



# Board of Adjustment Staff Report

Meeting Date: December 3, 2015

Subject: Variance Case Number VA15-010  
Applicant: Jason S. Walters  
**Agenda Item Number: 8A**  
Project Summary: To vary Washoe County placement standards for Cargo Containers to allow existing Cargo Containers to remain between the existing residence and the adjoining road right-of-way, State Route 34  
**Recommendation: Denial**  
Prepared by: Grace Sannazzaro - Planner  
Washoe County Community Services Department  
Division of Planning and Development  
775.328.3627  
Phone: 775.328.3627  
E-Mail: [gsannazzaro@washoecounty.us](mailto:gsannazzaro@washoecounty.us)

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## Description

**Variance Case Number VA15-010 (Jason S. Walters)** – Hearing, discussion, and possible action on a variance requesting to vary Washoe County placement standards for Cargo Containers as provided in Washoe County Code Section 110.306.10(g)(9) to allow existing Cargo Containers to be located between an existing residence and adjoining road right-of-way (State Route 34) that provides primary access to the residence.

- Applicant/Property Owner: Jason S. Walters
- Location: 1287 State Route 34, Gerlach, NV
- Assessor's Parcel Number: 071-332-03
- Parcel Size: ±54.71 acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: High Desert
- Citizen Advisory Board: None
- Development Code: Authorized in Article 804, Variances
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 11, T34N, R23E, MDM,  
Washoe County, NV

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**Variance Definition**

The purpose of a Variance is to provide a means of altering the requirements in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved; and to provide for a procedure whereby such alterations might be permitted by further restricting or conditioning the project so as to mitigate or eliminate possible adverse impacts.

NRS 278.300 (1) (c) limits the power of the Board of Adjustment to grant variances only under the following circumstances:

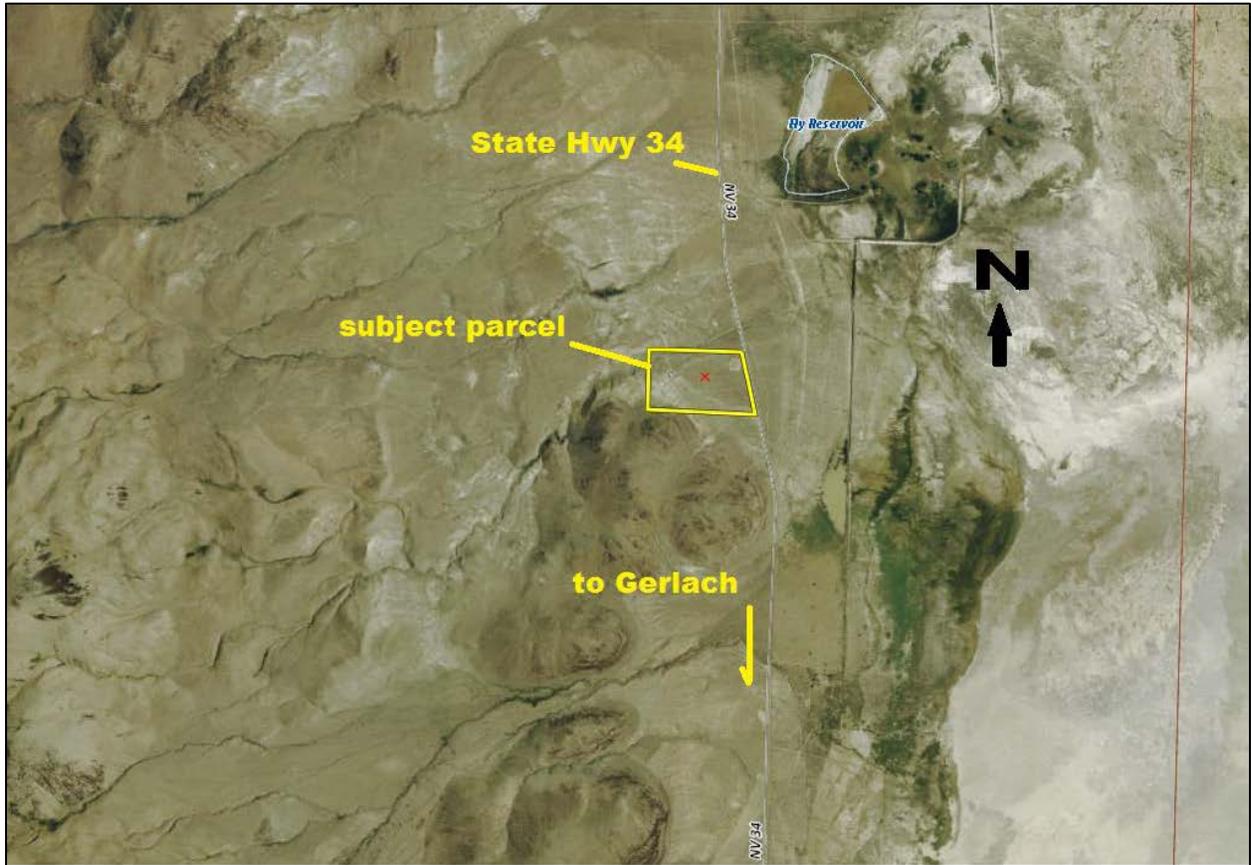
Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, the Board of Adjustment has the power to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

The statute is jurisdictional in that if the circumstances are not as described above, the Board does not have the power to grant a variance from the strict application of a regulation. Along that line, under WCC Section 110.804.25, the Board must make four findings which are discussed in the staff report.

If the Board of Adjustment grants an approval of the Variance, that approval may be 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.

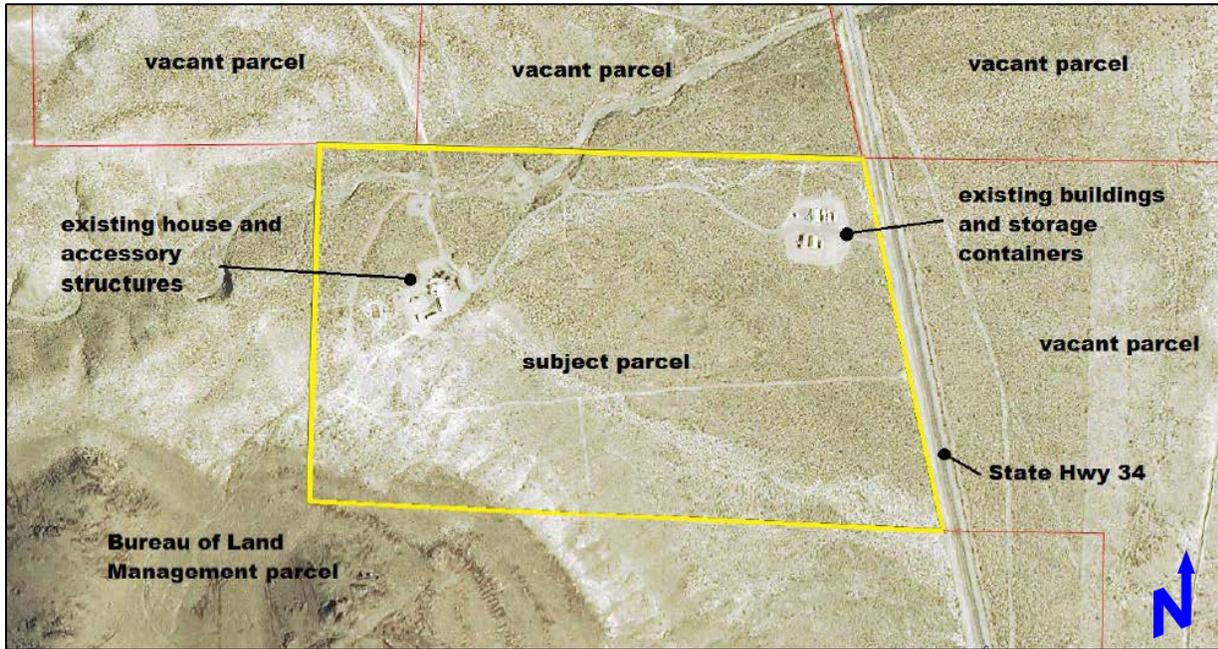
Since a recommendation of denial is being made, there are no Conditions of Approval attached. Should the Board find that special circumstances exist and approve the requested variance staff will provide Conditions of Approval at the public hearing.



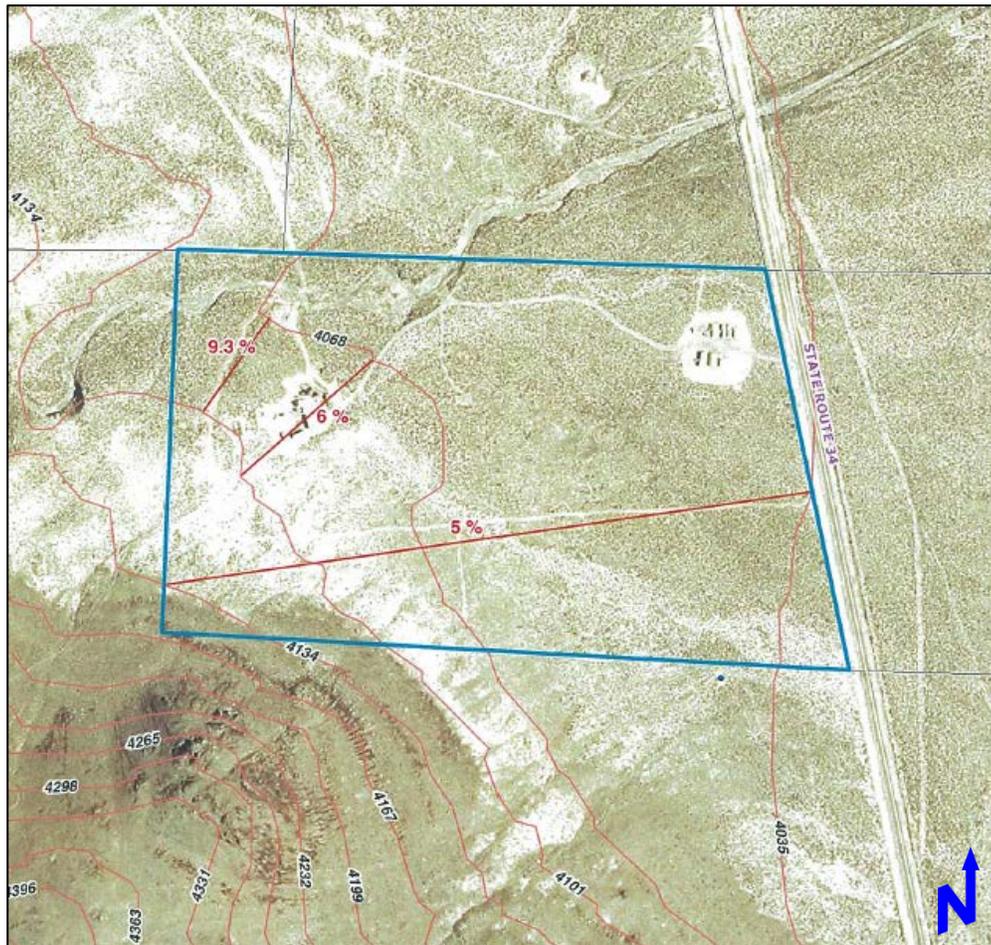
**Vicinity Map**

The subject parcel is addressed as 1287 State Route 34 and is about 20 miles north of Gerlach.





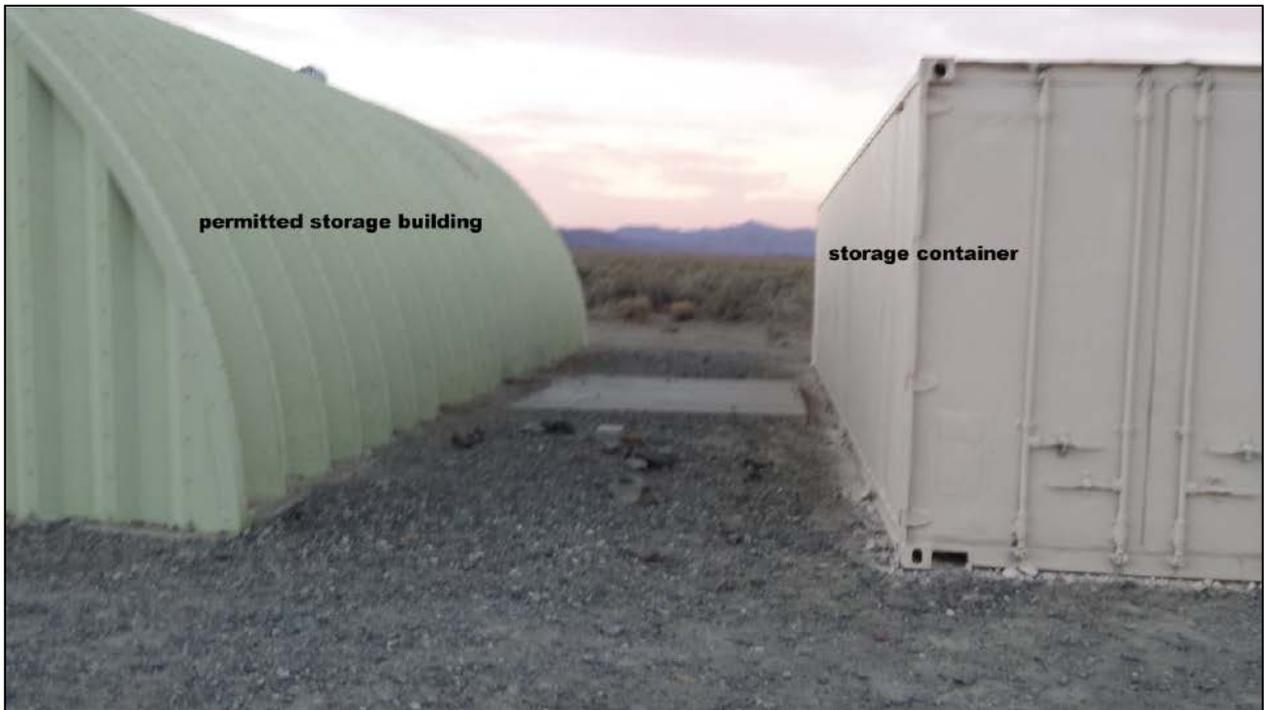
**Aerial View of Subject Parcel (above)**  
**Topographic Map of Subject Parcel (below)**





Existing cargo containers and permitted Quonset hut accessory structures at front of property.





Existing cargo containers and permitted Quonset hut accessory structures at front of property.



**Public Notice**

Washoe County Code (WCC) Section 110.804.20, Variances, requires public notice setting forth the time, place, purpose of the hearing, and physical description of the subject site be sent by U.S. Mail at least 10 days prior to the scheduled public hearing date to a minimum of 30 property owners owning property within 500 feet of the subject site.

Public notice for this application was sent by U.S. Mail to 34 property owners within 12 miles of the subject parcel at least ten days prior to the public hearing date of December 3, 2015.

A “courtesy notice” was mailed to the same 34 property owners on October 23, 2015, advising of the tentative public hearing date of December 3, 2015 that included a link to the subject application online. The courtesy notice is not a legally required notice, but rather is provided to property owners as a courtesy to engage them early in the planning process.

**Project Evaluation**

The subject ±55 acre parcel has a regulatory zone of General Rural (GR) and is located in the Hualapai Valley approximately 20 miles north of Gerlach. The applicant states that the parcel is developed with an existing manufactured home, a pole barn, and other detached accessory structures at both the front and rear areas of the subject parcel. The detached accessory structures located at the front of the parcel are approximately 125 feet from the front (east) property line, which is adjacent to State Route 34 serving as the only access to the residence. These include two Quonset hut metal buildings which the applicant states received finalized building permits in December of 2003 (permit number 02-0155) and six cargo containers that the applicant did not get building permits for. The manufactured home and pole barn are located at the rear of the parcel, approximately 385 feet from the west property line. WCC Section 110.306.10(g) requires a cargo container to have a building permit if the cargo container is over the allowable exempted square footage as established in Article 105 of the Washoe County Building Code; and the Washoe County Building and Safety Division may additionally require foundations, tie-downs, or other safety apparatus to assure compliance with wind load and other safety standards. The Washoe County Building Code currently requires building permits for any structure over 200 square feet. The applicant states that the maximum dimension for the existing cargo containers is 10 ft wide by 40 ft long (400 square feet) and 10 ft. high.

The subject variance application is in response to a complaint filed at the end of April 2015 with Washoe County Code Enforcement regarding the location of four cargo containers<sup>1</sup>. WCC Section 110.306.10(g)(9) requires that cargo containers not be placed between a residence and the adjoining street or road right-of-way that provides primary access to the residence. In order to be in compliance with Washoe County Code, the existing cargo containers and any future cargo containers need to be relocated to the side or to the rear of the existing residence. In order to leave the cargo containers where they are at the front of the property, the applicant must provide satisfactory evidence to support all of the Variance findings, including the “*Special Circumstances*” finding that states relief from a regulation shall only be granted if it is determined that compliance with that regulation will create an exceptional and undue hardship upon the property owner.

During a site visit on April 29, 2015, Washoe County Code Enforcement identified four cargo containers on the front portion of the subject parcel; however, the site plan submitted as a part of the Variance application identifies a total of six cargo containers on the front portion of the subject parcel. The applicant advised staff that two of the cargo containers were being lent out at the time of Code Enforcement’s visit in April, and he would like a maximum of 12 cargo

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<sup>1</sup> Since the complaint was investigated, two more cargo containers were added to the subject property.

containers at the front of the subject parcel. The Washoe County Development Code does not limit the number of cargo containers on a parcel of land having 5 acres or more.

As provided in Nevada Revised Statutes (NRS) 278.300, granting relief from the provisions or requirements of local municipalities shall be authorized only when *all* of the facts and conditions stated in the required findings are found to exist, which include the Variance findings issued in WCC Section 110.804.25. NRS 278.300 empowers the Board of Adjustment to grant variances based on several findings, including one that requires a determination on whether the strict application of a regulation would result in peculiar and exceptional practical difficulties to, or an exceptional and undue hardship upon the property owner.

The submitted application argues the finding of exceptional and undue hardship stating there is an existing graded pad near the front of the ±55 acre parcel, the parcel has a depth of approximately 1,900 feet, and in the applicant's opinion, the existing dirt driveway would need to be graded in order to transport the six cargo containers uphill to the rear or side of the existing residence. Staff's analysis shows an approximate 33 foot change in elevation over ±1,455.40 linear feet of dirt driveway between SR 34 and the existing residence, which results in a ±2.3 percent slope. There is an approximate 6% slope between the front and rear areas around the residence. The land approximately 185 feet to the northwest of the residence has an approximate slope of 9.3%. To provide some perspective, WCC Section 110.436.30(3) states the maximum grade for a residential driveway shall be no more than 14%. (See page 6 for topographic map.) The 9.3% slope is mentioned to provide as much of a full description of the subject site as possible, however, there are other areas near the residence that have less of a slope for placement of the existing cargo containers.

The submitted application states that granting of the variance would enhance the scenic character of the surrounding area because it would alleviate grading [of the existing driveway], road building, and overall site disturbance. The application further states, "*A strict application of the code will result in significant alteration to the site that can be avoided by allowing the placement of the storage structures [cargo containers] in the front part of the lot.*"

In response to the question posed in the application asking what enjoyment or use of your property would you be denied that is common to other properties in your area, the applicant responded by stating that Development Code standards are often written with the intent of regulating suburban development rather than rural development in the High Desert Area and that the local population in the High Desert Area supports minimal grading, land disturbance, paving, landscaping, and building placement standards that are better suited to suburban areas. In conclusion, the application states, "*Relocating the storage containers would prevent the property owner from using almost his entire 55 acres and would force substantial grading and site disturbance.*"

Staff respectfully disagrees with the applicant's arguments that attempt to rationalize an undue and exceptional hardship as a result of topographic conditions or extraordinary or exceptional circumstances that are unique to the subject property that prevent the applicant from complying with Cargo Container placement standards as provided in WCC Section 110.306.10(g)(9). With the existing dirt driveway having a ±2.3% slope and the land near the house having an approximate 6% slope, it is difficult to be confident that additional grading and "*road building*" would be necessary to relocate the six cargo containers to the side or behind the existing residence. Staff acknowledges that the subject parcel is ±55 acres in size, is zoned General Rural (GR), and is in a remote area of the County, however WCC Section 110.306.10(g) which regulates Cargo Containers does not provide an exemption for the placement of Cargo Containers on large GR zoned parcels that are located in remote areas of the County.

### **Citizen Advisory Board**

There is no Citizen Advisory Board (CAB) in the High Desert planning area. Therefore, this proposal was not presented at a local CAB meeting.

### **Public Comment**

At the time of this writing, staff has received one public comment and photo from Mr. Ron Cole who expressed opposition to the variance request. Below is an excerpt from Mr. Cole's email and his submitted photo of the subject parcel. Mr. Cole's parcel is on Jackson Lane and is approximately 2.3 miles as the crow flies to the northeast of the subject parcel. Mr. Cole's email in its entirety and photo can be found as Exhibit B to this staff report.

*"The Walters footprint is quite visible from my ranch and detracts from the beauty of the mountains. Please consider this and plan carefully. The valley is becoming full of containers and porta potties presently. Lets not sell our High Desert View to the highest bidder.....This will open the door to rampant industrial growth and another container complex out in the open High Desert view shed that we enjoy. Also it is too close to 34 Hwy and all the screening in the world will not hide a storage container complex."*



Ron Cole's submitted photo of cargo containers.

### **Reviewing Agencies**

The following agencies received a copy of the subject Variance application for review and evaluation:

- Washoe County Planning and Development Division
- Washoe County Capital Projects and Engineering Division
- Washoe County Building and Safety Division
- Washoe County Environmental Health Services
- Truckee Meadows Fire Protection District

- Nevada Department of Transportation
- Bureau of Land Management

The following Reviewing Agencies provided comments or recommended conditions of approval in response to their evaluation of the subject application. A **summary** of each agency's comments and their contact information is provided below. Since a recommendation of denial is being made, there is not a Conditions of Approval document attached to the staff report. Should the Board of Adjustment determine that all of the required findings can be satisfied including that special circumstances exist, and grant approval of the subject variance application, staff will provide recommended Conditions of Approval.

- **Washoe County Planning and Development** is recommending denial due to a lack of evidence proving an undue hardship related to the property's topographic conditions or extraordinary or exceptional circumstances that would prevent the applicant from complying with required Cargo Container placement standards provided in WCC Section 110.306.10(g)(9).

**Contact:** Grace Sannazzaro, 775.328.3627, [gsannazzaro@washoecounty.us](mailto:gsannazzaro@washoecounty.us)

- **Truckee Meadows Fire Protection District** advises that any development on the property shall be required to meet the regulations issued in WCC Chapter 60. This will include requirements for access and exterior construction per the Wildland Urban Interface Code.

**Contact:** Amy Ray, 775.326.6005, [aray@tmfpd.us](mailto:aray@tmfpd.us)

- **Washoe County Engineering** responded stating they have no conditions or comments regarding this application.

**Contact:** Leo Vesely, 775.328.2313, [lvesely@washoecounty.us](mailto:lvesely@washoecounty.us)

- **Washoe County Health District** responded stating they have no conditions or objections to the subject application. [Environmental Health Services Division and Vector-Borne Diseases Program]

**Contacts:** Chris Anderson, 774.328.2632, [canderson@washoecounty.us](mailto:canderson@washoecounty.us)  
Jim Shaffer, 775.785.4599, [jschaffer@washoecounty.us](mailto:jschaffer@washoecounty.us)

### **Staff Comment on Required Findings**

WCC Section 110.804.25 of Article 804, *Variances*, requires that all of the following findings 1 through 4 be made to the satisfaction of the Washoe County Board of Adjustment in order to grant approval of the Variance request. If a military installation is within 3,000 feet of the subject parcel, then Finding 5 shall be included. Staff has completed an analysis of the application and has determined that the subject Variance request does not satisfy Findings 1, 2 and 3 as provided below.

1. **Special Circumstances**. Because of the special circumstances applicable to the property, including either the exceptional narrowness, shallowness or shape of the specific piece of property or by reason of exceptional topographic conditions or 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.

*Staff Comment: As discussed earlier in this report, there is a lack of evidence proving an undue hardship related to the property's topographic conditions or extraordinary or exceptional circumstances that would prevent the applicant from complying with required Cargo Container placement standards as provided in WCC Section 110.306.10(g)(9). There is no exemption in the Development Code that provides relief from Cargo Container placement standards for large parcels with GR zoning.*

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: Granting relief from compliance with the Cargo Container placement standard will impair the intent and purpose of WCC Section 110.306.10.(g)(9) which provides regulations for placement of Cargo Containers.*

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 granting of the variance will establish a grant of special privilege that is inconsistent with the surrounding large parcels that have the same General Rural (GR) zoning as the subject parcel. As previously mentioned, there is no exemption in the Development Code that provides relief from Cargo Container placement standards for large parcels with GR zoning.*

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: Cargo Containers are listed under Article 306 in the Washoe County Development Code as Detached Accessory Structures. WCC Table 110.302.05.1 identifies a Detached Accessory Structure as an allowed use within the General Rural (GR) regulatory zone.*

5. **Effect on a Military Installation.** The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

*Staff Comment: WCC Section 110.804.25 [Variance] "Findings", states that unless a military installation is within 3,000 feet of the subject parcel, this Finding is not applicable. There is no military installation within 3,000 feet of the subject parcel; therefore, this Finding is not included in the recommended motion.*

### **Recommendation**

Staff's analysis concluded that there is a lack of evidence to support an approval of the variance request asking for relief from the Cargo Container placement standard issued in WCC Section 110.306.10(g)(9). Therefore, after a thorough analysis and review, Variance Case Number VA15-010 is being recommended for denial. 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

deny Variance Case Number VA15-010 for Jason S. Walters, not making all of the required findings as provided in WCC Section 110.804.25.

1. Special Circumstances. Because of the special circumstances applicable to the property, including either the exceptional narrowness, shallowness or shape of the specific piece of property or by reason of exceptional topographic conditions or 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;
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; and
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 signed by and filed with the Secretary to the Board of Adjustment and mailed to the original 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 Development Division within 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the original applicant.

Property Owner/Applicant: Jason S. Walters  
PO Box 247  
Gerlach, NV 89412

Consultant: Rubicon Design Group, LLC  
Attn: Derek Wilson  
100 California Avenue, Suite 202  
Reno, NV 89509

Amy Ray  
*Fire Marshal*



Tim Leighton  
*Division Chief*

Charles A. Moore  
*Fire Chief*

November 2, 2015

Washoe County Community Services Department  
1001 East Ninth Street  
Reno, NV 89512

Re: Variance Case Number VA 15-010 (Jason S. Walters)

The Truckee Meadows Fire Protection District (TMFPD) will approve the above Variance with the following conditions:

- Any developments on the property shall meet the requirements of WCC 60. This will include the requirements for access and exterior construction per the *Wildland Urban Interface Code*.

Please contact me with any questions at (775) 326-6005.

Thank you,

Amy Ray  
Fire Marshal

**TRUCKEE MEADOWS FIRE PROTECTION DISTRICT**

1001 E. Ninth St. Bldg D 2nd Floor • Reno, Nevada 89512 • PO Box 11130 • Reno, Nevada 89520  
Office 775.326.6000 Fax 775.326.6003

**VA15-010  
EXHIBIT A**



# WASHOE COUNTY

## COMMUNITY SERVICES DEPARTMENT

Engineering and Capital Projects Division

*"Dedicated to Excellence in Public Service"*

1001 East 9<sup>th</sup> Street PO Box 11130 Reno, Nevada 89520 Telephone: (775) 328-2040 Fax: (775) 328-3699

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### INTEROFFICE MEMORANDUM

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DATE: November 04, 2015  
TO: Grace Sannazzaro, Planning and Development Division  
FROM: Leo R. Vesely, P.E., Engineering and Capitol Projects Division  
SUBJECT: **VA15-010**  
**APN 071-332-03**  
**JASON WALTERS VARIANCE**

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I have reviewed the referenced variance case and have no conditions or comments.

LRV/lrv

**VA15-010**  
**EXHIBIT A**

**WASHOE COUNTY**  
**HEALTH DISTRICT**  
ENHANCING QUALITY OF LIFE

November 4, 2015

Grace Sannazzaro, Planner  
Washoe County Community Services  
Planning and Development Division  
PO Box 11130  
Reno, NV 89520-0027

RE: Jason S. Walters; APN 071-332-03  
Variance; VA15-010

Dear Ms. Sannazzaro:

The Washoe County Health District, Environmental Health Services Division (Division) Engineering and Vector have reviewed the above referenced project. This Division has no conditions or objections to the proposed variance.

If you have any questions regarding the foregoing, please call Chris Anderson at 328-2632 or Jim Shaffer 785-4599 regarding engineering or vector comments, respectively.

Sincerely,

Chris Anderson, P.E.  
Registered Engineer  
Land Development Program  
Environmental Health Services

J.L. Shaffer  
Program Coordinator/Planner  
Vector-Borne Diseases Program  
Environmental Health Services

CA/JS:ca

Cc: File - Washoe County Health District

**From:** [Xair Warrior](#)  
**To:** [Sannazzaro, Grace](#)  
**Subject:** VA15-010 Walters  
**Date:** Wednesday, November 04, 2015 10:41:02 AM

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Hello Grace thanks for the courtesy notice in regards to these matters.

As you can see from this included photo from my front door.

This would have a major impact to my view shed and property value. And to say that it would not impact any one is false and miss leading.

The Walters footprint is quite visible from my ranch and detracts from the beauty of the mountains.

Please consider this and plan carefully. The valley is becoming full of containers and porta potties presently. Lets not sell our High Desert View to the highest bidder.

I have expressed some concerns to Jason already. This is just BRC using the desperation and failed attempt by the Walters to live off the grid. This will open the door to rampant industrial growth and another container complex out in the open High Desert view shed that we enjoy.

Also it is too close to 34 Hwy and all the screening in the world will not hide a storage container complex.

First storing containers then hundreds of blue porta potties like BRC's attempt with Fly ranch several years ago.

Please keep me posted in regards to these matters

Thanks

Ron Cole

220 Jackson Lane Gerlach NV 89412

775 3021096

