



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

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

Thursday, December 6, 2018
1:30 p.m.

Washoe County Health District
Conference Room – Bldg. B
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, December 6, 2018, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

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

Members present:

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

Members absent:

None

Staff present:

Julee Olander, Planner, Planning and Building Division
Roger Pelham, Senior Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division

2. *Pledge of Allegiance

Chair Thomas led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards 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 Thomas closed the public comment period.

6. Approval of Agenda

Chair Thomas stated item 8C will be withdrawn from the agenda. In accordance with the Open Meeting Law, Member Hill moved to approve the agenda of December 6, 2018 as amended. The motion, seconded by Member Stanley, passed five in favor and none opposed.

7. Possible action to approve October 4, 2018 Draft Minutes

Member Toulouse moved to approve the draft meeting minutes of October 4, 2018. The motion, seconded by Member Hill, passed five in favor and 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.

*Continued from October 4, 2018

A. Variance Case Number WPVAR18-0007 (SYGO – Yount Elevator) – For possible action, hearing, and discussion to approve a variance to reduce the side yard setback from 5 feet to ± 2 inches to allow for the construction of an elevator within a residence along the north side property line.

- Applicant/Property Owner: G. Stuart and Geraldine M. Yount Family Trust
- Location: 400 State Route 28, Crystal Bay
- APN: 123-144-12
- Parcel Size: $\pm 8,712$ square feet
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Staff: Roger Pelham, Senior Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775-328-3622
- E-mail: rpelham@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. There were no member disclosures.

Trevor Lloyd, Washoe County Planning Manager, provided a staff report presentation in Roger Pelham's absence. He said this was an item continued from October's Board of Adjustment meeting. Mr. Lloyd noted that the Forest Service had removed their opposition since that meeting. He said there are conditions in the event this item is approved.

Member Toulouse asked if the letter from the Forest Service was the only additional information he received. Mr. Lloyd said yes, but the applicant is present to provide any additional information about the elevator. Member Toulouse asked if staff is still recommending denial. Mr. Lloyd confirmed yes.

Member Stanley asked about additional information about alternative to the elevator, outreach, or request for information from planning or any additional ADA requirements. Mr. Lloyd said he wasn't aware of any as this case is Mr. Pelham's.

Elise Fett, project representative, gave an update since the previous meeting when this case was presented. She said she met with Mr. Pelham regarding additional information collected from elevator companies. She said they have the information the Board of Adjustments had requested at the previous meeting, including the slope map – it's a unique shaped property that extends into the right-a-way. She showed the Full Slope Analysis map per the Board's request. 66% slope in the driveway and 50% slope adjacent to the house. She showed an email from the Forest Service stating their concerns have been mitigated and they no longer object to the project. She said if the elevator was located on the south side it would be 40 feet tall which is higher than the proposed site. She read the letter from TRPA; it's eligible for step height calculation on the north side. The relocation on south side would exceed height limitation and not approvable. TRPA would consider the first segment, under the driveway, as an exception. The elevator would encroach into the side setback. The Forest Service is comfortable with the eaves with heated gutter with a downspout with drainage receptor. She showed a picture of the north side and south side. She spoke about the chair lift from Tom Hall – Shasta Elevator Company. He said he wouldn't put a chairlift in a 3 story house. It's not recommended for a spiral staircase. There would need to be an exit for the second story. She read the letter from Tom Hall regarding his recommendation on an elevator. The diagram shows the exact size of existing spiral staircase and the tread is less than 6 inches and cannot be used. The stair rail would become too narrow. 40 x 54 inch is proposed. Anything smaller wouldn't allow for the door to open for an exit. Ms. Fett also reviewed information from Nick Koch with Koch Elevator. She said they would need something large enough for a wheel chair with an attendant. With the exceptional narrowness of property, this is a special circumstance. The minimum lot width is narrower than required. Additionally, the average slope is well in excess of 50% in the front half of the house. This should be considered exceptional. She showed another slide highlighting the properties that have elevators in the neighborhood. It's an example this is not providing a special privilege. There are other properties with special variances with deep excavations of 20 feet. She said they won't be digging more than 4 feet to get this elevator in. US Forest Service has agreed that the mitigation measure will eliminate impact on their property. There is no impact to other neighbors and the addition is screened by foliage. The north side setback is the only request.

Member Stanley asked about the TRPA letter of exceptional slopes. He asked about their metric for determining their slope. What do they consider exceptional slope. Ms. Fett said the planners can read the map and can determine the scale to measure. They received a slope map provided by Ms. Fett with 71% measurement. She said they didn't have the surveyor's calculation. Member Stanley asked about other variances due to slope. She said yes, there were special variances. She said there are a lot of these on Gonowabi Road that she worked on. Member Stanley said he appreciated her answering their questions and request for additional information. He wanted to know Mr. Pelham's feedback and conversations. Ms. Fett said there were several conversations. She said his main comment was that he couldn't consider it a hardship. Ms. Fett said there are a lot of steep properties, but that doesn't mean this isn't a special consideration.

Member Lawrence asked about the TRPA step height calculation consideration. Ms. Fett showed the maximum height of each of the building segment diagram. She spoke about the first segment for allowable height.

Chair Thomas spoke about sloping on either side of the house. Ms. Fett showed a diagram of proposed elevator location. The elevator would be installed between segment 1 and 2. The addition starts at the lowest point where the elevator meets the grade which is within the allowable height. She showed the alternative site and the segment and slope – which above allowable height. The measurement starts at the lowest part of the addition for allowable height – ground level.

Member Lawrence asked about the foundation. Ms. Fett said it will be 2 feet into the ground.

With no request for public comment, Chair Thomas closed the public comment period.

Member Lawrence said in this situation, there is a topographical condition which would show the elevator in the other location would not be allowed per TRPA. He said if it was flat, would TRPA be within their will to approve it. He said it seems it demonstrated a topographical condition that requires the elevator to be

installed in the other location – taking into consideration Ms. Fett’s presentation that the topography is creating this circumstance.

Member Stanley said the primary concern and damage that could have been done has now been answered and mitigated. He said the shape is odd. The slopes sound exceptional. It’s become clearer that there is a hardship.

Member Toulouse said he struggles with the conflict with TRPA and Washoe County. He said he struggles to find topographical conditions. He said you can make the finding of special circumstances, but cannot relate that to another regulatory body. Member Stanley said he is sensitive to that as well, but TRPA is concerned with height, they weren’t concerned with slope.

Ms. Fett said the allowable height calculation works on the north side but not on the south side because it hits lower on the slope. Member Hill said TRPA won’t approve anything that isn’t within their code.

Member Stanley said their letter addressed allowable height versus slope. Ms. Fett said allowable height is based on slope. They are related.

Member Lawrence said if the house was on a flat piece of ground the elevator could go on either side, Ms. Fett said yes.

Member Toulouse 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 WPVAR18-0006 for G. Stuart and Geraldine M. Yount Family Trust, being able to make all required findings in accordance with Washoe County Development Code Section 110.804.25, particularly “Special Circumstances,” “No Detriment” and “No Special Privileges. Member Stanley seconded the motion which carried unanimously.

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.

Trevor Lloyd asked to re-opened the item to include the conditions on the motion. DDA Edwards said for the record, the intent of the motion was to be included. Member Toulouse and Member Stanley confirmed their motion intended to include conditions.

B. Administrative Permit Case Number WADMIN18-0005 (Nay Accessory Structure) – For possible action, hearing, and discussion to approve an Administrative Permit to allow the construction of a 4,000 sq. ft. detached accessory structure (approx. 16 ft. high hobby shop and RV/boat storage with electrical connection but no plumbing fixtures) that has a larger building footprint than the main dwelling (1,725 sq. ft.) on the same parcel of land.

- Applicant/Property Owner: Charles & Nicole Nay
- Location: 10205 Silver Knolls Blvd.
- APN: 086-212-11
- Parcel Size: ±1.15

- Master Plan: Suburban Rural (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: North Valleys
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 306, Accessory Uses and Structures; Article 808, Administrative Permits
- Commission District: 5 – Commissioner Herman
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3627
- E-mail: jolander@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. There were no member disclosures.

Julee Olander, Washoe County Planner, provided a staff report presentation.

Member Hill asked about conditions regarding preventing the structure from being used as commercial storage which would allow other people to store boats and other items there. Ms. Olander said it's zoned LDS which is primarily residential, if they store other people's items there, it would be considered a code violation. It's assumed that they are storing their own equipment.

Public comment:

Merl Jessop said he lives near to the proposed structure. He said he has no objections to this project. He said the area has been infiltrated by Californian's who are opposed to everything. He said he worked for the County and code enforcement and was surprised by the complaints he received. He said it is appropriate for the area. He said it's a shamed the trouble he went through to get this passed. He said the property owner renovated the property which increased the property value for others.

Member Lawrence moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN18-0005 for Charles and Nicole Nay, with the conditions of approval attached as Exhibit A to this matter, having made all four required findings in accordance with Washoe County Code Section 110.808.25. Member Toulouse seconded the motion which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the North Valleys Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for a detached accessory structure and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

C. Special Use Permit Case Number WSUP18-0018 (Crossbow Corners) – For possible action, hearing, and discussion to approve a Special Use Permit for the construction of a 12,000 square foot Neighborhood Center comprised of two separate 6,000 square foot buildings on two adjacent parcels, to be located at the northeast corner of Crossbow Court and Arrowcreek Parkway. A Neighborhood

Center is one type of the Commercial Centers commercial use type, which is defined as a group of unified commercial establishments built on a site which is planned, developed, owned, and managed as an operating unit. Neighborhood Centers refer to sales of convenience goods (foods, drugs and sundries) and personal services, those which meet the daily needs of an immediate neighborhood trade area. A neighborhood center typically includes convenience retail and services a population of 2,500 to 40,000 people, typically has a service area radius of one-half to one-and-one-half miles, and has a typical range of 15,000 to 50,000 square feet of gross leasable area. The applicant anticipates up to 4-5 commercial tenants per building, who will provide immediate neighborhood retail and light commercial services for nearby residents.

- Applicant/Property Owner: Helvetica CTV Crossbow, LLC
Attn: Chad Mestler
- Location: 2500 and 2540 Crossbow Court, Reno, NV 89511
- APN: 152-921-01; 152-921-02
- Parcel Size: 0.74 acres and 1.08 acres
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/ Washoe Valley
- Development Code: Authorized in Article 304.25, Commercial Use Types; and Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Staff: Chris Bronczyk, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775.328.3612
- E-mail: cbronczyk@washoecounty.us

This item was withdrawn from the agenda.

D. Code Enforcement Appeal Case Number WVIO-PLA18-0283 (Ruiz Appeal) – For possible action, hearing, and discussion to affirm, modify, reverse, or remand an administrative hearing officer’s determination that a violation of WCC Section 110.306.35(c), Outdoor storage of commercial vehicle(s) on a residentially zoned property, occurred due to a commercial vehicle being stored on the subject property.

- Appellant: John “Ricky” and Cheryl Ruiz
- Property Owner: Same as appellant
- Location: 115 Virgil Drive
- APN: 534-081-13
- Parcel Size: 1 acre
- Master Plan: Suburban Residential
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: Spanish Springs
- Citizen Advisory Board: Not Applicable
- Development Code: Authorized in Articles 306, 910, and 912
- Commission District: 4 – Commissioner Hartung
- Staff: Chad Giesinger, Planning Manager
Washoe County Community Services Department
Planning and Building Division
- Phone: 775.328.3626
- E-mail: cgiesinger@washoecounty.us

Chair Thomas opened the public hearing.

Chad Giesinger, Washoe County Senior Planner, provided a staff report presentation.

Member Toulouse asked for clarification regarding interpretation of what a commercial vehicle is. Member Toulouse said he is struggling with the definition and interpretation. He asked a hypothetical question of renovating a greyhound bus to an RV. It's still classified as a commercial vehicle. Mr. Giesinger said yes and provided other criteria. Member Toulouse said this is unintended consequence. He said he feels this is a motor home. Mr. Giesinger said it's a gray area. Bob Webb, Planning Manager, said its code. Enforcement officers enforce the County Code within the five criteria within the code. He said the vehicle met three of those criteria of the County code. It's not interpretation; they are using definition for the criteria. Member Toulouse said the code is clear; however, he asked for a legal leg to stand on if we determined it's a recreation vehicle.

DDA Edwards said the definition addresses the use, so a greyhound bus is designed for a commercial use; you have use, but haven't changed the design as a commercial vehicle. He said the vehicle has dual purposes in regards to the design. It's not true of a semi-truck or excavator. There are clear forms of commercial design. He spoke about the second example – 'typically' associated with and used for personal use for recreational vehicles and campers. A bus could be considered under these distinctions. He said the codes aren't meant to be a Napoleonic approach. In English common law – codify the basics and leave to the Board for interpretation. There is a grey area.

Chair Thomas asked about setting precedent. Mr. Edwards said this Board doesn't set adjudication.

Member Lawrence said he doesn't understand why the County wants to make an interpretation and what the County is going to do in each of these matters.

Mr. Webb said this terminology is not interpretation. They converted the vehicle. It wasn't designed that way. It was designed for commercial use. He gave an example of a semi-trailer converted to an RV. He said if you didn't know what it was it would sit in front of you as a commercial vehicle. Member Lawrence said he struggles with the interpretation. He said it's not clearly defined. Member Lawrence said he doesn't feel this meets commercial vehicle criteria. He wants to know if the County wants to get involved with removing greyhound bus renovations. Mr. Webb said they will examine the vehicle and if it meets one or more criteria it will classify as such. Member Lawrence said there are other vehicles out there that are subject to this.

Member Stanley asked where the definition of commercial vehicle came from. Mr. Webb said we had a fuzzy definition; it's been amended over time by policy. Mr. Webb said we follow definition of commercial code. It was never intended for personal use, but for commercial use. It has more than two axles and exceeded weight limits, which are two of the criteria. He provided an example of military Humvees. If it meets one or more criteria, they would apply the code defined as commercial and not allowed it to be stored on residential property. Member Stanley said RVs have become sophisticated.

DDA Edwards said in the situation of a bus that has been converted, the use was converted. It's still designed as a bus. Legally speaking, don't confuse use and design. Changing the use doesn't change the design. For example, an excavator, it doesn't turn it into an RV if you convert it. It's not that you aren't allowed to have them; you just can't store them at your house. Mr. Webb said storage is critical. It's storage of the vehicle of 72 hours or more. If you take your work truck home, you can store it for 72 hours, but no longer. It will become an issue.

Mr. Ruiz, applicant, said this conversion was originally a semi-conversion which is very popular. He said his hobby has been racing for kids' projects. He said he raced his car. He said he bought a semi-trailer to convert it. He provided pictures. He said he has used it for a hobby. He said he lived in the area he does to have this vehicle. He said he has a 1-ton dually truck over 8,000 pounds. He asked if that is in violation. He said he had an option to remove an axle, but for safety purposes, the extra axle was necessary for breaking purposes. He said the hearing officer said they didn't want a commercial vehicle with three axles to go up and down the residential streets. He said the trash truck does it every day. He said he does community events with this vehicle. He spoke about buses that have been converted to RVs that are sitting on residential property. He said commercial vehicles converted to recreational have a weight of 25,000-32,000 pounds, some with three axles. He said the language says 'or' in the code. It's unclear what is determined

as commercial and recreational. He said, in his opinion, if it's not used for business and used as living quarters, and no longer capable for hauling, it should be considered an RV. He showed pictures of semi-truck that have been professionally converted. He said there is a discrepancy and no proof in other cases of violations of code. He said he was able to provide proof. He provided pictures and inspection of Motor Vehicles recognizing as a motor home. He showed the registration and insurance as a motor home.

Member Lawrence asked about the semi-trucks made in a factory; one can be diverted off the line into a motor home. It starts as a commercial vehicle and finished as a recreational vehicle. Mr. Ruiz said dozens of companies do that. He said they start on 5-ton chassis, and can be converted depending on the customer.

Member Toulouse asked Mr. Ruiz if he uses this for commercial uses. Mr. Ruiz said no.

Member Stanley asked what it's called when it diverts from commercial to recreational on the production line. Mr. Ruiz said it's called 'motorhome'. He provided a picture of a conversion.

Mr. Giesinger said the harm is the disturbance of the neighborhood. Mr. Giesinger said that is the spirit of the situation. He reviewed the definition of the code – that infringes on the character of the neighborhood. Mr. Giesinger introduced Kevin Costa, who used to work for the DMV and is now in code enforcement. Mr. Costa said he performed inspections during his employment at DMV.

Chair Thomas asked about the classification of the conversion. Mr. Costa said you could bring in anything, and if it had the attributes of cooking and eating, it would be reclassified as a motor home. It would have to be reclassified. It would have to be permanently converted. It would have to be plumbed. He provided clarification of when a vehicle is in the factory as an incomplete vehicle until it's been completed.

Public comment:

Shawn Walburn is a neighbor. He said he hasn't heard the vehicle and didn't notice when they moved the vehicle. He said the Ruiz's are good people.

Rick Hae is a neighbor. The Ruiz's are good neighbors. He said it's stepping outside the box. It's not track homes. They have the space and capacity to store it.

Board Discussion:

Member Lawrence asked if the property is zoned as agriculture; therefore it's an agricultural zoned area with horses which would require a 3-axle horse trailer. He asked if this has become an issue to use a horse trailer. Mr. Webb said no, a vehicle is defined as such self-propelled conveyance.

DDA Edwards spoke that DMV and manufacturer have their own classification but they don't determine what is stored in the neighborhood. Be leery of deferring to DMV for zoning decisions – this is what you do. Board of Adjustment decides zoning, not DMV.

Member Toulouse said this is a tough issue. It's up to this Board to affirm the code enforcement officer or Mr. Ruiz. The officer is doing what the code says to do. It is up to us – there are words in there that give this Board latitude 'not limited to,' which allows me to determine this is an RV and it's properly stored. This is a motor home, not typical, but being used for that purpose.

Member Stanley said in conjunction with Member Toulouse, the definition's intent is to use as motor home with substantial materials. It doesn't have a negative impact on the community. He said he agrees. In no way limiting enforcement capabilities of the officer, but this can be seen as a motor home.

Member Lawrence said he agreed with the Members. It's hard to interpret. You are trying to do the best for the community and neighborhood as in if we had 20 people complain about questionable activity and noises during odd hours. This is not an egregious situation with this professionally converted vehicle.

Chair Thomas opined, if this was stored in a garage or large outdoor accessory structure, it's not able to be seen to by code enforcement.

Chair Thomas said this is difficult. We spoke about bus conversion in the beginning. He said the difficulty he has is if we said this is an RV, what does that mean, for code enforcement when they come upon

other situations. He said if you took out the word 'design' and used 'maintained' – this would be a non-issue. It was not designed as an RV. It's a good looking vehicle.

Member Toulouse 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 this appeal and reverse the decision of the Administrative Hearing Officer, that the appellant did not violate WCC Section 110.306.35(c), *Outdoor storage of commercial vehicle(s) on a residentially zoned property*. Member Lawrence seconded the motion which carried 4 to 1 in favor to overturn hearing office decision. (Chair Thomas opposed reversing the decision)

9. Chair and Board Items

*A. Future Agenda Items – There were no requests for future agenda items.

*B. Requests for Information from Staff – There were no requests for information.

10. Director's and Legal Counsel's Items

*A. Report on Previous Board of Adjustment Items – There was no report on previous BOA items.

*B. Legal Information and Updates – There was no legal information or updates.

11. *General Public Comment

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

12. Adjournment

The meeting adjourned at 3:50 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in session on _____, 2019

Trevor Lloyd
Secretary to the Board of Adjustment