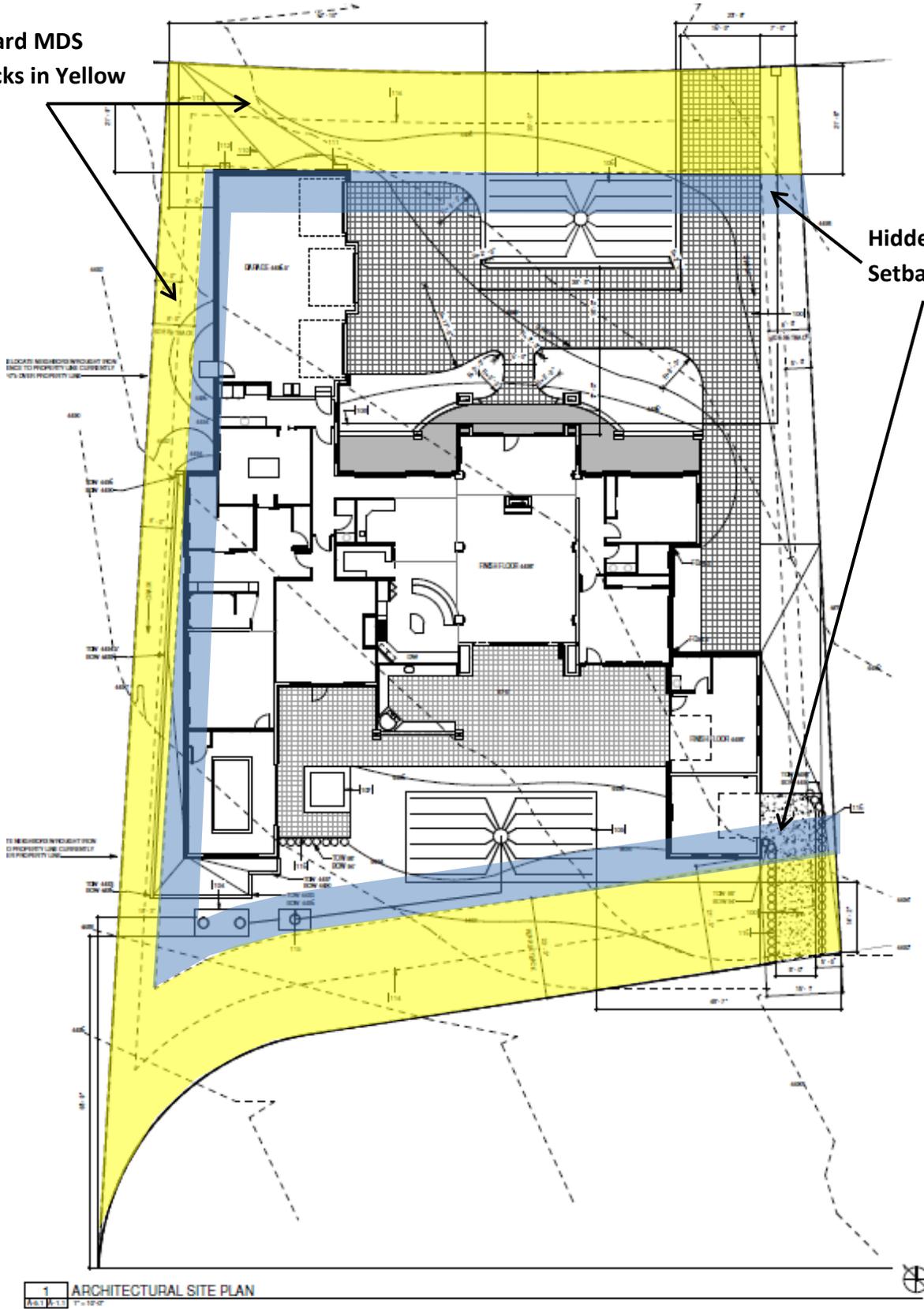
- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as “Operational Conditions.” These conditions must be continually complied with for the life of the business or project.

The Conditions of Approval for Variance Case Number WPVAR18-0004 are attached to this staff report and will be included with the Action Order if the application is approved by the Board.

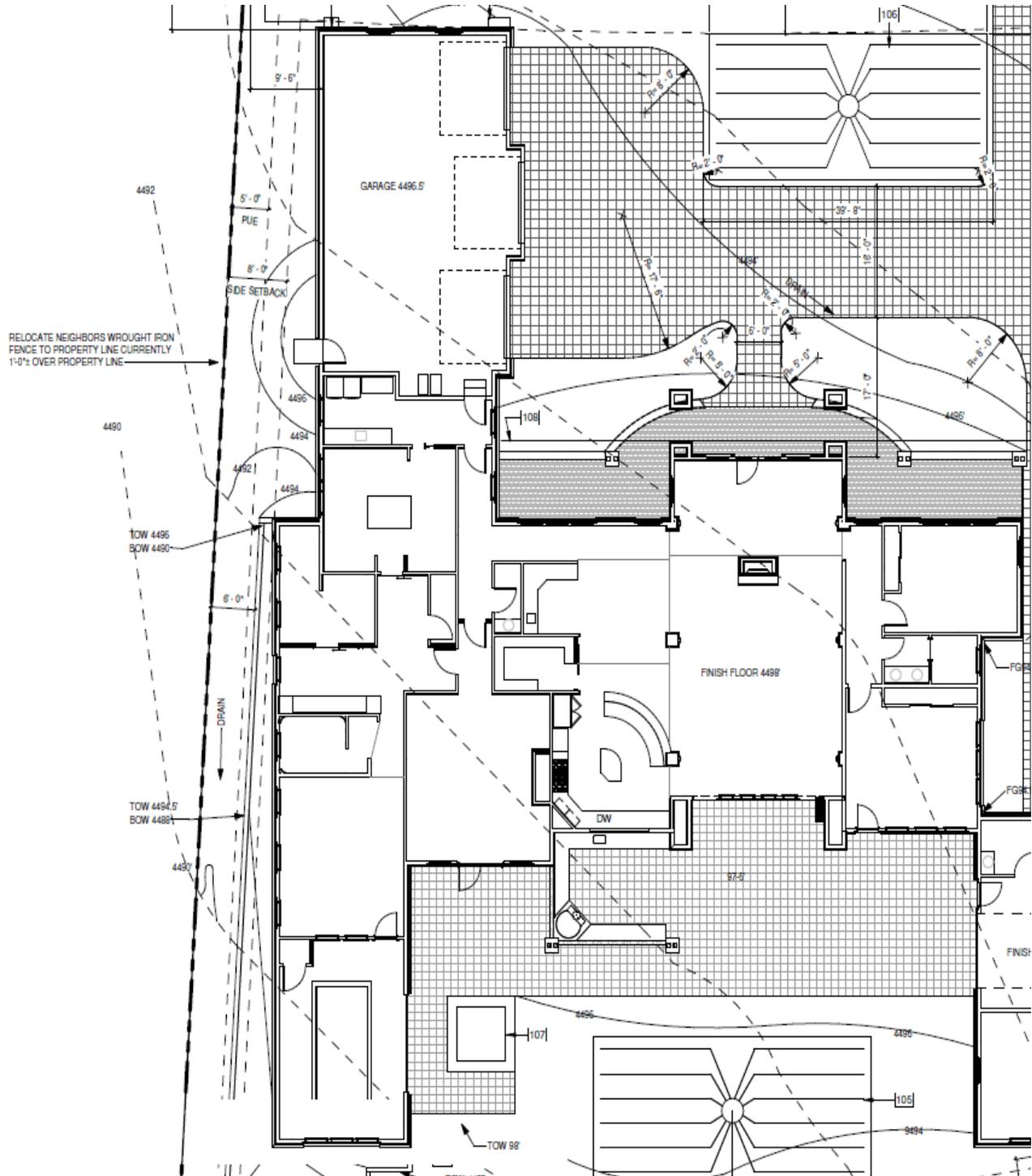
The subject property is .58 acres in size and has a regulatory zone of Medium Density Suburban (MDS) and is surrounded by similar MDS properties on all four sides. The required setback for this property (pursuant to WCC Chapter 110, Article 212, *Southeast Truckee Meadows Area Plan*) is 30 feet front and rear and 15 feet on the sides.

**Standard MDS
Setbacks in Yellow**

**Hidden Valley MDS
Setbacks in Blue**



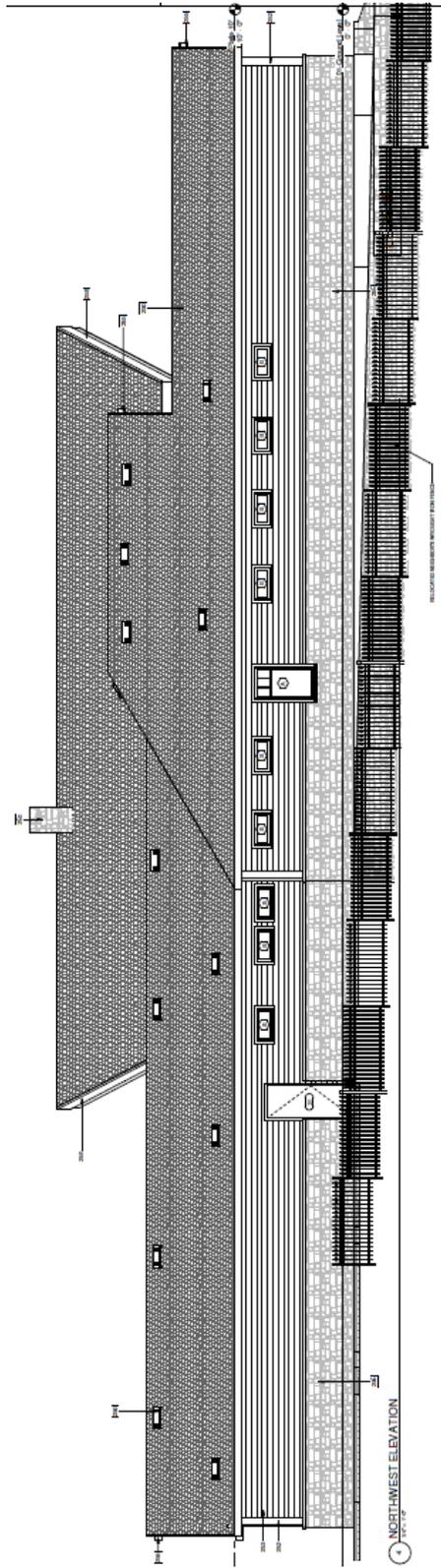
Site Plan



Site Plan (Enlarged)



Elevations



Northwest Elevation



Rendering illustrating completed landscaping - Northwest

Project Evaluation

The need for this variance has come about due to a staff error on a set of building plans submitted by the applicant. In September, 2017, Washoe County issued a building permit for the construction of a residence placed 20 feet from the front yard property lines along both the east and the west property lines as well as 8 feet from the north side yard property line. The property has a regulatory zone of Medium Density Suburban (MDS) and the standard setbacks within the MDS regulatory zone is 20 feet from the front and rear and 8 feet on the sides. However, WCC Section 110.212.10(i), *Hidden Valley Community Area Modifiers – Setbacks*, requires the front yard setbacks to be 30 feet for front yards and 15 feet for side yards for parcels greater than .4 acres in size. The subject property is .58 acres in size, and is located within the Hidden Valley Community Area as depicted in WCC Map 110.212.10.1. Below is setback language per WCC Section 110.212.10(i).

***Setbacks.** Setbacks for the main structure on lots recorded prior to the effective date of this Ordinance (March 31, 2002) shall be thirty (30) feet for the front and twenty (20) feet for the rear yards. Lots with two (2) front yards shall maintain the setback for both front yards. Side yard setbacks for the main structure shall be eight (8) feet for parcels less than .4 acres and fifteen (15) feet for parcels more than .4 acres. Setbacks for structures on lots recorded after the effective date of this Ordinance (March 31, 2002) shall require the lots adjacent to developed lots to adhere to this setback standard.*

The issuance of the permit conflicts with the above Code provision and was brought to staff's attention by the adjoining neighbor to the north. At the time staff was made aware of this situation, the construction of the home was well under way and included earthwork, the placement of footings and stem walls. Staff immediately scheduled a meeting with the property owners as well as the adjoining neighbor to try to resolve the matter and provided the property owners with the options of either tearing down the home and starting over or applying for a variance to allow for the reduced setbacks. The property owners elected to submit this variance to request the reduced setbacks.

Impacts:

The impacts associated with the proposed variance are primarily to the neighboring property to the north due to the location of the subject home under construction, which is located 8 feet from the property line at its closest location. It should be mentioned that the subject residence is located 8 feet from the north property line at one location but the average setback of the house is over 10 feet along most of this property line (see site plan on page 6). Additionally, the location of the neighboring residence to the north is approximately 45 to 50 feet away from the closest wall of the proposed residence. Staff has proposed a condition that the applicant installs a minimum of 12 trees along the north property line. The trees will be a minimum of ten feet tall at the time of planting and will include a mix of different species including both evergreen and deciduous. Also, the trees will be staggered to avoid the appearance of a uniform wall and give a more natural look (see rendering on page 9).

Site Analysis:

The subject parcel is located within the Hidden Valley 1 subdivision which is a part of the Hidden Valley Area Plan modifiers. The subject property is located within the Medium Density Suburban (MDS) regulatory zone and is approximately .58 acres in size which is consistent with the regulatory zones and lot sizes of most of the surrounding properties. The adjacent parcels to the east are approximately one-third acre in size, the adjacent parcels to the west are approximately one acre in size, and the area to the west has been fully-developed for some time. The property does not contain any significant development constraints per the Southeast Truckee Meadows Development Suitability map.

Findings:

Special Circumstances/Hardship or Self Induced Hardship:

WCC Chapter 110 (Development Code) sets forth specific reasons that constitute special circumstances or a hardship upon a parcel that are acceptable for the granting of a variance. Those reasons are enumerated in WCC Section 110.804.25(a) as follows:

- (1) Exceptional narrowness, shallowness or shape of the specific piece of property, or
- (2) By reason of exceptional topographic conditions, or
- (3) Other extraordinary and exceptional situation or condition of the property and/or location of surroundings,

The variance request is necessitated by a mistake made by the applicant as well as Planning and Building Division staff during the review of the building permit. There may be sufficient circumstances for the Board of Adjustment to make the findings for approval of the variance request. The setbacks established by the approved building plans are consistent with the minimum setbacks of the MDS regulatory zone as established in WCC Table 110.406.05.1. Additionally, the setbacks are consistent with the minimum setbacks for MDS properties within the Hidden Valley Modifiers (WCC section 110.212.10(i)) which are .4 acres in size or smaller. However, the subject property is .58 acres in size and must, therefore, adhere to the increased setbacks. Additionally, the language which establishes these setbacks in WCC Section

110.212.10(i) is unclear and convoluted in sharp contrast with the standard MDS setbacks per WCC Table 110.406.05.1.



Site Photo at North Property Line

Site Grading

In addition to the setback issues identified above, it was also brought to staff's attention that the grading activity on the subject property may not be in conformance with the grading standards of WCC Chapter 110, Article 212. Specifically, the existing grading activity appears to violate provisions 1 and 2 below involving fill slopes steeper than four to one (4:1) and fills that differ from the natural grade by more than forty-eight (48) inches (see site photo above). The pertinent excerpt from WCC Section 110.212.10(b) appears below:

WCC Section 110.212.10(b) - Grading

Grading for subdivision improvements, minor or major special use permits or other discretionary or building permits shall:

- (1) Not result in slopes on fill in excess of or steeper than four to one (4:1).
- (2) Not result in elevations or fill that differ from the natural grade by more than forty-eight (48) inches or when grading occurs adjacent to an existing residence, fills shall not be placed within an area that exceeds a projected slope of four to one (4:1) for a distance of forty (40) feet from the common property line. Refer to Figure 110.212.10.1, Typical Setback at Existing Residence.

- (3) Be limited on cut slopes to equal to, or steeper than, three to one (3:1) and may include a rockery or manufactured masonry retaining wall with a maximum height of eight (8) feet. If necessary, one (1) additional retaining wall set back eight (8) feet from the first wall will be allowed.
- (4) If the applicant proposes cut, fills or slopes in excess of the standard, the applicant shall address compatibility with adjacent lots and visual impacts to the community and propose design criteria, landscaping and buffering to mitigate impacts on adjacent property owners and the community's scenic character. The mitigation shall be reviewed by the Design Review Committee prior to any ground-disturbing activities.

Staff Comment: Staff has included a proposed condition #1(c) which shall require the applicant to provide the Planning and Building Division with a plan to ensure compliance with all of the grading provisions of Article 212 and Article 438 of the Development Code.

South Truckee Meadows/Washoe Valley Citizen Advisory Board (STM/WV CAB)

The proposed project was presented by the applicant's representative at the regularly scheduled Citizen Advisory Board meeting on July 5, 2018. There was little discussion regarding the proposed request. The CAB recommended unanimously to approve the proposed variance.

Reviewing Agencies

The following agencies received a copy of the project application for review and evaluation.

- Washoe County Community Services Department
 - Planning and Building Division
 - Engineering and Capital Projects Division – Land Development
 - Engineering and Capital Projects Division - Utilities
 - Engineering and Capital Projects Division - Traffic
- Washoe County Health District
- Truckee Meadows Fire Protection District
- Regional Transportation Commission
- Washoe Storey Conservation District
- City of Reno – Community Development

2 out of the 9 above listed agencies/departments provided comments and/or recommended conditions of approval in response to their evaluation of the project application. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order.

- Washoe County Planning and Building Division addressed findings, the landscaping requirements and grading for the property.
Contact: Trevor Lloyd, 775.328.3617, tlloyd@washoecounty.us
- Washoe County Engineering and Capital Projects Division addressed grading requirements
Contact: Leo Vesely, 775.328.2041, ivesely@washoecounty.us

Staff Comment on Required Findings

Washoe County Code Section 110.804.25 requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the request.

Staff has completed an analysis of the variance application and has determined that the proposal is in compliance with the required findings as follows.

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.

Staff Comment: The applicant received a building permit and has completed a considerable amount of construction of his single family residence. The building plans were submitted and approved based on the assumption that the established setbacks were regulated per WCC Table 110.406.05.1 and did not consider the special Hidden Valley Area modifier setbacks in WCC Chapter 110, Article 212.

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.

Staff Comment: The construction of the house will have impacts, specifically to the neighboring property to the north. The impacts can be mitigated by the code requirement to ensure adherence to all grading requirements and the condition for significant landscaping along the northern boundary, which will help soften the appearance of the new residence from the existing residence. Additionally, the location of the new home will be located between 45 and 50 feet from the existing home to the north.

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.

Staff Comment: The encroachment of the property into the setbacks per the Hidden Valley Area modifiers is not unique within the vicinity of the site. There are numerous other homes within close proximity and with similar lot sizes and the identical regulatory zone (MDS) that are encroaching into the established setbacks.

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.

Staff Comment: The property is established for residential purposes. The proposed variance will not grant a use which is not authorized within the adopted regulatory zone.

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Staff Comment: There are no military installations within close proximity to the subject property; therefore, this finding is not required.

Recommendation

Those agencies which reviewed the application recommended conditions in support of approval of the project or provided no comments. Therefore, after a thorough analysis and review, Variance Case Number WPVAR18-0004 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

I move 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:

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;

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant, unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Building Division within 10 calendar days from the date the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

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