



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: September 25, 2018

DATE: August 22, 2018

TO: Board of County Commissioners

FROM: Trevor Lloyd, Planning Manager, Planning and Building Division, Community Services Department, 328-3617, tlloyd@washoecounty.us

THROUGH: Mojra Hauenstein, Architect, AICP Planner, LEED AP, Director of Planning and Building, 328-3619, mahuenstein@washoecounty.us

SUBJECT: Public hearing: Appeal of the Washoe County Board of Adjustment's approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence). The project includes a variance 1) to reduce the eastern front yard setback from 30 feet to 20 feet, 2) to reduce the western front yard setback from 30 feet to 20 feet and 3) 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.

The Board of County Commissioners may affirm, reverse, or modify the decision of the Board of Adjustment.

The appellant is the Deane S. Shaver 1996 Trust and the applicants and property owners are Todd and Marci Eekhoff. The address is 5545 E. Hidden Valley Drive. The Assessor's Parcel Number is 051-293-07. The Master Plan Category is Suburban Residential (SR) and the Regulatory Zone is Medium Density Suburban (MDS). The project is located within the Southeast Truckee Meadows Area and within the South Truckee Meadows/Washoe Valley Citizen Advisory Board boundary. The variance request comes under WCC Chapter 110, Article 804, Variances. (Commission District 2.)

SUMMARY

The appellant, Deane Shaver, has appealed the Board of Adjustment's (BOA) decision on August 2, 2018, to approve Variance Case Number WPVAR18-0004 for Todd and Marci Eekhoff.

AGENDA ITEM # _____

Washoe County Strategic Objective supported by this item: Stewardship of our Community.

PREVIOUS ACTION

On July 5, 2018, the variance was considered by the South Truckee Meadows/Washoe Valley Citizen Advisory Board (STM/WV CAB). The STM/WV CAB took unanimous action to recommend approval of the variance.

On August 2, 2018, the variance was considered, in a public hearing, before the BOA. The BOA took action to approve the variance, with a vote of three in favor and one opposed.

BACKGROUND

The Washoe County Board of Adjustment approved the proposed variance based on the ability to make all of the findings required by Washoe County Code (WCC) Section 110.804.25. Please see the Board of Adjustment staff report, included as Attachment B, for discussion of each of these findings.

The need for this variance has come about due to an 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 appellant owns the neighboring property immediately to the north and has expressed concerns that the use and enjoyment of his property is, and will continue to be negatively affected by considerable encroachments into the setbacks as well as the potential grading violations. The appellant also contends that the BOA based its decision solely upon hardship to the owner in violation of Washoe County Code Section 110.804.25, requiring a finding of special circumstances of the property. Additionally, the appellant states that all of the evidence showed that no such special circumstances of the property exist or ever existed, but the BOA found that hardship to the owner alone satisfied the requirement of special circumstances which is contrary to both an extraordinary and exceptional situation or condition of the property and exceptional and undue hardship

upon the owner. Also, the appellant states that the action order falsely states that the BOA found “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 or surroundings” and undue hardship. Finally, the appellant contends that the BOA also abused its discretion by finding no detriment to the public and no special privilege. Please see the appeal application included as Attachment C for a complete discussion of the appellant’s concerns.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners affirm the decision of the Board of Adjustment and uphold the approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence).

POSSIBLE MOTIONS

Should the Board agree with the Board of Adjustment’s approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence), staff offers the following motion:

“Move to deny the appeal and affirm the approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence). The approval is based upon the ability to make the findings required by WCC Section 110.804.25, *Findings*.

Should the Board disagree with the Board of Adjustment’s approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence), staff offers the following motion:

“Move to approve the appeal and reverse the approval of Variance Case Number WPVAR18-0004 (Eekhoff Residence). The approval is based on the Board’s inability to make all four of the findings required by WCC Section 110.804.25, *Findings*.

Attachments:

Attachment A: Board of Adjustment Action Order dated 8/7/2018

Attachment B: Board of Adjustment Staff Report dated 7/13/2018

Attachment C: Appeal Application

Attachment D: Appeal Addendum

Attachment E: Board of Adjustment Minutes of 8/2/2018

Cc: Appellant: Deane S. Shaver 1996 Trust, c/o Todd A. Bader, Esq., 232 Court Street, Reno, NV 89501

Property Owner: Todd Eekhoff, 5705 Lone Horse Drive, Reno, NV 89502

Property Owner’s Representative: Frame Architecture, Inc. Attn: Jeff Frame 4090 South McCarran Blvd, Suite E Reno, NV 89502



WASHOE COUNTY

COMMUNITY SERVICES DEPARTMENT

Planning and Building

1001 EAST 9TH STREET
PO BOX 11130
RENO, NEVADA 89520-0027
PHONE (775) 328-3600
FAX (775) 328.6133

Board of Adjustment Action Order

Variance Case Number WPVAR18-0004

Decision: Approval with Conditions

Decision Date: August 2, 2018

Mailing/Filing Date: August 7, 2018

Applicant: Todd and Marci Eekhoff

Assigned Planner: Trevor Lloyd, Planning Manager
Washoe County Community Services Department
Planning and Building Division

Phone: 775.328.3617

E-Mail: tlloyd@washoecounty.us

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

Notice is hereby given that the Washoe County Board of Adjustment granted approval with conditions for the above referenced case number based on the findings in accordance with Washoe County Development Code Article 804, Variances. If no appeals have been filed within 10 calendar days from the Mailing/Filing Date shown on this Action Order, the approval by the Washoe County Board of Adjustment is final. If filed, an appeal stays any further action on the decision until final resolution of the appeal. An appeal shall be filed in accordance with the provisions found in Article 912 of the Washoe County Development Code.

The action was based on the following findings in accordance with Washoe County Code Section 110.804.25:



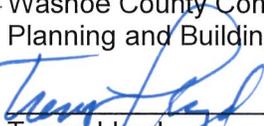
To: Todd and Marci Eekhoff
Subject: Variance Case Number WPVAR18-0004
(Eekhoff Residence)
Date: August 7, 2018
Page: 2

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;

This Action Order is issued subject to the attached conditions and Washoe County development standards. Please contact the planner assigned to your project at the above-referenced phone number within 7 days of receipt of this Order to review the steps necessary to satisfy the Conditions of Approval. Any business license, certificate of occupancy, or final approval shall not be issued until all of the Conditions of Approval are satisfied. Additionally, compliance shall be required with all federal, state, and local statutes, ordinances, and regulations applicable to the approved project.

This Action Order does not authorize grading or building without issuance of the necessary permits from the Washoe County Planning and Building Division.

Washoe County Community Services Department
Planning and Building Division



Trevor Lloyd
Secretary to the Board of Adjustment

TL/TL/df

Attachments: Conditions of Approval

Owner/Applicant: Todd Eekhoff
5705 Lone Horse Drive
Reno, NV 89502
(toddsbodyshop@yahoo.com)

Representatives: Frame Architecture, Inc.
Attn: Jeff Frame
4090 South McCarran Blvd, Suite E
Reno, NV 89502
(jframe@framearchitecture.com)

To: Todd and Marci Eekhoff
Subject: Variance Case Number WPVAR18-0004
(Eekhoff Residence)
Date: August 7, 2018
Page: 3

Action Order xc: Nathan Edwards, District Attorney's Office; Keirsten Beck, Assessor's Office; Cori Burke, Assessor's Office; Tim Simpson, Utilities; Leo Vesely, Engineering and Capital Projects; Lisa Beaver, Truckee Meadows Fire Protection District; Regional Transportation Commission; South Truckee Meadows/Washoe Valley Citizen Advisory Board, Chair.



Conditions of Approval

Variance Case Number WPVAR18-0004

The project approved under Variance Case Number WPVAR18-0004 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on August 2, 2018. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable Codes, and neither these conditions nor the approval by the County of this project/use override or negate any other applicable restrictions on uses or development on the property.

Unless otherwise specified, all conditions related to the approval of this Variance shall be met or financial assurance must be provided to satisfy the conditions of approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Building Division.

Compliance with the conditions of approval related to this Variance is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the Variance may result in the institution of revocation procedures.

Washoe County reserves the right to review and revise the conditions of approval related to this Variance should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, "may" is permissive and "shall" or "must" is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- 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 project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

Washoe County Conditions of Approval

Washoe County Planning and Building Division

1. The following conditions are requirements of the Planning and Building Division, which shall be responsible for determining compliance with these conditions.

Contact: Trevor Lloyd, (775) 328-3620, tlloyd@washoecounty.us

- a. The applicant shall demonstrate substantial conformance to the plans approved as part of this variance. The Planning and Building Division shall determine compliance with this condition.
- b. The applicant shall submit complete construction of the residence within two years from the date of approval by Washoe County. Compliance with this condition shall be determined by the Planning and Building Division.
- c. The applicant shall submit a revised grading plan to ensure compliance with Washoe County Code Chapter 110, Article 212 and Article 438.
- d. The applicant shall plant a minimum of 12 trees along the north property line. The trees shall include a variety of species including a mix of evergreen and deciduous. The trees shall be a minimum of ten feet tall at time of planting. This landscaping shall be completed prior to issuance of a certificate of occupancy by Washoe County.
- e. The following **Operational Condition(s)** shall be required for the life of the development:
 - i. Failure to comply with the conditions of approval shall render this approval null and void. Compliance with this condition shall be determined by Planning and Building.

Washoe County Engineering and Capital Projects Division

2. The following conditions are requirements of the Engineering and Capital Projects Division, which shall be responsible for determining compliance with these conditions.

Contact: Leo Vesely, (775) 328-3620, lvesely@washoecounty.us

- a. All grading shall be in accordance with the Washoe County Code Chapter 110, Article 438, *Grading Standards*.

*** End of Conditions ***



Board of Adjustment Staff Report

Meeting Date: August 2, 2018

Agenda Item: 8E

VARIANCE CASE NUMBER: WPVAR18-0004 Eekhoff Residence

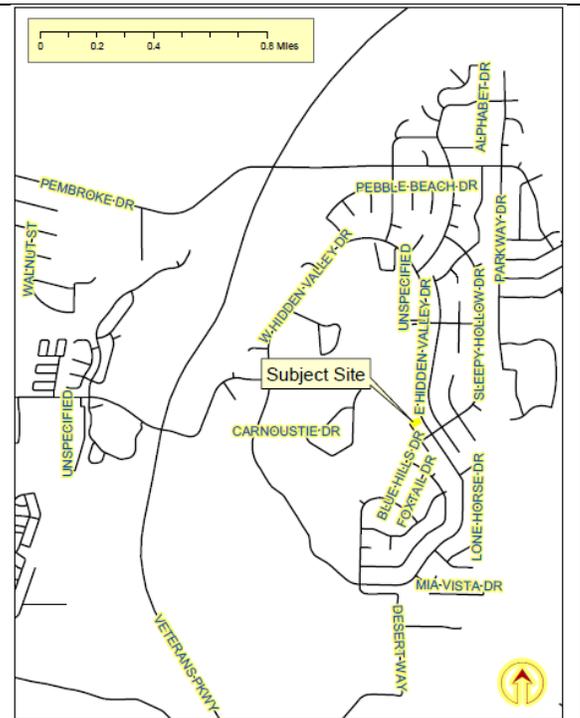
BRIEF SUMMARY OF REQUEST: Setback reduction for two front yards and one side yard to bring a home under construction into conformance with code requirements.

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)

Staff Report Contents

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Exhibits Contents

Conditions of Approval Exhibit A

Engineering and Capital Projects Division Memo Exhibit B

Public Notice Map Exhibit C

Project Application..... Exhibit D

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:

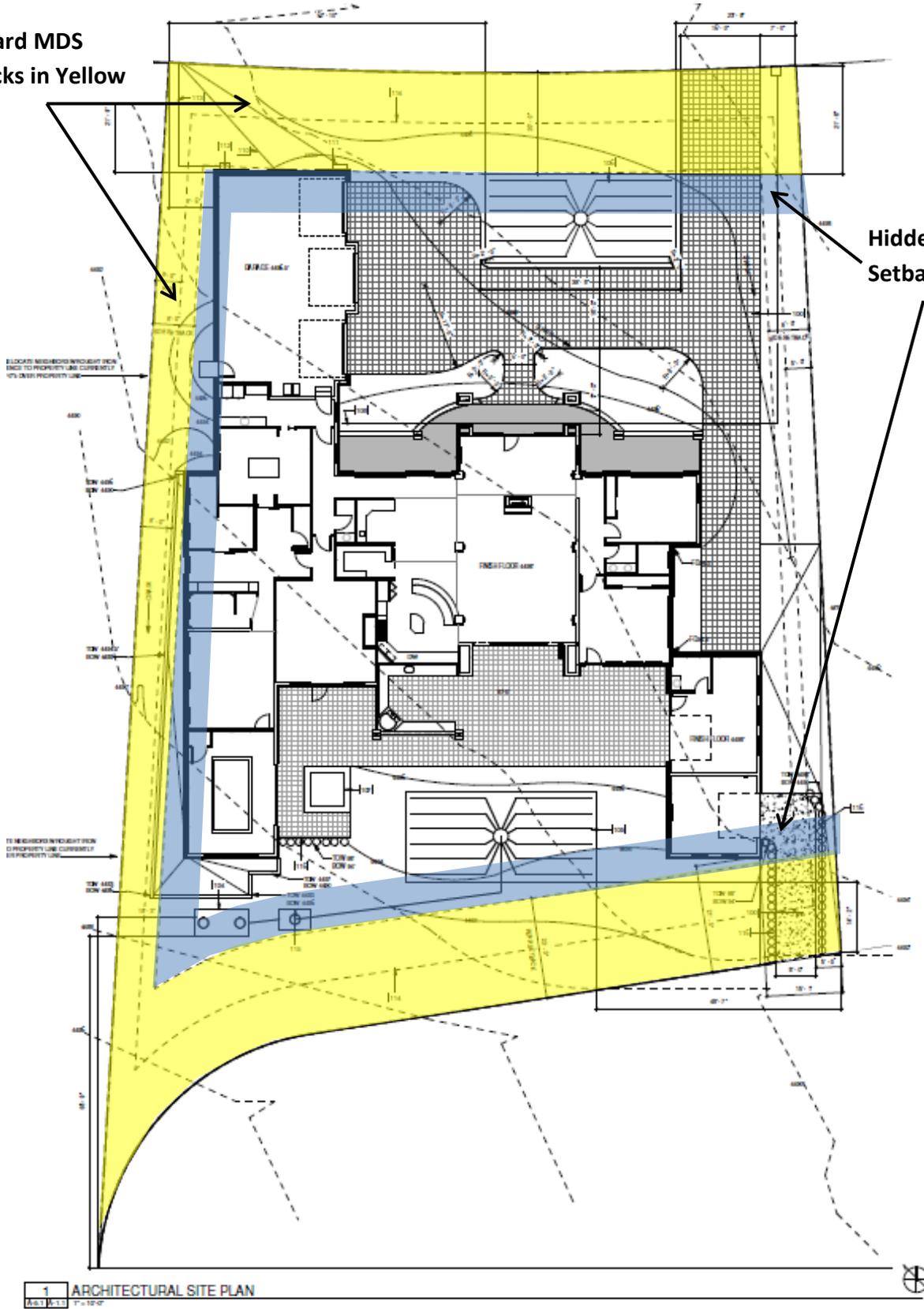
- Prior to permit issuance (i.e., a grading permit, a building permit, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure.
- Prior to the issuance of a business license or other permits/licenses.
- Some Conditions of Approval are referred to as “Operational 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.

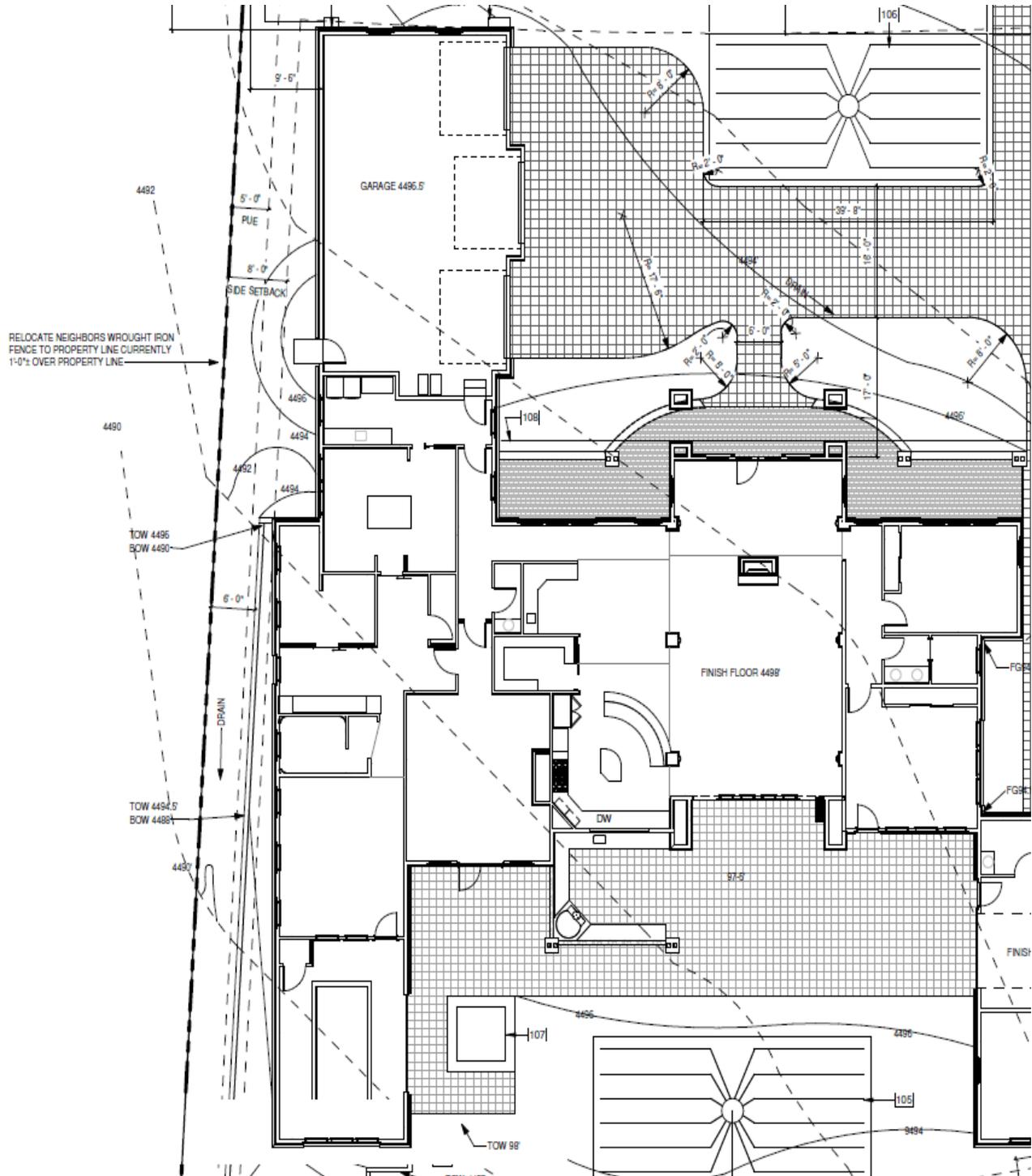
The subject property is .58 acres in size and has a regulatory zone of Medium Density Suburban (MDS) and is surrounded by similar MDS properties on all four sides. The required setback for this property (pursuant to WCC Chapter 110, Article 212, *Southeast Truckee Meadows Area Plan*) is 30 feet front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

**Standard MDS
Setbacks in Yellow**

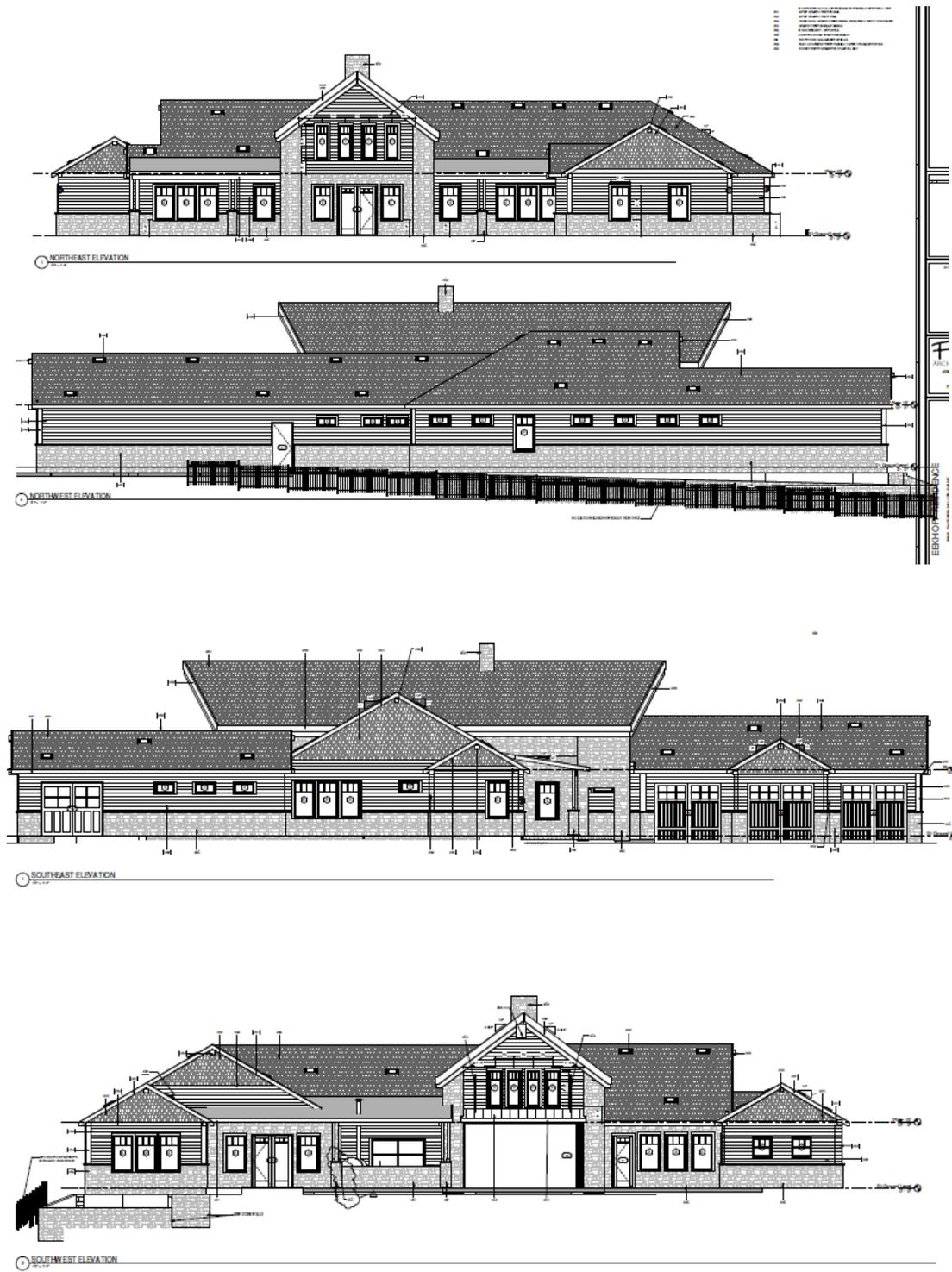
**Hidden Valley MDS
Setbacks in Blue**



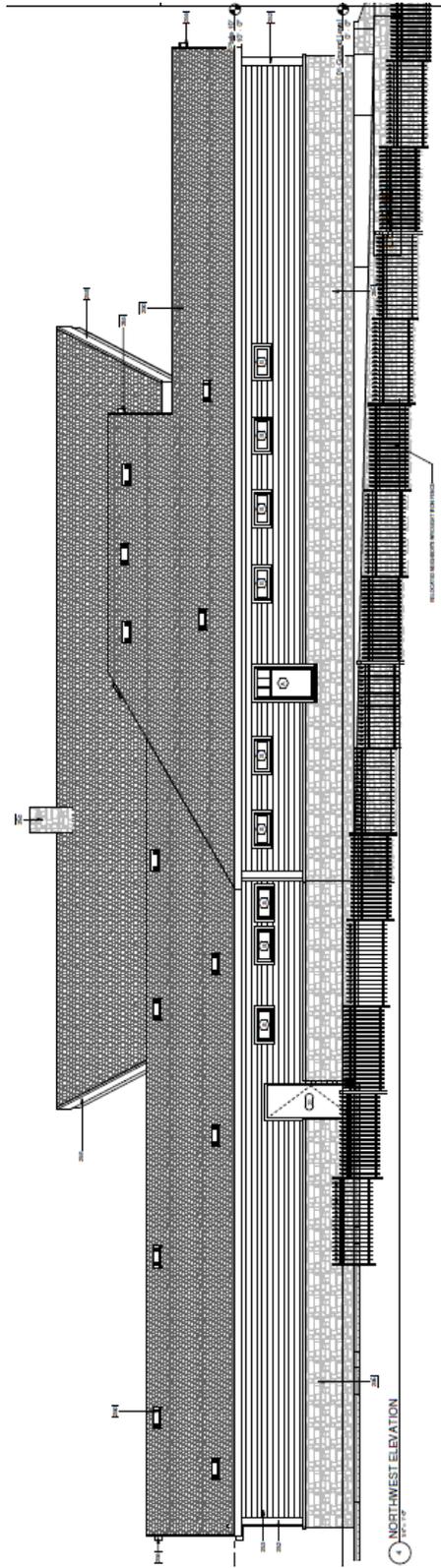
Site Plan



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.

Owner/Applicant: Todd Eekhoff
5705 Lone Horse Drive
Reno, NV 89502
(toddsbodyshop@yahoo.com)

Representatives: Frame Architecture, Inc.
Attn: Jeff Frame
4090 South McCarran Blvd, Suite E
Reno, NV 89502
(jframe@framearchitecture.com)

BADER & RYAN, LTD.
ATTORNEYS AT LAW

TODD A. BADER
KEVIN P. RYAN

A Nevada Professional Corporation
232 Court Street
Reno, Nevada 89501-2220
Telephone (775) 322-5000
Facsimile (775) 322-5484

August 14, 2018

VIA HAND-DELIVERY

Washoe County Community Services Department
Planning & Building
1001 E. 9th St., Bldg. A
Reno, NV 89512

Re: *Appeal of Board of Adjustment Action Order*
Variance Case No. WPVAR18-0004
Decision Date: August 2, 2018
Mailing/Filing Date: August 7, 2018
Applicants: Todd and Marci Eekhoff

Dear Ladies and Gentlemen:

Enclosed please find the completed and signed Washoe County Appeal of Decision to Board of County Commissioners in the above-referenced matter, along with my firm's check number 4974 in the sum of \$1,043.12, as and for the filing fee.

If you have any questions or need anything further, please do not hesitate to contact me.

Very truly yours,

BADER & RYAN, LTD.


Todd A. Bader

TAB/tmk
Enclosures
c:/ Deane Shaver (via U.S. Mail w/enclosures)
Todd and Marci Eekhoff (via U.S. Mail w/enclosures)
Mark Simons, Esq. (via U.S. Mail w/enclosures)
File #40844.000

RECEIVED

AUG 14 2018

**WASHOE COUNTY
COMMUNITY DEVELOPMENT**

Washoe County Appeal of Decision to Board of County Commissioners

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Building staff at 775.328.6100.

Appeal of Decision by (Check one)	
Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20.	
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Board of Adjustment
<input type="checkbox"/> Hearing Examiner	<input type="checkbox"/> Other Deciding Body (specify) _____
Appeal Date Information	
Note: This appeal must be delivered in writing to the offices of the Planning and Building Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant.	
Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).	
Date of this appeal: <u>August 14, 2018</u>	
Date of action by County: <u>August 2, 2018</u>	
Date Decision filed with Secretary: <u>August 7, 2018</u>	
Appellant Information	
Name: The Deane S. Shaver 1996 Trust c/o Todd A. Bader, Esq.	Phone: 775-322-5000
Address: 232 Court Street	Fax: 775-322-5484
	Email: badt001@aol.com
City: Reno	State: Nevada Zip: 89501
	Cell:
Describe your basis as a person aggrieved by the decision: Appellant owns the residence at 5505 E. Hidden Valley Drive, Reno, which is directly adjacent to the north of the Eekhoff property. Appellant's property value, use and enjoyment of its property is, and will continue to be, negatively affected by considerable encroachments into the setbacks and grading violations.	
Appealed Decision Information	
Application Number: WPVAR18-0004	
Project Name: Eekhoff Residence	
State the specific action(s) and related finding(s) you are appealing: The Board of Adjustment ("BOA") abused its discretion by entering an Action Order granting a variance to reduce the northern side yard setback from 15 to 8 feet and the front yard setbacks from 30 to 20 feet. The BOA based its decision SOLELY upon hardship to the owner, in violation of Washoe County Code Section 110.804.25, which requires a finding of special circumstances of the PROPERTY (Exceptional narrowness, shallowness, shape, topographic conditions or other extraordinary and exceptional situation or condition of the PROPERTY itself). All of the evidence showed that no such special circumstances of the PROPERTY exist or ever existed. However, the BOA, in a 3 to 1 decision, found that hardship to the owner alone satisfied the requirement of special circumstances. This finding is contrary to the requirements of WCC Section 110.804.25(a)(3), which requires BOTH an extraordinary and exceptional situation or condition of the PROPERTY and exceptional and undue hardship upon the owner. In addition, the Action Order falsely states that the BOA found "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" and undue hardship. The audio/video record clearly shows the BOA made no such findings regarding the PROPERTY, and only found hardship upon the owner. The BOA also abused its discretion by finding no detriment to the public and no special privilege.	

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:

As noted by the BOA's Chairman during the hearing, no special circumstances of the PROPERTY required by Washoe County Code Section 110.804.25 exist or ever existed. Hardship upon the owner may only be considered under WCC Section 110.804.25(a)(3), BUT there MUST ALSO be a finding of "other extraordinary and exceptional situation or condition of the property and/or location of surroundings" under that provision. No such finding was made by the BOA, nor could it. All of the evidence showed that there is no extraordinary and exceptional situation or condition of the property and/or location of surroundings. Under these circumstances, granting the variance constitutes a Special Privilege in violation of WCC Section 110.804.25(c). The BOA also abused its discretion by finding no detriment to the public under WCC Section 110.804.25(b). On August 7, 2018, Appellant requested correction of the false statements in the Action Order (See attached), but no correction has been made as of the date of this filing.

Cite the specific outcome you are requesting with this appeal:

The Appellant respectfully requests that the Board of Adjustment's Action Order entered August 7, 2018, be reversed, and the variance be denied.

Did you speak at the public hearing when this item was considered?

- Yes
 No

Did you submit written comments prior to the action on the item being appealed?

- Yes
 No

Appellant Signature

Printed Name:

DEANE S. SHAVER, TRUSTEE

Signature:

[Handwritten Signature]

Date:

8/14/18

BADER & RYAN, LTD.
ATTORNEYS AT LAW

TODD A. BADER
KEVIN P. RYAN

A Nevada Professional Corporation
232 Court Street
Reno, Nevada 89501-2220
Telephone (775) 322-5000
Facsimile (775) 322-5484

August 7, 2018

VIA EMAIL and U.S. MAIL

Kim Toulouse, Chairman
Washoe County Board of Adjustment
P.O. Box 11130
Reno, Nevada 89520-0027
ktoulouse@washoecounty.us

Trevor Lloyd, Secretary
Washoe County Board of Adjustment
P.O. Box 11130
Reno, Nevada 89520-0027
tilloyd@washoecounty.us

Re: *Board of Adjustment Action Order*
Variance Case No. WPVAR18-0004
Decision Date: August 2, 2018
Mailing/Filing Date: August 7, 2018
Applicants: Todd and Marci Eekhoff

Dear Chairman Toulouse and Mr. Lloyd:

As you may recall from the above-referenced hearing, I represent the Shaver Trust, owner of the property to the north of the Applicants' property. I am in receipt of the above-referenced Board of Adjustment Action Order, which states in part, as follows:

"The action was based on the following findings and 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; . . ."

Kim Toulouse, Chairman
Trevor Lloyd, Secretary
August 7, 2018
Page 2

With all due respect, the foregoing provision of the Action Order is inaccurate and is not consistent with the Motion presented and passed by the Board of Adjustment on August 2, 2018. More specifically, Board Member Hill made a motion which included the following:

" ... having made all four findings required in accordance with Washoe County Code Section 110.804.25, including special circumstances based on the undue hardship upon the owner of the property, no detriment, no special privileges and use authorized."

(See, Video Record at 2:44:54 - 2:46:04)

At no time did the Board of Adjustment make any findings of exceptional narrowness, shallowness, shape of the specific property, exceptional topographic conditions or other extraordinary or exceptional situation or condition of the property and/or location of surroundings as stated in the Action Order. Instead the "special circumstances" set forth in the Motion passed by the Board was based solely upon "undue hardship upon the owner of the property."

Based upon the foregoing, the findings regarding "special circumstances" set forth in the Board of Adjustment Action Order are inaccurate and should be corrected. I urge you to review the video record from 2:44:54 to 2:46:04 to confirm the above quoted portion of the hearing.

While we disagree with the granting of the variance, the Action Order should be corrected to accurately reflect the Motion which was passed by the Board. We also request that this letter be made part of the record of this matter.

Thank you for your prompt attention to this issue. If you have any questions, please do not hesitate to contact me.

Very truly yours,

BADER & RYAN, LTD.


Todd A. Bader

TAB/tmk
c: Deane Shaver

EEKHOFF VARIANCE APPLICATION

WPVAR18-0004

Opposition to Variance by Shaver



2013 View to South



2013 View to East



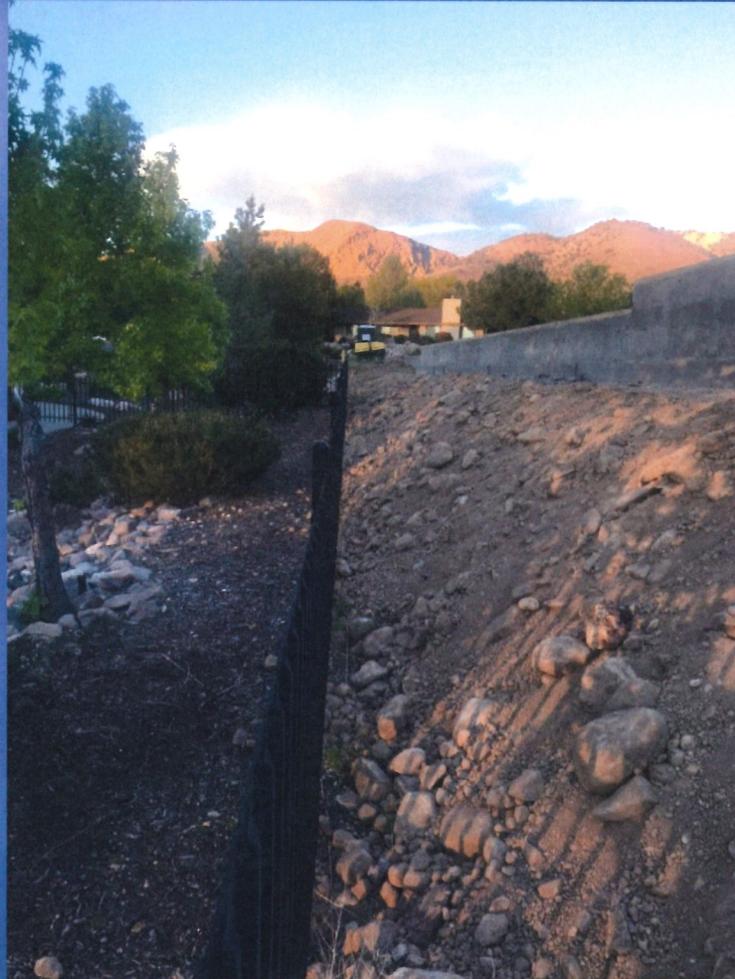
2013 View to Southeast



2018 View to East Along Property Line



2018 View to East Along Property Line



2018 View to Southeast (Briarhills Lane)



2018 View to South (NW Corner of Project)



2018 View to South

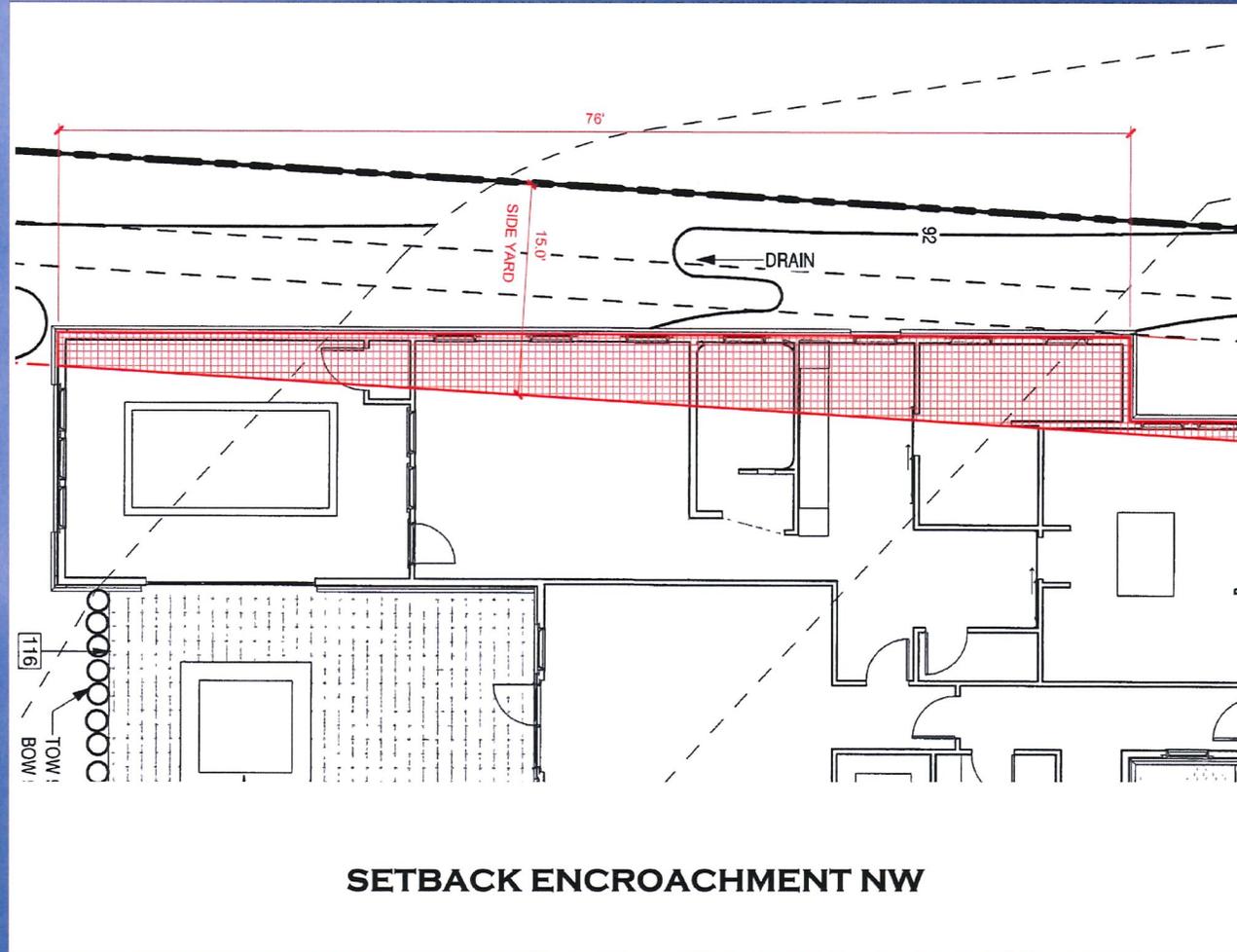


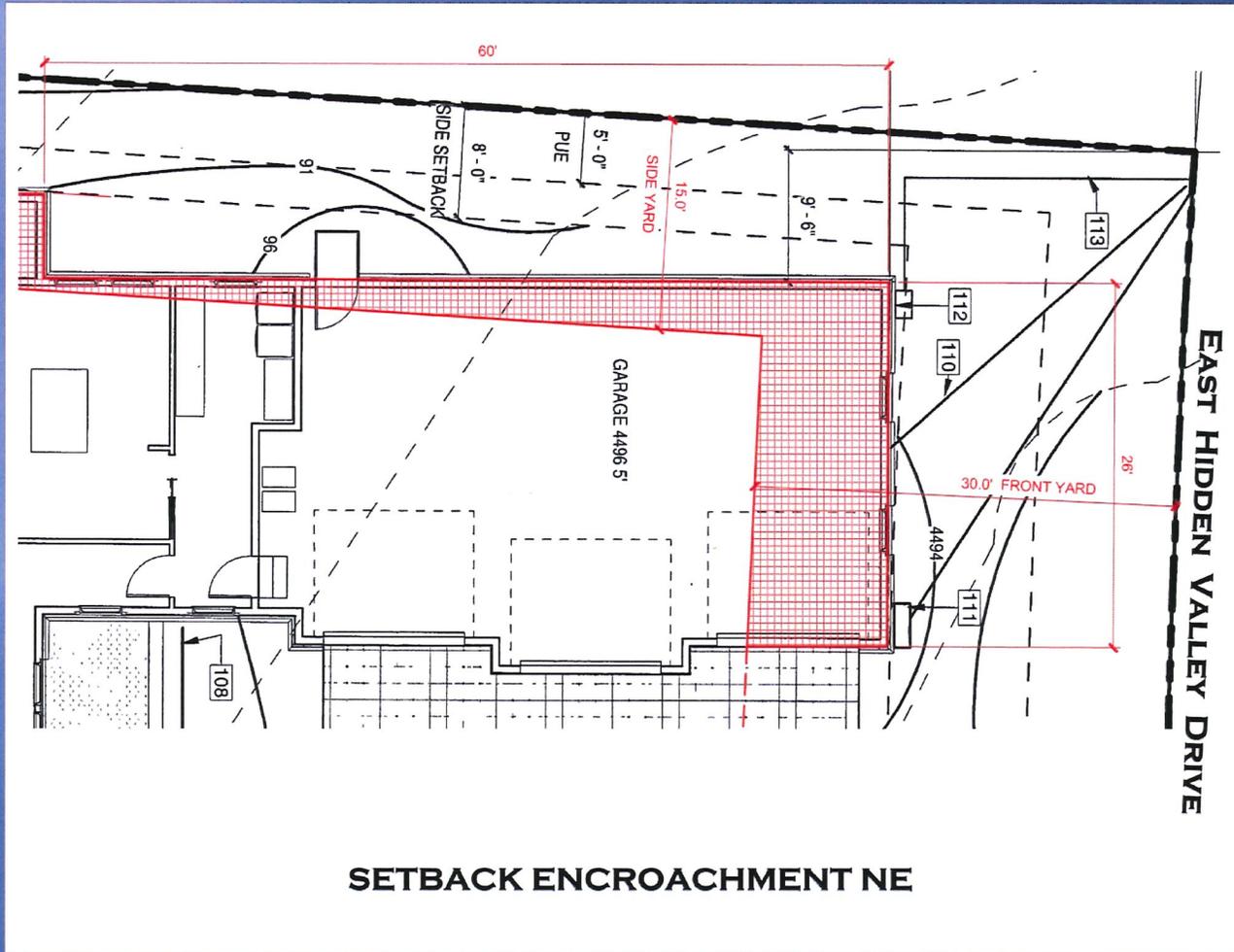
2018 View to South

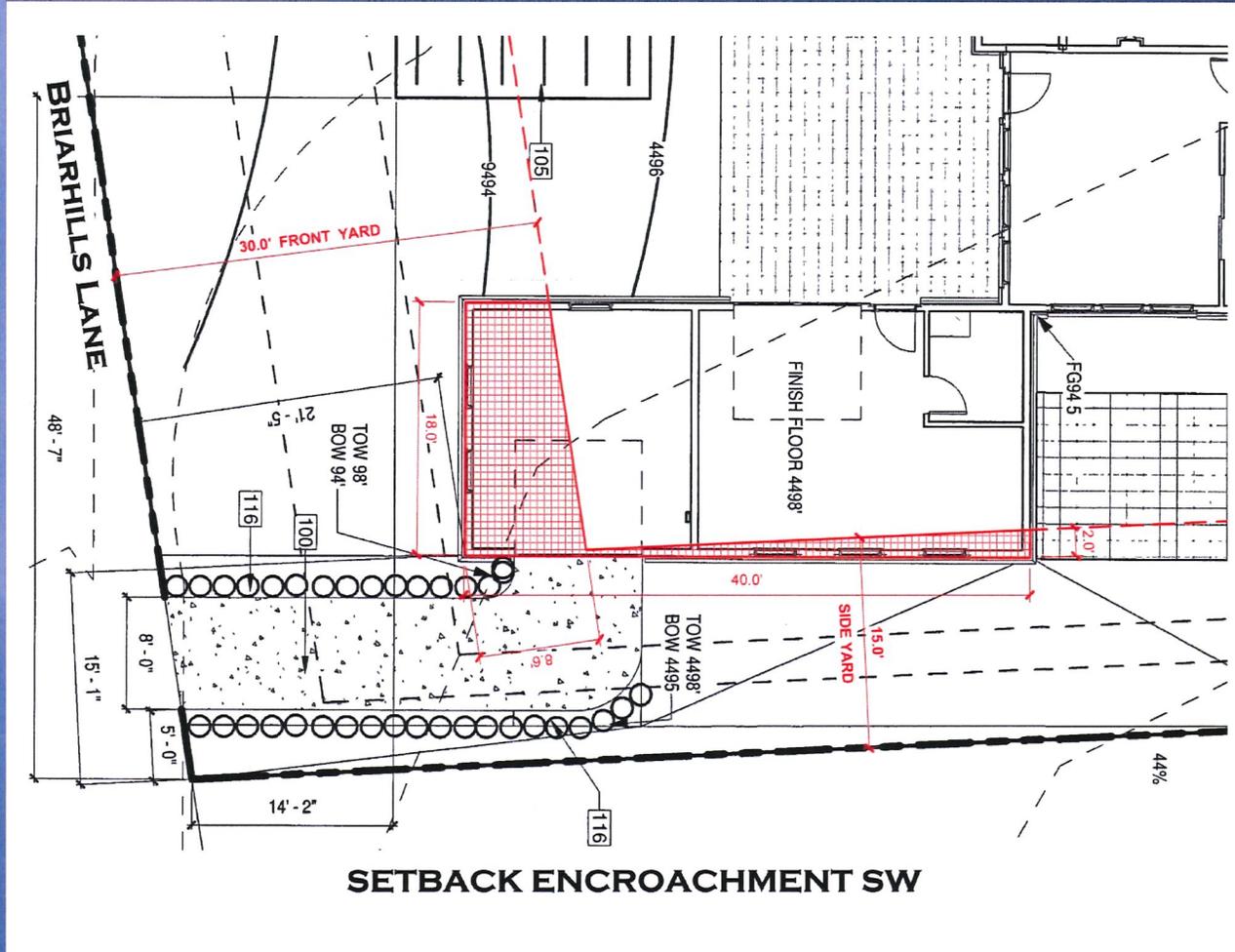


2018 View to South









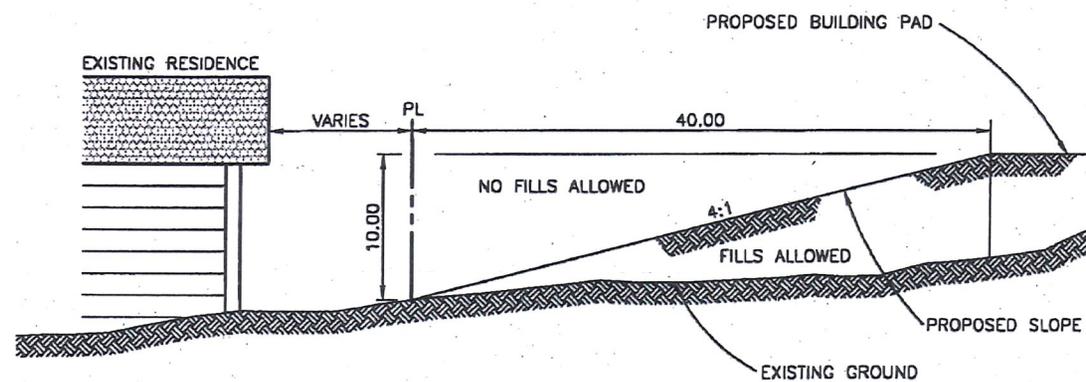
Washoe County Development Code

110.212.10 Hidden Valley Community Area Modifiers. The purpose of this section, Hidden Valley Community Area Modifiers, is to establish regulations **to promote development consistent with the existing built environment of Hidden Valley**; to preserve the scenic characteristics, wildlife and cultural resources; and sustain the residential tranquility of the community by the residents.

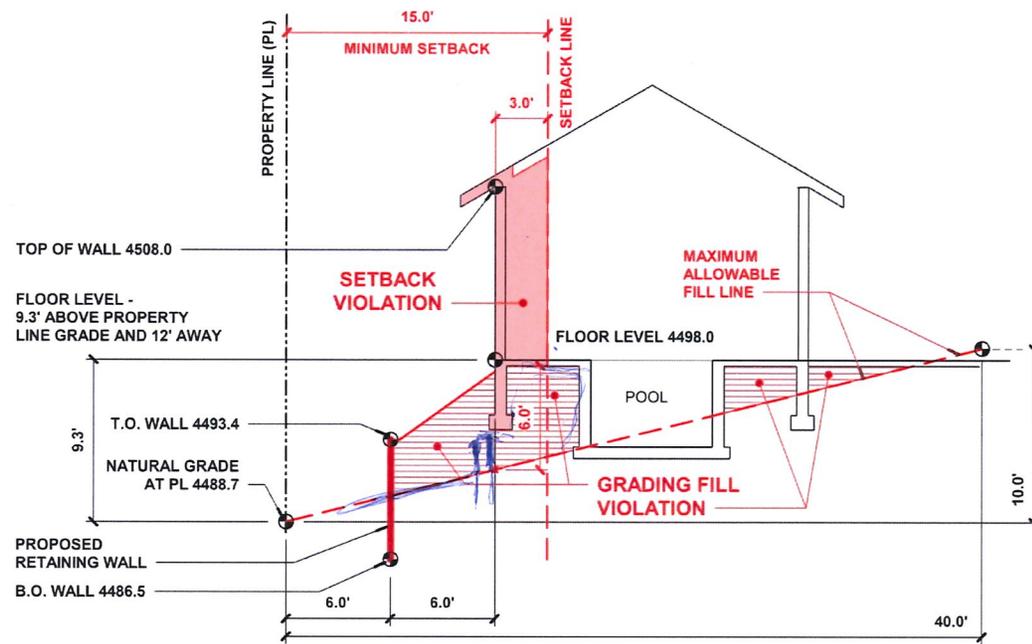
- (b) Grading. Grading for subdivision improvements, minor or major special use permits or other discretionary or building permits shall:
- (1) Not result in slopes on fill in excess of or steeper than four to one (4:1).
 - (2) Not result in elevations or fill that differ from the natural grade by more 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.

Figure 110.212.10.1

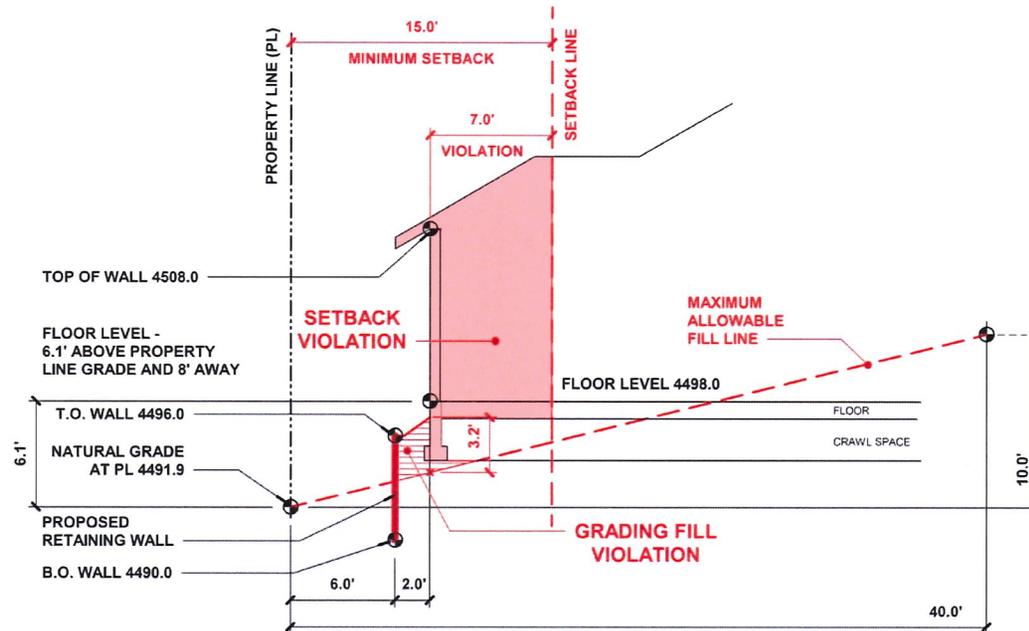
TYPICAL SETBACK AT EXISTING RESIDENCE



Sources: Summit Engineering Corporation and Washoe County Department of Community Development.



**GRADING PROFILE
NW CORNER OF PROPOSED HOUSE**



**GRADING PROFILE
MIDDLE OF PROPOSED HOUSE**

Required Findings

Section 110.804.25 Findings. Prior to approving an application for a variance, the Board of Adjustment, the Planning Commission or hearing examiner **shall find that findings (a) through (d) apply to the property** and, if a military installation is required to be noticed, finding (e):

(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.

The Board Cannot Make the Required Findings

- The Applicant seeks to encroach on the required setbacks by approximately 900 square feet (over 16% of the footprint of the residence).
- The Board cannot make findings of:
 - Exceptional narrowness, shallowness or shape of the property;
 - Exceptional topographic conditions; or
 - Other extraordinary and exceptional situation or condition of the property.







GRANTING THE VARIANCE WOULD CONSTITUTE SPECIAL PRIVILEGES TO THE APPLICANT

- Other properties in the area have been required to comply with the setback requirements and the grading requirements.
- There are no characteristics of the Applicant's property which are exceptional.
- The Variance would be detrimental to Shaver and others in the area and would set bad precedent.
- Trees are a temporary, with no guarantee they will remain after a Certificate of Occupancy is issued.
- The Applicant is building a home with a footprint which is simply too large for the property → **Special Privilege.**



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