



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Rob Pierce, Chair
Don Christensen, Vice Chair
Kathie Julian
Peter Ghishan
Leo A. Horishny

Thursday, April 4, 2024

1:30 p.m.

Washoe County Administrative Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

Secretary

Trevor Lloyd

and available via
Zoom Webinar

1. Determination of Quorum

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

Members Present: Rob Pierce, Chair
Don Christensen, Vice-Chair
Kathie Julian
Peter Ghishan
Leo A. Horishny

Members Absent: None

Staff Present: Tim Evans, Planner, Planning and Building Division
Kat Oakley, Senior Planner, Planning and Building Division
Elizabeth Hickman, Deputy District Attorney, District Attorney's Office
Adriana Albarran, Recording Secretary, Planning and Building Division
Brandon Roman, Recording Secretary, Planning and Building Division

2. Pledge of Allegiance

Chair Pierce led the pledge of allegiance.

3. Ethics Law Announcement and Instructions for Providing Public Comment via Zoom/Telephone

Deputy District Attorney Elizabeth Hickman recited the Ethics Law standards and instructions for providing public comment via Zoom/telephone.

4. Appeal Procedure

Secretary Trevor Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. Public Comment

There was no response to the request for public comment.

6. Approval of the April 4, 2024 Agenda

Chair Pierce noted the following changes to the agenda: Agenda Item 8.A. was postponed and would be heard at a later date, and Agenda Items 8.E. and 8.F. were pulled from the agenda.

In accordance with the Open Meeting Law, Member Ghishan moved to approve the agenda of April 4, 2024 with the removal of Agenda Items 8.A., 8.E., and 8.F. Member Horishny seconded the motion, which carried unanimously.

7. Approval of the February 1, 2024 Draft Minutes

Member Horishny moved to approve the minutes of February 1, 2024 as written. Member Julian seconded the motion, which carried unanimously.

8. Public Hearing Items

B. Special Use Permit Case Number WSUP23-0016 (Sky Tavern Junior Ski Program Expansion) – For hearing, discussion, and possible action to approve a special use permit for an expansion to the Sky Tavern Junior Ski Area, including a utility services use type for the installation of snowmaking infrastructure including 1-million and 2-million gallon water storage tanks, approximately 11,000 linear feet of snowmaking water supply piping, and two well and pump houses; an expansion of the destination resort use type to expand site parking and lighting for the parking area and lighting for night skiing; requests to vary certain standards of WCC Articles 204, 410, 412, and 414; and associated major grading including approximately 6,600 cy of cut and fill, and 6.1 acres of disturbed area.

- Applicant: Sky Tavern Junior Ski Area
- Property Owner: City of Reno
- Location: 21130 Mount Rose Hwy
- APN: 048-050-03
- Parcel Size: 143.070 Acres
- Master Plan: Rural
- Regulatory Zone: Parks and Recreation
- Area Plan: Forest
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 1 – Commissioner Hill
- Staff: Kat Oakley, Senior Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3628
- E-mail: koakley@washoecounty.gov

Senior Planner Kat Oakley conducted a PowerPoint presentation and reviewed slides with the following titles: Located at 21130 Mount Rose Hwy; Request; Background; Snow Making Expansion; Evaluation; Parking Improvements; Major Grading; Traffic; Requests to Vary Standards; Ski Slope Lighting (3 slides); Master Plan Analysis; Recommendation; Reviewing Agencies; Public Notice; Neighborhood Meeting; Findings (2 slides); and Motion.

During the presentation, Engineer Timber Weiss explained the water would come from surface water sources such as springs and tributary creeks; no underground drill-encased wells or underground water rights would be applicable.

Ms. Oakley indicated the required traffic study would include mitigation efforts to resolve traffic concerns, particularly regarding left turn movements from Burns Gulch Road onto Mount Rose Highway. Additionally, the parking modifications were supported by staff because they would limit disturbance and legalize what is currently a nonconforming parking area. She noted the substantial proposed lighting additions would change the vista that was visible from many parts of Washoe County.

Applicant Nathan Robison stated his engineering firm installed a light at the highest point of Sky Tavern and visited major viewpoints in the area to assess how views would be impacted. He offered to provide photos of those results. He mentioned Robison Engineering had done engineering for Sky Tavern for 10 years, though he had personally been involved with the business for 20. Stories like his were shared by thousands in the area. He believed the Master Plan was an admirable statement of principles, but it could not anticipate everything. He recognized that the proposal positively impacted part of the plan and negatively impacted another, but pointed out there were many letters of support for the proposal.

Regarding concerns about the water supply, Mr. Robison said snowmaking allowed for water storage and would extend the important period of infiltration and groundwater recharge. Robison Engineering consulted with climate scientists who granted the application for a non-consumptive water right because it added to the snow capacity of the Browns Creek Upper Water Shed.

Regarding concerns about liability and security, Mr. Robison noted increasing the number of visitors was the explicit intent of Sky Tavern. Since lighting would only be placed in ski areas, he believed snowmaking and lighting would decrease concerns about security. Further, the augmentation of existing water storage for fire mitigation could be regionally significant. He noted the water company was derogatory towards the appearance and quality of the infrastructure, but they might not have considered that expansion would provide the revenue to upgrade the facilities. He pointed out the business was non-profit and they wanted to improve both the mountain and access to resources. He urged the Board to approve the proposal.

On the call for public comment, Mr. Yale Spina, chairman of the non-profit board, stated Sky Tavern had been sold out on the weekends for the last few years. He felt the installation of lights would allow for after-school programs to facilitate the demand for the community, freeing up weekends. Second, this would allow kids to ski without having to be taken out of school for race training. He noted the Sky Tavern program supported the County's desire to improve regional recreation, including adaptive programs.

Mr. Matthew O'Brien lived on Sky Tavern Road for decades, and he believed this project would transfer residents' rights to renters who did not own the land. Additionally, he believed resources could be used in a different manner than to put lights in a forest. He expressed concern about the impact to the area, added that the County had an obligation to the residents, and said this project only served a small population. The expansion would change the nature of the area, and he urged the Board to use an extra layer of scrutiny in their decision.

Ms. Annie Solberg wondered whether the applicant could install an additional hydrant closer to Sky Tavern Road for wildfire mitigation. She expressed opposition to the lighting element, which would disrupt the night sky, and concern over the clientele who used the facility for mountain biking. She worried about children skiing at night and high schoolers having to drive that road at night after training.

Ms. Susan Broili Kamesch expressed concern about safety for skiers who got off the trails and into dark areas where many residences like hers existed. She remarked several people in the area never received notification of the neighborhood meeting and requested a continuance of the item so another meeting could be held before consideration of the proposal.

Ms. Sally Sue Broili, president of Mount Rose Bowl Property Owners Water Company, spoke about severe water shortages in 1976 and 1977. She expressed concern about the use of the aquifers to make snow, which could cause similar shortages. Snow, she pointed out, did not fill aquifers until it melted. She recommended the Board consider the appropriation of water and water restrictions from 1977 and provide solutions to ensure the availability of millions of gallons of water.

Ms. Julianne Zotter spoke on behalf of herself and not as an engineer for Robison Engineering. She explained how high schoolers left school at noon to do race training and how she was discriminated against by teachers for missing classes. The opportunity to practice later during the week would keep kids in school. She spoke about the ability to volunteer as a ski coach if it could be done after school. Increased capacity would provide more flexibility, and she felt the 10:00 p.m. cutoff for lighting would allow time for operations and maintenance.

Mr. Chris Minnes noted his property was adjacent to Sky Tavern and he had a degree in ski resort management. He supported what Sky Tavern did for kids, though as a resident he wished the Board would not allow any exceptions to the general plans by allowing night skiing. He pointed out many ski resorts tried night skiing but no longer did, both because it was not economically viable and because the slopes became icy at night. He suggested opening the slopes during the day and allowing kids to ski instead of participating in P.E. classes.

Mr. Greg Doyle stated the lights would only be operational until 9:00 or 10:00 at night, not when the sky was at its darkest. He noted the city asked them to utilize the property as best they could, and he believed this was the best use. He acknowledged growth impacting the area, but the park could be used to help out recreational sports and bring back the University of Nevada, Reno (UNR) ski team.

Ms. Randi Thompson, on the board of Sky Tavern, reminded the Members that Sky Tavern was in operation since the 1940s, so nearby residents knew they moved next to a ski area. She commented the lighting was designed to light the snow, not the sky, for the safety of the skiers. She pointed out Boreal was a lit ski area, demonstrating it could be economically viable, and others sports were lit to play at night. She brought up a city requirement to expand to year-round sports including biking. Their main goal was to keep kids healthy in the wintertime.

Ms. J. J. Batchelder noted she worked for the Washoe County School District Board of Trustees but was commenting as an individual. Her family all learned to ski at Sky Tavern, and the ability to expand snowmaking and lighting expanded the opportunity to more kids. She contested this

would not only benefit wealthier kids, noting all high schools had ski racing at Sky Tavern. She stated this proposal would benefit the entire community.

Member Julian asked for more information about the 1977 adjudication of water rights.

Mr. Weiss explained that adjudication was known as the Browns Creek Decree and the water right he mentioned before was tributary to that. Washoe County filed an application to change the water from historical stock watering to the snowmaking process. Additionally, there were several other permits within the area on various springs for domestic use.

Member Julian asked whether the County had examined whether there was sufficient water.

Mr. Weiss replied he reviewed the applications for the viability of water, as did his predecessor and the State engineer.

Member Ghishan inquired about whether lighting modeling was performed from Bums Gulch Road or Sky Tavern Road.

Mr. Robison stated modeling was not done. Rather, they traveled to areas to assess visibility from various vantage points. While he could not say no light would be seen, the area was densely forested and there were not many vantage points that would give the appearance of a lit area. Nearly all of the 100-foot setback area would be forested.

Member Julian asked about the difference between the lighting in the parking lot and that which would be used on the slopes.

Mr. Robison said down shielding was the only useful light for both skiing and the parking lots, and the exact color tone of the proposed lights was optimized for visibility and safety. While no lights would be aimed up, the reflective nature of the snow would shine diffused light upward, though none of it would distract pilots.

Chair Pierce inquired about the condition to turn lights off at 10:00 p.m. and when grooming would be performed.

Mr. Robison responded the application contained that condition, though Sky Tavern would work with whatever time was approved. He stated lighting would be necessary for grooming until it was complete, and though the lights on the Sno-Cats were brighter than car headlights, they shined down and not out.

Chair Pierce asked about the availability of a better-resolution picture of the lighting.

Mr. Robison said he could email the picture, though it was not much clearer than the one in the staff report.

Member Julian asked when snow grooming was currently performed.

Michael Oehlert, general manager of Sky Tavern, explained grooming was done from around 5:00 p.m. to 3:00 a.m., though grooming was sometimes shifted from 4:00 a.m. to 9:00 a.m.

during big storms. It was easier to groom at night because Sno-Cat lights worked better without other light sources.

Chair Pierce requested additional information about the public notice for this proposal.

Ms. Oakley stated staff provided the noticing list to the applicant, who was responsible for mailing out notices and providing the County with a signed list. She noted several addresses on Bums Gulch Road on that list, though she did not look for specific names.

Chair Pierce asked about the current days of operation.

Ms. Oakley indicated the proposal prohibited operation of lighting no later than 10:00 p.m. with no proposed limitation as to days per week. While the applicants had discussed operating after school during the week, there was no restriction to operating seven days a week. She added the Board received an additional condition about parking signage on Bums Gulch Road, which was part of staff's recommendation.

Member Ghishan asked whether Bums Gulch Road was a County-maintained right of way and whether the applicant expected if improvements to the parking lot would eliminate spillover onto that road.

Ms. Oakley confirmed it was, though the proposal did not include expansion to the parking lot; marginal increases could result from layout changes, she added.

Mr. Robison indicated increasing the hours of operation would help regulate parking, which was overcrowded on the weekends.

In response to Member Julian's query about current operating hours, Mr. Spina responded it was unlikely that 3,700 kids would be served at nights. Currently, Sky Tavern was open for the Junior Ski Program on Saturdays and Sundays from 7:00 a.m. to 5:00 p.m., and for the last two years they were open Wednesdays thru Fridays in the afternoons for high school and UNR race teams. He noted they would remain open during the week but preferred to keep kids in school.

Member Julian asked whether adults could ski during those times and inquired about the number of ski lifts.

Mr. Spina explained parents were required to volunteer two hours in some way while their kids participated in the programs, and after that they would be allowed to ski with the kids or learn to ski. He noted there were two chair lifts and two carpet lifts.

Member Horishny asked about the number of lights in the proposal.

Ms. Oakley stated there would be about 77 lighting standards for night skiing and 13 for the parking area.

Member Horishny then asked about the coverage of the lighting.

Mr. Spina replied there were no plans to light the jump hill, but the back trail and the 4 and 5 trials would be covered. He emphasized the importance of training for ski racing, noting many of

the UNR scholarships went to foreign students because they had access to good training facilities. He felt Reno students should receive those scholarships and possibly go to the Olympics for the United States.

Member Horishny asked about summertime programs.

Mr. Spina stated they offered bicycle clinics for kids and women, but there were no plans to turn the lights on at night during the summer. For three and a half months a year, the plan was to use the lights from 4:00 p.m. until around 9:00 p.m., four nights a week.

Member Julian stated she lived close to Diamond Peak Ski Resort in Incline Village and could hear the snowmaking machines from her home. She asked whether this topic had been discussed with the community living near Sky Tavern, and also whether anyone from the neighborhood meeting expressed concerns about the proposal.

Mr. Robison said he attended the meeting where two members of Sky Tavern gave presentations, and there had been no opposition. There were no renderings available for those presentations.

Chair Pierce asked whether the applicant would be amenable to changing the end time for lighting to 9:00 p.m.

Mr. Robison replied he was not an authority for Sky Tavern, but most special use permit (SUP) denials were a result of someone being unreasonable, which he believed was not consistent with the Sky Tavern board's character.

Ms. Oakley reviewed the language of the condition staff recommended as Condition 3.E.

Chair Pierce expressed support for the proposal, including the lighting as long as it was shut off by 9:00 p.m., adding he did not believe the night skies would be impacted too greatly.

Member Julian stated her inclination to support the staff's recommendation, emphasizing the importance of scenic views. She noted her support for the snowmaking and minimal parking lot lighting, but said there was time for skiing after school in the spring between 4:00 p.m. and 6:00 p.m. She did not see the need to extend the ability to ski until 10:00 p.m. She asked whether it was possible to approve the proposal without the lighting provision, then hold another neighborhood meeting to try to resolve the concerns about lighting.

Ms. Oakley said she was unsure whether that would be considered a technical denial, which would add a required waiting period.

In response to Secretary Trevor Lloyd's request for clarification, Member Julian pointed out a ski resort professional spoke about the cost effectiveness of night skiing, and she wished to see a business plan about how this would work. She stated other ski areas did not have massive lighting.

Chair Pierce opined kids getting out of school would not be able to get to the mountain until it was already dark for a large portion of the winter. Changing the end time for lighting until 9:00 p.m. would allow kids to get some skiing in.

Regarding Member Julian's procedural question, Mr. Lloyd explained the Board would need to deny the lighting portion of the proposal without prejudice to allow the applicant to return within one year.

Deputy District Attorney Elizabeth Hickman stated that would need to be a separate motion.

Member Julian qualified she had no opposition to the parking lot lighting, only the slope lighting.

Member Horishny believed the parking lot lighting would not be needed if the slope lighting were denied, especially since some parking lot lighting already existed. He expressed concern about having 70 lights on a highly-visible portion of the mountain, commenting that testing with only one light did not provide a fair expectation. He also expressed concern that, if this were to be approved, Mount Rose might want to also install lights. He agreed with staff's recommendation.

Ms. Oakley clarified the slope lighting constituted an expansion of the destination resort use type, which was why it was part of the SUP request. The parking area lights were required by County code for commercial uses, which could be achieved on their own with a building permit. The two types of lighting could be separated because of those considerations.

Member Ghishan agreed with Chair Pierce's position, referencing Regional Form and Coordination Principle 2 which stressed strengthening the identity of the region by encouraging land uses that contributed to the community. He was moved when several reviewing entities had no concerns about the ski lighting element, and Regional Parks only suggested that Sky Tavern use best practices for dark sky compliance. He believed this would be consistent with the Master Plan and not significantly detrimental to public health, safety, or welfare.

Vice Chair Christensen praised the Sky Tavern program but noted one issue they had in the past was dealing with the absence of snow. While he did not have an issue with the noise of snowmaking, he initially agreed with staff's recommendation to deny the lighting based on the dark sky provisions in the Master Plan. However, he was swayed by Chair Pierce's point that the lighting would only be used for a portion of the year and with the use of technology which would direct light downward. He supported the proposal but expressed concern over the lack of public input, which he felt was important to the Board.

Member Ghishan moved that Special Use Permit Case Number WSUP23-0016 for Sky Tavern Junior Ski Area and the request to vary standards WCC 110.410.25(c) & (f) & (g)(3), WCC 110.412.25(c), WCC 110.412.40(a) & (b), and WCC 110.204.05(d)(1) & (2) be approved, and the request to add lighting for night skiing be approved from 5:00 p.m. to 9:00 p.m. with the conditions included as Exhibit A to this matter, including the additional condition regarding parking signage on Bum Gulch Road, having made all five findings in accordance with Washoe County Code Section 110.810.30: Consistency, Improvements, Site Suitability, Issuance Not Detrimental, and Effect on a Military Installation. Vice Chair Christensen seconded the motion, which carried on a vote of 4 to 1 with Member Julian voting no.

3:00 p.m. The Board recessed.

3:10 p.m. The Board reconvened with all Members present.

C. Variance Case Number WPVAR24-0002 (Richard Variance) – For hearing, discussion, and possible action to approve a variance to reduce the front yard setback from twenty (20) feet to fifteen (15) feet to bring an existing legal nonconforming dwelling that was constructed in 1920 into conformance with current setback requirements.

- Applicant/Property Owner: Mervyn Dean Richard
- Location: 280 Medgar Avenue
- APN: 570-263-17
- Parcel Size: 0.666 acres
- Master Plan: Suburban Residential
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: North Valleys
- Development Code: Authorized in Article 804, Variances
- Commission District: 5 – Commissioner Herman
- Staff: Tim Evans, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.2314
- E-mail: tevans@washoecounty.gov

Planner Tim Evans conducted a PowerPoint presentation and reviewed slides with the following titles: 280 Medgar Avenue; Vicinity Map; Request; Site Plan; Elevations; Evaluation (4 slides); Reviewing Agencies; Public Notice; Findings; and Possible Motion.

Applicant Mervyn Dean Richard stated he began working on an addition to his home several years prior when staff notified him that the original house was nonconforming and he would need to go through the variance process. He asked the Board to approve the variance, remarking that the addition would conform to new standards. It would also improve the neighborhood and provide him with a larger house.

There was no response to the call for public comment.

Member Horishny moved that Variance Case Number WPVAR24-0002 for Mervyn Dean Richard be approved 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. Member Julian seconded the motion, which carried unanimously.

D. Variance Case Number WPVAR23-0005 (Summertide) – For hearing, discussion, and possible action to approve a variance to vary the fence height along the front property line from four and one-half (4.5) feet to eight (8) feet for security and aesthetic purposes on four parcels along Calaneva Drive.

- Applicant/Property Owner: Deep Blue Water LLC
- Location: 24, 26, 28, 32 Calaneva Drive, Crystal Bay, NV
- APN: 123-041-24; 123-041-25; 123-041-26; 123-041-27; 123-041-28; 123-041-29
- Parcel Size: 1.042 acres; 1.692 acres; 1.156 acres; 0.472 acres; 0.591 acres; 0.445 acres

- Master Plan: Stateline Point
- Regulatory Zone: Stateline Point
- Area Plan: Tahoe
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Hill
- Staff: Tim Evans, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.2314
- E-mail: tevans@washoecounty.gov

Planner Tim Evans conducted a PowerPoint presentation and reviewed slides with the following titles: 24, 26, 28, 32 Calaneva Dr.; Vicinity Map; Request; Site Plan; Elevations (2 slides); Evaluation (5 slides); Reviewing Agencies; Public Notice; Findings; and Possible Motion. He noted that, though the variance application encompassed six parcels, the variance was specific to only the four parcels touching the street. Of the seven public comments received on the item, he continued, one was a general inquiry and the remaining six opposed the variance.

John Krmptic, representing the applicant, praised staff for their professionalism. He stated that he confirmed with the architect that a six-foot fence would be allowed if it were kept where it was, though it would be relocated as part of this request. He conducted a PowerPoint presentation and reviewed slides with the following titles or descriptions: Summertide (WPVAR23-0005); Existing Site Diagram; Proposed Site Diagram; Staff Summary; Finding (a) Special Circumstances; Extraordinary Condition; photo (2 slides); area map (2 slides); Finding (c) No Special Privileges; No Special Privilege (2 slides); Existing Fence; Proposed Fence; Crystal Bay Tourist Concept Plan; and Solid vs transparent fence.

Mr. Krmptic believed the 30 percent slope should be part of the analysis for this variance. He stated he and staff agreed on everything except the findings of special circumstances and no special privileges. Since the proposed fence would be transparent, he pointed out, it would not create visual privacy, but privacy in a broader sense. He felt the use of a transparent 8-foot fence provided an environmental benefit and commented the proposed fence would be set back from the current fence. He stated there had been police activity the prior week in the area and noted the owner was committed to and had the resources to install a fence of high standards. While the proposed fence did not possess a standard of beauty, it would allow for the beauty of the lake in the background.

There was no response to the call for public comment.

Noting the proposed fence would be transparent, Member Julian wondered about setting a precedent for someone to later request to build an 8-foot fence that was not transparent.

Secretary Trevor Lloyd responded variances were considered on a case-by-case basis and this would not set a precedent for all other properties. However, it could constitute a precedent if a future applicant cited this decision if the Board were to make all the necessary findings.

Member Julian asked whether the Board could specify that the transparency of the fence is what made possible approval of the variance suitable, not just the height.

Mr. Lloyd recommended reviewing each finding, noting the Board needed to make all of the findings.

Member Horishny asked for clarification about the current code requirement for a 4.5-foot fence.

Mr. Evans explained the current 6-foot fence was considered legal nonconforming as it was established before current code requirements. Once a proposal set out to change the fence or its location, current code requirements would need to be followed. He confirmed the applicant could substitute the current fence for a transparent 6-foot fence as long as it was in the same footprint.

Member Horishny inquired about the landscaping requirements on either side of the fence.

Mr. Evans replied the Tahoe Area Plan (TAP) presented landscaping guidelines along the front within the setback area; beyond the setback area, the landscaping could be any height. He further confirmed a violation of the 4.5-foot landscaping height would be addressed only in response to a complaint.

In response to Member Julian's query about intent of the TAP's guidelines on landscaping, Mr. Evans stated the transparency in fencing and landscaping was to allow for views of the lake.

Vice Chair Christensen stated the proposal would substitute an ugly fence for a classy fence which allowed views of the lake. He asked about the color and consistency of the fence material.

Mr. Krmpotic replied it was wire mesh which could even be made to look weathered if that was the desire, though he was unsure of the metal composition. It would be more transparent than traditional chain link fence.

Via Zoom, Ryan Lawinger with Rehkamp Larson Architects Inc. replied the fence would be made out of steel and allowed to weather over time, transforming the tone of the fence to fit in with the tones of the Tahoe area.

In response to Member Julian, Mr. Krmpotic indicated the opacity of the fence would be a minimum of 90 percent.

Chair Pierce stated he struggled to make the special circumstance finding because a rock wall referenced in the applicant's presentation was built before the Code was put in place and the 17-foot wall referenced was in a commercial area. Therefore, he would support staff in their recommendation to deny the variance.

Member Ghishan disagreed, adding he visited the site and noticed walls of all configurations and heights in the same area plan and same zoning. Citing goal LU1, he posited that if the lot across the street were vacant and wanted to put in a casino, they would need to implement extraordinary buffering, but since that condition could not be imposed on a casino, he was fine granting the variance to allow the owner to meet that goal. He stated he could make all the findings and strongly supported the variance.

Mr. Lloyd read the purpose of Article 804, the variance article, which he believed should be considered when the Board made their decision.

Member Horishny stated he would support replacing the existing fence with a 6-foot transparent fence in the same location because approving an 8-foot fence would give acceptance to the 9-foot stone wall.

In response to Chair Pierce's questions, Mr. Evans said the 4.5-foot requirement came from the TAP, and Code contained a definition of height as including any berms an object might be placed on.

Member Julian asked for clarification about the nonconforming aspect of the fence.

Mr. Evans explained the fence was legal nonconforming according to Washoe County Code, and replacing the current fence in the same spot would maintain its legal nonconforming status as long as there was no increase in length or height, or change in location; in fact, that was an option staff presented to the applicant.

Member Julian inquired about the rationale for the setback and the landscaping in front.

Mr. Krmptotic replied that would keep the fence in compliance with the TAP, which he believed was competing with the County Development Code. In addition, increasing the fence height would add to the safety of the residence, especially since the slope of the parcel required the residence to be close to the street.

Member Horishny asked about the choice for an 8-foot transparent fence.

Mr. Lawinger stated the Code allowed a 6-foot fence to be replaced with like materials, 100 feet at a time. The owner suggested a taller fence also because of security concerns, and the decision to set the fence back and make it transparent was made to conform with the TAP. The applicant wanted to do something better than the current fence.

Member Ghishan said staff acknowledged the proposed fence would be safer and it would add to the beauty of the neighborhood, but following Code requirements would result in a 4.5-foot fence. Referencing a prior matter heard by the Board of Adjustment and whose appeal was unanimously approved by the Board of County Commissioners, he stressed private property rights and stated he could make the findings.

Member Julian noted the community voiced some opposition, though she believed some of the concerns indicated they might not have understood the transparent element of the fence. She said she could support the variance if the opacity and limited height of the landscaping were emphasized.

Member Ghishan stated the record about opacity was clear, but he unsure whether a condition could be added to specify that.

Deputy District Attorney Elizabeth Hickman said that justification could be included in the special circumstances and no detriment findings.

Member Julian stated she would only vote in favor of this item if the opacity could be included.

Chair Pierce cautioned the Board against making decisions based on compassion, instead basing its decisions on the rules.

Ms. Hickman recommended the Board consider page 9 of the staff report with regards to opacity and include that in its findings.

Mr. Krmptotic assured the Board the applicant would meet the condition suggested by Member Julian. He clarified he meant transparency when he earlier quoted the 90 opacity figure.

Mr. Lawinger noted the fence would be about 80 percent transparent as it would be almost physically impossible to have a 90 percent transparent fence; he requested that that language be used.

Member Ghishan moved that Variance Case Number WPVAR23-0005 for Deep Blue Water LLC be approved, having been able to make all five (5) required findings in accordance with Washoe County Development Code Section 110.804.25: Special Circumstances, No Detriment, No Special Privileges, Use Authorized, and Effect on a Military Installation. Further, the Board specifies the fence would be of 80 percent transparency. Vice Chair Christensen seconded the motion, which carried unanimously.

9. Chair and Board Items

A. Future Agenda Items

There were no future agenda items.

B. Requests for Information from Staff

There were no requests for information.

10. Director's and Legal Counsel's Items

A. Report on Previous Board of Adjustment Items

Secretary Trevor Lloyd indicated the Cobble Hill Grading special use permit was appealed, but the appeal was withdrawn so there was no future date for that to be heard by the Board of County Commissioners.

B. Legal Information and Updates

11. Public Comment

There was no response to the request for public comment.

12. Adjournment

The meeting adjourned at 4:16 p.m.

Respectfully submitted by Derek Sonderfan, Independent Contractor

Approved by Board in Session on May 2, 2024



Trevor Lloyd
Secretary of the Board of Adjustment