



# WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

## Board of Adjustment Members

Lee Lawrence, Chair  
Kristina Hill  
Brad Stanley  
Clay Thomas  
Kim Toulouse  
William Whitney, Secretary

Thursday, August 6, 2015  
1:30 p.m.

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

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The Washoe County Board of Adjustment met in regular session on Thursday, August 6, 2015, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

### 1. \*Determination of Quorum

Chair Lawrence called the meeting to order at 1:32 p.m. The following members and staff were present:

Members present: Lee Lawrence, Chair  
Kristina Hill  
Brad Stanley  
Clay Thomas  
Kim Toulouse

Members absent: None

Staff present: William Whitney, Division Director, Planning and Development  
Roger Pelham, Senior Planner, Planning and Development  
Trevor Lloyd, Planner, Planning and Development  
Chad Giesinger, Senior Planner, Planning and Development  
Nathan Edwards, Deputy District Attorney, District Attorney's Office  
Donna Fagan, Recording Secretary, Planning and Development

### 2. \*Pledge of Allegiance

Chair Lawrence led the pledge to the flag.

### 3. \*Ethics Law Announcement

Deputy District Attorney Edwards recited the Ethics Law standards.

### 4. \*Appeal Procedure

Mr. Whitney 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 Lawrence closed the public comment period.

## 6. Approval of Agenda

In accordance with the Open Meeting Law, Member Toulouse moved to approve the agenda of August 6, 2015. Member Stanley seconded the motion which carried unanimously.

## 7. Approval of June 4, 2015 Draft Minutes

Member Toulouse moved to approve the minutes for the June 4, 2015 Board of Adjustment meeting as written. Member Hill seconded the motion which carried unanimously.

### Approval of February 6, 2014 and April 3, 2014 Draft Minutes

Member Toulouse moved to approve the minutes for the February 6, 2014 and April 3, 2014 Board of Adjustment meetings as written. Member Hill seconded the motion which carried unanimously.

Chair Lawrence introduced Brad Stanley, the new Member for District 2. Member Stanley said that he and his family have been residents of the Reno area for over 20 years coming from Southern California. He has been involved in the Desert Research Institute supporting the Fleishman Planetarium. He has served 2 ½ years on the Southwest Truckee Meadows/Washoe Valley Citizen Advisory Board and is looking forward to serving on the Board of Adjustment. In his day job he manages an international software company.

## 8. Public Hearings

**A. Administrative Permit Case Number AP15-004 (Eldien/Shimkowski Detached Accessory Structure)** – Hearing, discussion, and possible action to allow construction of a detached accessory structure of 4,160 square-feet, for purposes of housing the applicant's hobby activities of restoring and doing mechanical work on motorcycles and other vehicles, on a parcel with a main dwelling having a footprint of approximately 3,300 square-feet.

- Applicant: Guardian Construction & Remodel LLC  
Attn: Jerry Shimkowski  
7561 Gold Drive  
Reno, NV 89506
- Property Owner: Billie Jo Eldien  
750 Utah Street  
Reno, NV 89506
- Location: Southeast corner of Deodar Way and Utah Street,  
in the Lemmon Valley area
- Assessor's Parcel Number: 080-286-04
- Parcel Size: ±2.08 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: North Valleys
- Citizen Advisory Board: North Valleys
- Development Code: Authorized in Article 306, Accessory Uses and  
Structures
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 26, T21N, R19E, MDM,  
Washoe County, NV



- Staff: Roger D. Pelham, MPA, Senior Planner  
Washoe County Community Services Department  
Planning and Development Division
- Phone: 775-328-3622
- E-mail: [rpelham@washoecounty.us](mailto:rpelham@washoecounty.us)

Chair Lawrence opened the public hearing. Roger Pelham reviewed his staff report dated July 16, 2015.

Member Toulouse commented that he knows Administrative Permits are not required to go to Citizen Advisory Boards (CAB's) for review or approval but, personally, he feels everything the Board of Adjustment (BOA) sees should go to the CABs for their perusal. He asked is there any way we can accomplish that in the future. Mr. Pelham said that may be difficult as most of the CABs meet on a bi-monthly or irregular schedule. Sometimes the application submittal dates fall where they can be reviewed by the CABs and sometimes they don't. Member Toulouse asked if the cases could be sent to the CABs with a comment sheet for their comments. Mr. Pelham noted that this is a policy discussion that would be better discussed with Mr. Whitney, the Planning Director.

Chair Lawrence opened public comment.

B.J. Eldien, the applicant, said they renovate vehicles and motorcycles and this permit would allow them to do that in an enclosed, secure environment where they're not creating an eyesore and don't have things scattered around their property.

Chair Lawrence closed public comment.

There were no disclosures.

Member Toulouse moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number AP15-004 for Guardian Construction and Remodel, LLC having made all five findings in accordance with Washoe County Development Code Section 110.808.25. Member Thomas seconded the motion which carried unanimously.

The motion was based on the following findings:

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



**B. Administrative Permit Case Number AP15-005 (Lord of Mercy Lutheran Church) –**  
Hearing, discussion, and possible action to allow a church for religious assembly, meetings, youth programs and fellowship in an existing building.

- Applicant: Lord of Mercy Lutheran Church
- Property Owner: Beebe Holdings
- Location: 9650 Pyramid Way, Sparks, NV
- Assessor's Parcel Number: 534-092-08
- Parcel Size: .773 acres
- Master Plan Category: Commercial (C)
- Regulatory Zone: General Commercial (GC)
- Area Plan: Spanish Springs
- Citizen Advisory Board: Spanish Springs
- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 4 – Commissioner Hartung
- Section/Township/Range: Section 35, T21N, R20E, MDM, Washoe County, NV
- Staff: Trevor Lloyd, Senior Planner  
Washoe County Community Services  
Department  
Planning and Development Division
- Phone: 775.328.3620
- E-mail: [tlloyd@washoecounty.us](mailto:tlloyd@washoecounty.us)

Chair Lawrence opened the public hearing. Trevor Lloyd reviewed his staff report dated July 15, 2015.

Chair Lawrence opened public comment.

Rebecca Botsford, the applicant, said their current church location was taken over due to the widening of Pyramid Hwy. The church has purchased property but will need this current location temporarily. Their main objective with this location is to be a good neighbor and she's spoken with the owners of the other business in the strip mall and gotten approval on their proposed use.

Chair Lawrence closed public comment.

There were no disclosures.

Chair Lawrence said he was glad to see someone is going to occupy the building.

Member Thomas moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number AP15-005 for Lord of Mercy Lutheran Church, having made all five findings in accordance with Washoe County Development Code Section 110.808.25. Member Toulouse seconded the motion which carried unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Spanish Springs Area Plan;

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

**C. Special Use Permit Case Number SB15-002 (Commnet - Gerlach Wireless Communication Facility) –** Hearing, discussion, and possible action to allow the placement of a wireless communication facility to include a 50-foot tall monopole and equipment shelter.

- Applicant: Commnet of Nevada, LLC  
Attn: Kristen Hubbard  
1562 N. Park Street  
Castle Rock, CO 80109
- Property Owner: Jola Mott  
PO Box 193  
Gerlach, NV 89412
- Location: State Route 34, several miles north of Gerlach
- Assessor's Parcel Number: 071-180-29
- Parcel Size: ±360 acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: High Desert
- Citizen Advisory Board: None
- Development Code: Authorized in Article 324, Communication Facilities and 810, Special Use Permits
- Commission District: 5 – Commissioner Herman
- Section/Township/Range: Section 26, T33N, R23E, MDM,  
Washoe County, NV
- Staff: Trevor Lloyd, Senior Planner  
Washoe County Community Services Department  
Planning and Development Division
- Phone: 775-328-3620
- E-mail: [tlloyd@washoecounty.us](mailto:tlloyd@washoecounty.us)

Chair Lawrence opened the public hearing. Trevor Lloyd reviewed his staff report dated July 14, 2015.

Member Stanley asked Mr. Lloyd if the nearest neighbor could see the monopole. Mr. Lloyd said he had not visited the nearest neighbor's house but it is likely they could see it if they looked for it. He noted it will be visible from the playa but it will be painted dark grey so it will blend into the background. Member Stanley asked, when the generator starts up is there any indication how far the sound carries. Mr. Lloyd said he didn't know but being familiar with many



of these cell sites; the generators are back-up and he hasn't heard any complaints with regard to the noise.

Member Toulouse opined that this is a great project as he travels through this area quite frequently. He noted that the Bureau of Land Management (BLM) has requested that the antenna covers be grey or neutral in color to match the building. Member Toulouse would like to make that request a condition 1 (i) (4). Mr. Lloyd said it could be a condition of the antennas or any future antennas. Member Toulouse re-iterated, "antennas and antenna covers shall be grey and/or blend in with surrounding area." Mr. Lloyd confirmed that language.

Chair Lawrence opened public comment.

Kristen Hubbard, the applicant, thanked Mr. Lloyd and addressed the questions about the color of the equipment and antennas. She noted the antenna along with the whole tower would be painted to match the terrain. Member Toulouse asked Ms. Hubbard if she had a problem with that being added to the conditions of approval. Ms. Hubbard said no, they had expected that. She also said, as far as the generator, it's inside a cabinet and is very quiet. Member Thomas asked if the facility will be able to support large numbers of individuals using their cell phones during Burning Man or will this be used as a secondary support system. Ms. Hubbard said it does support the amount of people that are out there right now. There will be temporary towers set up on the playa as additional support. Member Stanley asked if Ms. Hubbard had any idea what the decibel level of the generator is when it's on. Ms. Hubbard said she didn't know, she could inquire but had been told they were very quiet. She also indicated it doesn't run all the time as the facility is run off the solar panels and the generator is for back-up.

Chair Lawrence closed public comment.

There were no disclosures.

Member Toulouse moved to adopt all of the eight findings listed in the staff report and based on those findings approve Special Use Permit Case Number SB15-002 for Commnet of Nevada, LLC, subject to the conditions, as amended, in Exhibit A to the Staff Report. The Findings are adopted based on individual consideration of information contained in the Staff Report, as amended with condition 1 (i) (4) (including, but not limited to the staff comments regarding the findings) and all exhibits as well as testimony and exhibits presented at the public hearing. Counsel for the Board and the Board Secretary are hereby directed to prepare a written Action Order consistent with this motion. Member Hill seconded the motion which carried unanimously.

The motion was based on the following findings:

Findings required by WCC Section 110. 810.30 for a Special Use Permit:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the High Desert Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven of the Development Code;
3. Site Suitability. That the site is physically suitable a for a telecommunications facility (monopole) for the intensity of such a development;

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.
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.

Findings required by Section 110.324.75, for a telecommunications facility:

6. That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Planning and Development and/or his/her authorized representative;
7. That public input was considered during the public hearing review process; and
8. That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

**D. Variance Case Number VA15-004 (Nudelman)** – Hearing, discussion, and possible action to approve a variance reducing the front yard setback from 20 feet to three feet to construct a covered entryway on the existing house.

- Applicant: Barry and Lori Nudelman
- Property Owner: Barry and Lori Nudelman
- Location: 557 Dale Drive
- Assessor's Parcel Number: 122-132-09
- Parcel Size: 0.42 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler
- Section/Township/Range: Section 17, T16N, R18E, MDM, Washoe County, NV
- Staff: Eva M. Krause, AICP Planner  
Washoe County Community Services Department  
Planning and Development Division
- Phone: 775-328-3796
- E-mail: [ekrause@washoecounty.us](mailto:ekrause@washoecounty.us)

Chair Lawrence opened the public hearing. Roger Pelham reviewed Eva Krause's staff report dated July 17, 2015, in her absence.

Member Stanley noted that in his research he noticed in this area six variances were applied for with four being approved and two being denied. He asked how those decisions were made. Mr. Pelham said variances are based on the individual "exceptional", out of the ordinary, characteristics of individual parcels. Each one is evaluated on its own merit against the same scale/standard and if the Board finds there is "exceptional narrowness", "exceptional shallowness", "exceptional shape", "exceptional topographic conditions" or other things that are out of the ordinary that force the variance then probably a variance is reasonable. On the other hand, if the Board doesn't find that one of those criteria or standards are met then probably a variance is not warranted. The fact that some were approved and some weren't shows that his Board is weighing those individual cases carefully.

Chair Lawrence opened public comment.

\*\*\*NOTE: Mr. Ford gave a presentation but didn't submit copies to the Recording Secretary as requested.

Wayne Ford, the applicant's representative, noted that the requested setback be reduced to six feet, not three feet as stated in the case description. Mr. Ford stated the history of the residence is directly related to why they are in need of a variance. In 1968, when the home was built the house was 11 feet six inches from the front property line. The setback on the recorded maps at that time was 30 feet. They made a decision to move it closer because of a 39% slope. In 1984, a garage was added at which time the County had a 20 foot setback and the garage was built 12 feet from the property line. In 1995, the closed in porch/entry was added to the home, 13 feet from the front yard setback. At that time it was hoped, by the builder, to protect the entry. It hasn't worked as it is an unsafe entry. All these projects were allowed in the front yard setback that was 20 feet and no variances were required. Mr. Ford indicated this was based on the topographic conditions. He said there continues to be a hardship on the parcel and it's all connected back to the original structure that was allowed to be built in the setback.

Robert Angres, legal counsel for the applicant, opined that the problem here is that staff is trying to "hold the line." He said he spoke with the planner, Eva Krause, and she said they're just tired of all the variances. That there was a variance last year for zero setback on Dale Drive and the planner who recommended it got it approved and then left. Mr. Angres said staff is under a lot of pressure, they're trying to hold the line, there's the feeling there are too many variances, and they understand there are hundreds of variances granted in Incline Village and many on Dale Drive and yet they're trying to hold the line on this particular one. Mr. Angres noted there are errors, the setback requested should be six feet, not three feet, and they note that your (the Board's) power is only under NRS 278.300 (1) (c) but you have plenty of power under NRS 278.300. Mr. Angres went on to say proper evaluation under special circumstances and hardship, the detriment, the special circumstances, special privileges; all these findings in identical situations have been made to approve a variance. In this one, their interpreting it in a vacuum and that vacuum is unfair to the applicants and it doesn't meet the standards of equal protection, it doesn't meet the standard of fairness. The mission of Washoe County is "to provide and sustain a safe, secure, and healthy community", we're asking for a safe entry on a property that was created in the 1960's and has been sitting there. Every complaint staff has mentioned was done by a prior owner and the new owner is looking to be allowed to create a very small adjustment in the manner other people in their neighborhood have and hundreds in Incline Village and Crystal Bay have had. If the County is going to re-examine how it grants variances then it should do so as an overhaul but this piecemeal way doesn't comport with the law, it doesn't comport with the regulatory function, and staff admitted this Board very often countermands them or tries to equalize or adjust what they do and they're fine with that they're here to hold the line. We ask your Board to examine each of the findings and see that they can be made in exactly the opposite way very easily like it was done last year, as it may be done a few minutes from now, as it may be done next month. We have to have some consistency and fairness.

Member Hill asked when the entry was originally enclosed. Mr. Ford said 1984. Member Hill asked why the roof couldn't be extended to prevent the snow and ice from getting on the entry. Mr. Ford said they'd still need a variance they're only allowed two feet of overhang, true it could be extended but they'd need a variance to do it. And he's looking at the character of the house. The homes in that area have gabled roofs out front and this home deserves that same kind of end result. There are a lot of things that were done where you just extend the roofs out with no consideration to what other people see and it may solve the problem temporarily, but in this case because of the home being grandfathered in at its current setbacks we need a variance to extend 1 inch beyond the existing roof system because everything is in as it is right



now. Also, the roof system is structurally questionable, right now. If we have to tear into the roof I'd much rather have a gable that matches the garage, the entry, and the rest of the home architecturally for the character of the neighborhood. These are considerations for architectural that aren't necessarily considerations for hardship but the neighbors support it because they care about what they see. Member Hill referenced Exhibit E which shows a future addition in the back of the home. Mr. Ford said they are planning to add to the bedrooms, a portion of the dining room, and some upgrades to the kitchen. The home is 2800 square feet. Most of the homes on Dale Drive are 6000 and 7000 square feet. This home will be about 4000 square feet when they are done.

Member Thomas clarified the garage was added in 1984. Mr. Ford said yes, the garage was 1984 and the entry was 1995. The entry is newer than previously stated. Member Hill asked if there was a variance for the entry. Mr. Ford said no. Member Hill asked why extending the roof would create the need for a variance. Mr. Ford said the interpretation is different now than 1995. We still have the code section that says we're allowed two feet. They established some property setbacks by giving permits on each one of these and now we want to extend the roof beyond that. That's the setback, so extending the roof more than two feet would require a variance. Our wall is at six feet, we're asking for a variation of the overhang. We're not building to that, it's something above. Member Hill asked if the roof extension would be to the east or west not in the front. Mr. Ford said the entry is in front. Member Hill asked, if they're just wanting to prevent the snow from coming into the covered walkway. Mr. Ford said no, it's a flat wall across the front. They tried to put a prow down to keep the snow from coming in over the top but the snow just blows over. Member Hill said the front door seems very close to the street. Mr. Ford said the front door was approved in 1995 at 13 feet from the property line and another three feet to the street, so, 15 feet from the road. Member Hill asked how many more feet they're proposing to come out. Mr. Ford said six feet.

Mr. Angres noted the approvals not given according to code resulted in a situation where the County doesn't have its proper indemnification for damage from road service. Approving this, a condition would be that that would have to be executed like everyone else in Incline Village who gets close to the road.

Chair Lawrence asked Mr. Edwards for clarification. Mr. Edwards explained that typically when you have a variance that brings the property right up to the edge of the road, snow removal is a significant issue as there is an increased chance that snow removal equipment could run into or throw snow and ice onto one of the structures, vehicles, or someone coming in and out of the door. If a variance is granted, there is a condition that the property owner is assuming the risk that could happen and signs an indemnification, that's what Mr. Angres is referring to.

Member Thomas asked if the entrance was in 1995 and that was the new entrance, they didn't account for the snow falling onto the front walkway at that time and that's why you want to add the extension out there; for safety and a clear entrance way. Mr. Ford said that's correct. Member Thomas said it's been that way for 20 years, have there been accidents, falls, or problems. You're coming to us now 20 years later, I'm assuming if it was that big a problem early on it should have been addressed early on. Mr. Ford said he doesn't know the previous owners he just knows his clients, this last year, had a lot of problems at the door with black ice, slippery conditions, a lot of issues. He thinks the previous owners entered the home by the garage.

Member Hill asked Mr. Ford if he could have done the same design, changing the location of the entry and not having it encroach into the setback. Mr. Ford said no. Member Hill asked, just have it go right into the building. Mr. Ford said that's the problem. They have the door opening thing and the lower room. If he makes a recessed entry there is no headroom below to put the

proper framing and waterproofing that's necessary. He'd be creating a flat roof over existing living space on the north side of a house. There are interior issues that don't allow him to solve the problem.

Member Stanley addressed Mr. Ford's comments regarding many conversations he had with the planner, Ms. Krause, and asked if Mr. Ford had foreseen this outcome, the application being denied. Mr. Ford answered he wasn't sure how to answer that. He always anticipates they'll have to make the findings for a variance. What he didn't anticipate was the lot with a 39% slope would not be a consideration of a hardship especially with the documented safety issues and this wouldn't be a viable solution. He said he's seen this added on countless homes and three homes on Knotty Pine have the same exact entry and had the same issues with a six or seven foot setback. So, no, he thought it would be considered a hardship. Yes, the house is on a steep parcel and he didn't expect this degree of discussion.

Pete Todoroff, temporary Chair of the Incline Village/Crystal Bay Citizen Advisory Board, said he had brought up the safety issue with the snow falling directly on the entry way. The CAB voted to have this approved, if all the codes are met the safety issue will be taken care of if the variance is approved. He asks the Board to approve this variance.

Mr. Pelham wanted to address a couple of questions he thought he'd heard asked. First, would this have required a variance to enclose the porch or new entry way when it was constructed in 1995. He responded, he doesn't know. That was under a different zoning code and regulatory scheme. Our current development code was put into effect in 1998 and is more or less the same today. In terms of staff evaluation of variances, the findings have not changed, the evaluation process had not changed, and we make our recommendations based upon an impartial evaluation of the unique or extraordinary situation or condition of each individual parcel. He believes all variances are looked at fairly, impartially, and individually. Would it require a variance to extend the roof line an additional two feet, yes, he believes it would. If that variance had been brought forward it would have been given the same consideration this variance request was given. Second, what is the front yard setback, is it being asked to reduce to three feet or six feet. That is a matter of interpretation. Setbacks are generally measured to the footing, that's where you get the six feet. Overhangs and architectural features are allowed 24 inches into that overhang. This applicant is requesting 36 inches. Does that add up to a three foot variance request? Yes. The important part to note is the edge of the eaves would be three feet from the front property line, the footing of the building an additional three feet.

Member Stanley asked, the first finding about hardship and the 39% grade, is it the hardship that is key to the finding, ie: in any variance would they still face the same lack of hardship. Mr. Pelham said absolutely, he believes 100% that the staff evaluates each variance application based upon the physical characteristics. What is different that forces that variance.

Member Hill said she doesn't see where the steepness of the lot affects this particular project. It could be a flat lot and have the same issues with the roof line and the ice falling in the front entry and they would want to come out and build a new entry to prevent the ice from falling. The proposal isn't really relevant to the steepness of the lot. Mr. Pelham said what Member Hill is describing is very much what Ms. Krause put in her staff report; that the difficulty or hardship is based upon the manmade changes to the lot over the years rather than the physical topography under lying that development.

Mr. Angres wanted to clarify there was no intent to impugn the integrity or the attempted impartiality of staff, just pointing out the variability. What we're seeking here is safety.

Chair Lawrence closed public comment.



There were no disclosures.

Member Toulouse noted that he has been on the Board for almost six years and as a Board they've looked at many variance requests in Incline Village and possibly on Dale Drive, that being said, Member Toulouse takes exception with what Mr. Angres said as far as staff holding the line. He opined that no one on the staff would have said that and it is this Board's purview to grant a variance based on the information presented by the staff to us. He believes the information presented to the Board in the staff report and in testimony today, they should deny the variance. He has to agree with staff on this case and in the past has disagreed with staff on many occasions and believes one of those times was on one that Mr. Ford was involved with. Additionally, Member Toulouse was a bit concerned when he read the email regarding this project and the trimming and cutting down of trees. He knows the TRPA has pretty specific regulations and the reference to trimming as much as possible is disturbing.

Member Hill asked if the property owner was present. Yes. She noted that snow is a part of living in Incline Village and if everyone had to get a variance because they had a slippery walkway in front of their house, they'd be talking to everyone. There is a safety issue with every house in Incline Village regardless unless you can drive right up to your front door and have a heated walkway. It's life in the mountains. It looks like a beautiful house and will be nice with the addition in the back but she can't make the findings. As a planning consultant she has to represent clients in the same situations and she has to say whether or not they have a case. Something like this she wouldn't be able to portray to her client that it is something she could do. Making the findings needs to be more objective not subjective.

Member Stanley wanted to thank the CAB chair for coming to tell the Board what the CAB thought. Member Stanley opined that he kept listening for the hardship and the point about it being the same if the lot was flat sounded very logical so it is tough to make the hardship finding.

Member Thomas 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 denies Variance Case Number VA15-004 for Barry and Lori Nudelman, for not being able to make all five of the required findings in accordance with Washoe County Development Code Section 110.804.25. Member Stanley seconded the motion which carried unanimously.

The two findings that were made are:

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

Mr. Whitney read the appeal procedure.

**E. Variance Case Number VA15-005 (Ayuson)** – Hearing, discussion, and possible action to reduce the front yard setback from 15 feet to 1 foot to construct a one story, two car garage and workshop attached to a new four story single family dwelling.

- Applicant: Elise Fett & Associates LTD
- Property Owner: Brett J Robinson and Mary L Ayuson
- Location: 424 Gonowabie Rd.
- Assessor's Parcel Number: 123-145-07

- Parcel Size: 0.311 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/ Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Birkbigler
- Section/Township/Range: Section 19, T16N, R18E, MDM,  
Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner  
Washoe County Community Services Department  
Planning and Development Division
- Phone: 775-328-3626
- E-mail: [cgiesinger@washoecounty.us](mailto:cgiesinger@washoecounty.us)

Chair Lawrence opened the public hearing. Chad Giesinger reviewed his staff report dated July 23, 2015.

Member Stanley asked if there was an attempt to condition around the opinion of Traffic Engineering. Mr. Giesinger said he made a statement in the staff report and that he did consider modifying the distance of the setback but given the conditions surrounding the property he didn't think it would solve the applicants concerns. It wouldn't change the conditions of Gonowabie Road and the structures on both sides of this property have built into the setback. 422 Gonowabie Road was granted a zero foot setback. Mr. Giesinger didn't feel it would be fair to force the applicant to redesign their project to meet those concerns.

Member Toulouse noted the Board has done a lot of variances on Gonowabie Road and doesn't remember seeing that specific recommendation from Traffic Engineering. He would have liked someone from Traffic Engineering at the meeting to understand why they made that request. Do they currently store snow in that location. Mr. Whitney said he'd recently had a discussion with Dwayne Smith, Director of Engineering, about this recommendation and their concern is about how difficult it is to plow Gonowabie Road in a decent snow storm and they're concerned about pushing snow into people's driveways and blocking off their garages, then the property owner would have to go out and shovel.

Member Thomas verified that North Lake Tahoe Fire Protection District (NLTFPD) didn't respond with comments or conditions. He asked how far apart the home to the south would be with the one foot setback. Mr. Giesinger said there is only a five foot setback required on the side yard and the home next door requested to encroach into that setback, he believes three feet. Member Thomas said if there's only four feet between the homes it would be tough to address in the event of a fire. Mr. Giesinger said the new Wildland Urban Interface (WUI) code does contemplate those conditions so there may be some intense scrutiny from the NLTFPD at the Building Permit process.

Chair Lawrence asked if the large trees, in themselves, create an exceptional condition. Are they a consideration, at times? Mr. Giesinger said there is language in the findings that discuss that. Finding #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. His interpretation is that trees would fit into the "natural resources" so it could potentially be considered. TRPA also has regulations around trees.



Elise Fett, the applicant's representative, addressed the snow storage. There is a state lands property across from 434 Gonowabie Road where there is unlimited snow storage. Regarding the distance between structures; the structure to the north is 17.4 feet away from what they're proposing. The structure to the south is 8.1 feet away from what they're proposing which would be the corner of the garage. Another question was asked about the trees. TRPA asks that if you have a tree over 24 inches in diameter to try and work around it. There is a large tree up at the road. Member Hill asked if they were going to have to plant more trees or shrubs for TRPA's scenic mitigation. Ms. Fett said on the lakefront they have a lot of existing trees but they haven't done the scenic calculations yet.

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

There were no disclosures.

Member Toulouse noted he wished the previous applicant had stayed at the meeting to see this case as it meets the definition of narrow and the other circumstances that apply.

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 with conditions Variance Case Number VA15-005 for Brett Robinson and Mary Ayuson, being able to make the following findings required for approval of a variance under Development Code Section 110.804.25. Member Toulouse seconded the motion which carried unanimously.

The motion was based on the following findings:

- (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;
- (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; and
- (e) Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

## 9. Chair and Board Items

### A. Future Agenda Items

Member Toulouse requested that Mr. Whitney check into seeing that Administrative Permit applications are at least distributed to the appropriate CAB for their member's

comments. Mr. Whitney said he would work with the Manager's Office and Constituent Services to make sure, if there is a possibility time wise, to do that it will be done. Administrative Permits happen pretty quickly and there are circumstances when the timing doesn't line up but we will double check.

**B. Requests for Information from Staff**

None

**C. Discussion and possible action to elect officers, chair, and vice chair**

Chair Lawrence said he's enjoyed his term as chairman and wouldn't mind doing another term.

Member Toulouse nominated Chair Lawrence to the Chairman position of the Board of Adjustment. Member Hill seconded the motion which carried unanimously.

Member Hill nominated Member Toulouse to the Vice-Chair position of the Board of Adjustment. Chair Lawrence seconded the motion which carried unanimously.

**10. \*Director's Items and Legal Counsel's Items**

**A. \*Report on Previous Board of Adjustment Items**

Chair Lawrence read a resolution for the service of Robert Wideman.

**B. \*Legal Information and Updates**

DDA Edwards requested the resolution for Robert Wideman be placed on the October 1, 2015 Board of Adjustment meeting agenda so there can be a formal vote.

Mr. Whitney gave the following updates on previous Board of Adjustment items:

- The Board approved AP15-003 Summerfest at the June 4, 2015 meeting. That has started and will continue through the month of August at Sierra Nevada College. Member Hill, representative for Incline Village, said she's heard the event is growing and doing well.

- The Board denied SB14-014 Verizon Timberline at the June 4, 2015 meeting. Verizon has filed an appeal then asked planning to give them a chance to explore other options. We should be hearing back from them any day now. It may tentatively go on the September BCC agenda as an appeal.

- Mr. Whitney introduced Kelly Mullin, our new Planner.

- Mr. Whitney wanted to thank Roger Pelham for stepping in for Eva Krause, as she was not feeling well.

**11. \*General Public Comment**

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

**12. Adjournment**


The meeting adjourned at 3:55 p.m.



Respectfully submitted,

  
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Donna Fagan, Recording Secretary

Approved by Board in session on October 1, 2015

  
\_\_\_\_\_  
William H. Whitney  
Secretary to the Board of Adjustment

