



WASHOE COUNTY

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CM/ACM	<u>KS</u>
Finance	<u>DN</u>
DA	<u>✓</u>
Risk Mgt.	<u>N/A</u>
HR	<u>N/A</u>
Clerk	<u>SJS</u>

STAFF REPORT

BOARD MEETING DATE: June 9, 2015

DATE: May 15, 2015

TO: Board of County Commissioners

FROM: Grace Sannazzaro, Planner, Planning and Development,
Community Services Dept., 328-3771, gsannazzaro@washoecounty.us

THROUGH: William H. Whitney, Division Director, Planning and Development
Community Services Department, 328-3617, bwhitney@washoecounty.us

SUBJECT: Public Hearing on Appeal Case No. AX15-001 (Kimberly Kline) –
Hearing, discussion, and action on the appeal of the Board of
Adjustment's decision to deny Variance Case No. VA15-002, which is
requesting a reduction of the required front yard setback from 30 feet to 20
feet to allow for the placement of a ±2,318 square foot manufactured
home and a single car garage. The Board of County Commissioners may
take action to affirm the Board of Adjustment's denial; or the Board may
take action to reverse the Board of Adjustment's denial and issue the
Variance; or the Board may modify the Variance's Conditions and issue
the Variance; or the Board may remand to the Board of Adjustment for
reconsideration and further proceedings. (Commission District 2.)

SUMMARY

Confirmation, reversal, modification, or remand of the Board of Adjustment's denial of Variance Case No. VA15-002, requesting to reduce the required front yard setback from 30 feet to 20 feet to allow for the placement of a ±2,318 square foot manufactured home and a single car garage.

Washoe County Strategic Objective supported by this item: Safe, secure, and healthy communities.

PREVIOUS ACTION

April 2, 2015 Board of Adjustment (BOA) – The Board of Adjustment denied Variance Case Number VA15-002.

March 12, 2015 South Truckee Meadows/Washoe Valley Citizen Advisory Board (CAB)
The South Truckee Meadows/Washoe Valley CAB recommended approval of a 20 foot front yard setback and to consider landscape screening on Monarch Drive regarding Variance Case No. VA15-002.

BACKGROUND

The original Variance application submitted in February proposed a reduction of the required 30 foot front yard setback to 15 feet. However, at the March 12, 2015 South Truckee Meadows/Washoe Valley Citizen Advisory Board meeting, the property owner's consultant stated in discussions with the CAB that a 20 foot front yard setback would be sufficient. With this additional information, staff recommended approval of a 20 foot front yard setback.

The Appeal of Decision application is requesting a 10 foot reduction of the required 30 foot front yard setback, resulting in a 20 foot front yard setback. The variance request is due to a ravine that consumes approximately two-thirds of the parcel's width, leaving approximately 50 feet of parcel width for placement of a manufactured home that measures 30.5 feet by 76 feet and a single car garage.

At the April 2, 2015 Board of Adjustment (BOA) meeting there was a quorum of three board members. After hearing public testimony regarding concerns of the addition of another domestic well in the neighborhood (on the subject parcel) and it being located within close proximity to the neighbor's existing well at 240 Monarch Drive, a motion to deny was made.

The BOA's legal counsel reminded the Board that although during public comment an issue was raised about the addition and location of a domestic well, the question before the Board is whether the variance request asking for a front yard setback reduction of 10 feet would cause a public detriment. (Exhibit A4 - Excerpt from BOA Draft Meeting Minutes)

A motion to Deny carried by a vote of 2 to 1. In the motion to Deny, Finding #2 (as numbered in the Board of Adjustment staff report) was identified as the Finding that could not be met because granting the variance would create a detriment to natural resources by the addition and location of a domestic well on the subject parcel. Finding #2 is provided below as issued in Washoe County Development Code, Section 110.804.25 Findings.

(b) 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;

Public Comment

At the April 2, 2015 BOA meeting under *Public Comment*, Mr. Vanlandingham and Mr. Ed Smith spoke (Exhibit A4 - Excerpt from Draft BOA Minutes).

Mr. Vanlandingham who lives at 240 Monarch Drive, which is adjacent to the northeast of the subject parcel, spoke about his concerns of a well being drilled within 10 feet of his existing well, and there not being enough water for both domestic wells.

Mr. Smith, a neighbor, advised he is a geologist and spoke about his concerns of the instability of the subject parcel, including possible foundation problems and eventual collapse of the home in the future due to the parcel consisting of a lot of fill and organic material such as horse manure.

In an April 2, 2015 email (Exhibit B2) submitted to County staff after the BOA meeting, Mr. Smith reiterated his concerns, and offered the following suggestions: A smaller

footprint or two-story home would minimize concerns about the proximity of the proposed well and septic system to the neighbor's property; require a mandatory geotechnical report on the subject building site due to its proximity to the cliff; and require a substantial amount of landscaping if the front yard setback is reduced by any amount.

Mr. Bouchard, the applicant's consultant, responded (Exhibit B3) to Mr. Smith's April 2, 2015 email. Mr. Bouchard defended the integrity and looks of a manufactured home and its foundation system. Additionally he raised concerns that one neighbor voiced objection due to potentially drawing down his well, while another would like to see a substantial amount of landscaping required as a condition which would increase the water usage. Mr. Bouchard believes the neighbors' concerns are about the home being a manufactured home versus a stick built home.

State of Nevada Department of Conservation and Natural Resources

With their Appeal of Decision application, the appellant submitted a letter dated April 9, 2015 (Exhibit B1) from Kristen Geddes of the State of Nevada Department of Conservation and Natural Resources, Division of Water Resources (State Engineer's Office) who advises:

"...Nevada law allows a property owner to drill a well on the property for domestic use [as defined by NRS 534.120]. Domestic wells whose use does not exceed 2 acre-feet per year do not require a water right from the Division."

Staff Comment on Required Findings

The April 2, 2015 Board of Adjustment staff report recommended approval of a 20 foot front yard setback based on the following analysis of the four required Findings issued in Washoe County Development Code Section 110.804.25 of Article 804, *Variances*:

1. **Special Circumstances**. The subject parcel has a topographic constraint consisting of a ravine that consumes two-thirds of the subject property, leaving \pm 50 feet of developable land starting from the front property line going back. Granting a 20 foot front yard setback will allow for the placement of the proposed manufactured home, which measures 30 ½ feet by 76 feet and a single car garage;
2. **No Detriment**. Granting the variance request will not result in a substantial detriment to the public good, impair natural resources or impair the intent and purpose of the Development Code or applicable policies under which a variance is granted. The Nevada State Engineer, a division of the Nevada Department of Conservation and Natural Resources states:

"A water-right application or permit is not required in order to drill a domestic well. Domestic purposes as defined by law extends to culinary and household purposes in a single family dwelling, the watering of a family garden, lawns, and the watering of domestic animals. The maximum amount of water that may be pumped from a domestic well is limited to two acre-feet per year."

3. **No Special Privileges**. Granting of the variance will not constitute a grant of special privilege that is inconsistent with the limitations upon other properties in the vicinity with the identical regulation zone of Low Density Suburban (LDS).

Two-thirds of the subject property is undevelopable due to the encumbrance of a \pm 33 percent downward slope. Furthermore, the recommended Conditions of Approval ensure that the variance will not be a grant of special privilege.

4. Use Authorized. Washoe County Development Code, Article 302 *Allowed Uses*, states that a home with a single car garage is allowed in the Low Density Suburban (LDS) Regulatory Zone.

FINDINGS

Below are the four required findings issued from Washoe County Development Code Section 110.804.25 of Article 804 (*Variances*). The Board of Adjustment determined that Finding (b) below "*No Detriment*" could not be met to their satisfaction because of the construction and location of a domestic well on the subject parcel that could negatively impact the natural resources in the area.

- (a) Special Circumstances. Because of the special circumstances applicable to the property, including either the:
 - (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 strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
- (b) 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;
- (c) 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; and
- (d) 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.

FISCAL IMPACT

No fiscal impact

RECOMMENDATION

It is recommended that the Board of County Commissioners review the record of the public hearing conducted on April 2, 2015, by the Board of Adjustment and the Appeal; review the proposed request to reduce the required 30 foot front yard setback by 10 feet, resulting in a 20 foot front yard setback, and any additional evidence relative to the Appeal application and confirm, reverse, modify, or remand the appealed actions based upon the evidence presented in written materials and oral testimony at the public hearing, and based on the Board's interpretation of the four findings required by Washoe County Development Code Section 110.804.25 of Article 804 (*Variances*). Any action must be by a majority vote of all the Board's members per WCC 110.912.20.

POSSIBLE MOTIONS

Four separate motions are being offered for the Board's consideration as provided below.

1. **Possible motion to CONFIRM the Board of Adjustment's denial of the Variance.**
"Move to confirm the Board of Adjustment's decision to deny Variance Case No. VA15-002, which proposes reducing the required 30 foot front yard setback by 10 feet, resulting in a 20 foot front yard setback. This denial is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the findings made by the Board of Adjustment."
2. **Possible Motion to REVERSE the Board of Adjustment's denial of the Variance.**
"Move to reverse the Board of Adjustment's denial and approve Variance Case Number VA15-002, subject to the conditions stated in Exhibit C of the staff report, based on the applicant's proposal to reduce the required 30 foot front yard setback by 10 feet, resulting in a 20 foot front yard setback. This reversal is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the findings made by the Board of Adjustment."
3. **Possible Motion to MODIFY the Variance.**
"Move to approve Variance Case Number VA15-002, with modifications to the conditions discussed by the Board during this agenda item and included as Exhibit C of the staff report, based on this Board's review of the written materials and oral testimony at the public hearing and this Board's interpretation of the findings required to be made for such approval. This modification includes the applicant's proposal to reduce the required 30 foot front yard setback by 10 feet, resulting in a 20 foot front yard setback."
4. **Possible Motion to REMAND the Variance.**
"Move to remand Variance Case No. VA15-002 for further proceedings consistent with the hearing on the appeal before the Board of County Commission."

Attachments:

- A. Record on Appeal, including:
 - A1. Variance application VA15-002
 - A2. 04-02-15 Board of Adjustment staff report and attachments
 - A3. 04-02-15 Board of Adjustment Action Order
 - A4. 04-02-15 Board of Adjustment excerpt from draft minutes
 - A5. 04-02-15 Board of Adjustment staff PowerPoint presentation
 - A6. Appeal Application
 - B. New Evidence Submitted for June 9, 2015 Appeal Hearing:
 - B1. 04-09-15 State of Nevada Department of Conservation & Natural Resources, Division of Water Resources letter
 - B2. 04-02-15 Ed Smith email
 - B3. KC Custom Concepts letter in response to Ed Smith email
 - C. Conditions of Approval
- xc: Applicant: KC Custom Concepts, Attn: Frank Bouchard Marsano, 173 El Dorado Avenue, Dayton, NV 89403
Property Owner: Kimberly Kline, 2950 Falcon Street, Washoe Valley, NV 89704

Community Services Department
Planning and Development
VARIANCE
APPLICATION



Community Services Department
Planning and Development
1001 E. Ninth St., Bldg A
Reno, NV 89520

Telephone: 775.328.3600

Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Development staff at 775.328.3600.

Project Information		Staff Assigned Case No.: <u>VA15-002</u>	
Project Name:			
Project Description: <u>Development of a 1-acre (39,864 sq ft) property for a manufactured home with a full concrete foundation, concrete septic system, electric, well and proper drainage (full lot development).</u>			
Project Address: <u>250 MONARCH DRIVE WASHOE VALLEY, NEVADA</u>			
Project Area (acres or square feet): <u>39,864 sq ft. (-1 acre)</u>			
Project Location (with point of reference to major cross streets AND area locator): <u>Property and project are located at 250 MONARCH DRIVE about a 1/4 mile EAST LAKE BLVD</u>			
Assessor's Parcel No.(s)	Parcel Acreage	Assessor's Parcel No.(s)	Parcel Acreage
<u>050-371-46</u>	<u>.913</u>		
Section(s)/Township/Range:			
Indicate any previous Washoe County approvals associated with this application: Case No.(s) - <u>NONE - N/A</u>			
Applicant Information (attach additional sheets if necessary)			
Property Owner:		Professional Consultant:	
Name: <u>Kimberly M Kline</u>		Name:	
Address: <u>2950 FALCON STREET</u>		Address:	
<u>WASHOE VALLEY NV Zip 89704</u>		Zip:	
Phone:	Fax:	Phone:	Fax:
Email:		Email:	
Cell:	Other:	Cell:	Other:
Contact Person:		Contact Person:	
Applicant/Developer:		Other Persons to be Contacted:	
Name: <u>KC Custom Concepts</u>		Name:	
Address:		Address:	
Zip:		Zip:	
Phone: <u>775-671-1160</u>	Fax:	Phone:	Fax:
Email: <u>MARSAO.BAULTARD@GMAIL.COM</u>		Email:	
Cell: <u>775-671-1160</u>	Other:	Cell:	Other:
Contact Person: <u>FRANK BAULTARD MAESWEN</u>		Contact Person:	
For Office Use Only			
Date Received: <u>2/17/15</u> Initial: <u>J.M.</u>		Planning Area: <u>South Valleys</u>	
County Commission District: <u>2</u>		Master Plan Designation(s): <u>SR</u>	
CAB(s): <u>South Truckee Meadows / Washoe Valley CAB</u>		Regulatory Zoning(s): <u>L-DS</u>	

Variance Application Supplemental Information

(All required information may be separately attached)

Chapter 110 of the Washoe County Code is commonly known as the Development Code. Specific references to variances may be found in Article 804, Variances.

1. What provisions of the Development Code (e.g. front yard setback, height, etc.) must be waived or varied to permit your request?

we need the property front set backs to be changed from a min 30' to 15' (no less than 20')

You must answer the following questions in detail. Failure to provide complete and accurate information will result in denial of the application.

2. What are the topographic conditions, extraordinary or exceptional circumstances, shape of the property or location of surroundings that are unique to your property and, therefore, prevent you from complying with the Development Code requirements?

The front length of this property is 277.78' on the Frontage Road of Monarch. The entire 2/3 of the rear of property is a cliff with massive elevation changes/drops from the front of the property, as well as being in a Floodway / Flood Zone (As shown on enclosed maps). This leaves us with a workable area after front setbacks (30') of 31' to 12' which give's you no space for a home, septic system with Reserve Lines, well nor the required garage.

3. What steps will be taken to prevent substantial negative impacts (e.g. blocking views, reducing privacy, decreasing pedestrian or traffic safety, etc.) to other properties or uses in the area?

IN NO way with the requested Set-Back changes affect or have negative impacts in the area. the home would not Block views any greater then if we went with a 30' set-Back. these property's are located in a LDS with little Pedestrian and traffic. This change will actually improve the area by having one less empty property and will have a nice home to complete the neighborhood.

4. How will this variance enhance the scenic or environmental character of the neighborhood (e.g. eliminate encroachment onto slopes or wetlands, provide enclosed parking, eliminate clutter in view of neighbors, etc.)?

It will remove a empty ~~g~~ useless property and put a nice home in its replacement. It will also assist to eliminate the access of this steep slope that go's to a Seasonal waterway or Flood Drainage area. Overall it will give the neighborhood a Positive Look and decrease the chance of dumping etc.