



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

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

Thursday, August 4, 2016
1:30 p.m.

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

The Washoe County Board of Adjustment met in regular session on Thursday, August 4, 2016, 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 1:33 p.m. The following members and staff were present:

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

Members absent: Kim Toulouse, Vice-Chair

Staff present: Eva Krause, AICP, Planner
Trevor Lloyd, Senior Planner, Planning and Development
William Whitney, Director, 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

Cathy Brandhorst spoke on items of interest to her.

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of August 4, 2016. The motion, seconded by Member Thomas, passed four in favor and none opposed.

7. Possible action to approve June 2, 2016 Draft Minutes

Member Hill moved to approve the minutes of June 2, 2016 as written. The motion was seconded by Member Thomas and passed four in favor, none opposed.

8. Public Hearings

A. Special Use Permit Case Number SB16-008 (Tracy Ecosystem Restoration Phase II) – Hearing, discussion, and possible action to approve a special use permit to allow grading in connection with a river restoration project to restore a flood plain area to a more natural state, including ±107,000 cubic yards of excavation and approximately 24 acres of disturbed area.

- Applicant: The Nature Conservancy
- Property Owner: The Nature Conservancy,
Sierra Pacific Power Company,
United State of America
- Location: Along the Truckee River downstream from the
Tracy Power Plant, via USA Parkway
- Assessor's Parcel Number: 084-212-06, 084-120-27, 084-212-05
- Parcel Size: ±89.34 acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: Truckee Canyon
- Citizen Advisory Board: East Truckee Canyon
- Development Code: Authorized in Article 436 Grading
- Commission District: 4 – Commissioner Hartung
- Section/Township/Range: Sections 27, 28, 33, and 34, T20N, R22E, MDM,
Washoe County, NV
- Staff: Eva M. Krause, AICP, Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775-328-3628
- E-mail: ekrause@washoecounty.us

Chair Lawrence opened the public hearing. Eva Krause reviewed her staff report dated July 15, 2016.

Member Stanley asked what affects can be expected downstream. Ms. Krause said it would improve the water quality, restore the natural habitat and increase accessibility to the river bank.

Chair Lawrence asked, who specifically, the United States of America agency is. Ms. Krause answered the Bureau of Land Management (BLM).

Mickey Hazelwood, with the Nature Conservancy, invited any questions regarding the project. Chair Lawrence asked if "live" willows would be used to revegetate. Mr. Hazelwood responded, yes. Chair Lawrence asked if there was a gravel pit in the area. Mr. Hazelwood said yes that is one of the things that happened over the years at the site and has since filled with ground water. He noted about 90% of the excavated material would be going into that pit to fill a portion of it to return it to flood plain level so native vegetation can be restored and shade what is remaining of the pond. Chair Lawrence commended the Nature Conservancy on their job in controlling the white top and revegetating in that area.

Member Hill asked when the project would begin, how long it would take, and if they were doing anything to mitigate impacts to the fisheries. Mr. Hazelwood said as soon as they have the permit they will begin and they expect the project to last about three months, ending in December, and the in stream work will involve riffle structure which will create white water in the area.

Mr. Whitney thanked the Nature Conservancy for the work they do in our area. Indicating the lower Truckee River has gone through a huge transformation and it is great to see.

With no response to the call for public comment, Chair Lawrence closed public comment.

There were no disclosures made.

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 of approval included as Exhibit A in the staff report, Special Use Permit Case Number SB16-008 for The Nature Conservancy, having made all five findings in accordance with Washoe County Development Code Section 110.810.30. Member Stanley seconded the motion which carried unanimously. **(four in favor, none opposed)**

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 Truckee Canyon 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 flood plain restoration 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 AP16-003 (Denny) – Hearing, discussion, and possible action to approve the construction of a 3,500 square foot accessory structure that will be larger than the existing 1,771 square foot primary residence. The accessory structure is a 50 foot by 70 foot metal building and will have plumbing (sink/toilet).

- Applicant: Wayne Denny
- Property Owner: Wayne Denny
- Location: 500 Washoe Drive, Washoe Valley, NV
- Assessor's Parcel Number: 050-235-06
- Parcel Size: 1.019 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: Washoe Valley
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized Article 306 Accessory Uses and Structures
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 24, T17N, R19E, MDM, Washoe County, NV
- Staff: Eva Krause, AICP, Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775-328-3628
- E-mail: ekrause@washoecounty.us

Chair Lawrence opened the public hearing. There were no disclosures. Eva Krause reviewed her staff report dated July 15, 2016. Ms. Krause noted an email that was submitted by Collette Teuscher at 605 Washoe Drive, in which she voices her concern about the potential use of the proposed building. Ms. Krause indicated the Board is being asked to approve the size of the building not the use of the building.

Member Hill asked Ms. Krause if the building could be used for commercial/industrial use. Ms. Krause said no, but home occupation is allowed enabling Mr. Denny to use 30% of the house size within the building. The rest would be for his personal use. Member Hill confirmed that Mr. Denny was going to use a portion of the building for his research and development office. Ms. Krause answered, Mr. Denny has stated he is a hobbyist and he would use the area to pursue his hobby. Ms. Krause stated, you can do those types of things at your own home but you can't do it for another person, on a commercial basis. Member Hill asked if the County is responsible for making sure Mr. Denny conforms to that use. Ms. Krause indicated if the County receives a complaint that Mr. Denny is doing business it will be investigated. Member Stanley referred to the letter that was submitted and what sort of noticing took place and asked if the application had gone to the South Truckee Meadows/Washoe Valley Citizen Advisory Board (CAB). Ms. Krause stated an Administrative Permit does not have to go before the CAB and notices were sent to 33 property owners in a 500 foot radius, per County code.

Member Stanley asked Wayne Denny, the applicant, if he had spoken with any of his neighbors regarding his request to build the proposed structure and, if so, what were their reactions. Mr. Denny said he didn't get much feedback. The neighbor behind him, who wrote a letter, is making an assumption that he will manufacture there. He isn't, he makes a universal cooking lid. He imports the pieces, put one screw in it, put it in a box, and ship it. He ships under 20 cases a month. Member Stanley noted there are several scenic type organizations that are active in that area and asked Mr. Denny if he'd spoken with any of them. Mr. Denny said no. Member Thomas asked if the business Mr. Denny spoke of is why he needs a 3,500 square-foot structure or is it unrelated. Mr. Denny said he didn't need the whole structure. He needs a bench, a drill motor, and a couple of boxes in the 500 – 600 feet he's allowed to use. Member Thomas asked what the intent is of the building. Mr. Denny said he currently has a 1,500 square-foot garage which contains three cars, tools, and a little bit of storage. He has no room to do projects. He'd like extra space to possibly build a wooden boat which would be another 1,500 square-feet and an additional 500 square-feet for his little business.

Chair Lawrence asked what the home based business rules are. Ms. Krause said, basically, they can use up to 30% of the house or the same square footage in another building, can have one employee, can have up to three vehicles a day visit the site, no advertising, no noxious fumes or chemicals. When applying for a business license a waiver has to be signed agreeing to meet the conditions. Mr. Denny's use would be allowed.

DDA Edwards noted he had not researched the home based business issues as the application is for an accessory structure for hobby activities not to put products together and sell them.

Mr. Whitney advised the Chair that the application is for an administrative permit for the building that is larger than his house not for the use in it. A business license would be required for a home based business.

Chair Lawrence opened public comment.

Judy Price, the neighbor directly behind Mr. Denny, has major concerns about the project. She submitted a powerpoint presentation. She wants Mr. Denny to know no one contacted her. She is concerned about possible noise and the possibility of headlights shining in her window due to the driveway. Ms. Price reiterated these are residential properties and requests commercial business be kept on property near the highway.

Elaine Martin, a neighbor, said she is the neighbor Mr. Denny spoke with. She didn't realize how huge the structure was going to be. She feels it is going to ruin her property value. And is afraid he is going to try and have his property rezoned as commercial. Ms. Martin asked why Mr. Denny requires five parking spots. She feels the whole thing is setting up for commercial and she is against it. She lives in a residential area and wants it to remain that way. Her barn is 960 square-feet and 9 feet high. It's nothing close to what Mr. Denny is proposing. Member Stanley asked Ms. Martin if the five parking spaces were made clear to her

when she spoke with Mr. Denny. She said no. Ms. Martin also stated she was concerned when Mr. Denny had his driveway made huge and buried the electrical lines. She thinks it's so he can have large trucks drive in without hitting the electrical lines.

Susan Biegler, a neighbor, opined that a barn is a barn not a 3,800 square-foot building. The location doesn't impact her view; however, she wants their neighborhood to be left residential. She doesn't want their area to go commercial and asks the Board to not approve this. Member Hill asked if there was any evidence that construction was already under way. Ms. Biegler said the staking and underground utilities. Ms. Biegler also noted she does not like the picture of the train.

Cathy Brandhorst spoke about Denny's in a garage.

Chair Lawrence closed public comment.

Mr. Denny clarified this is a big building but it is only 14 feet high. His house is 20 feet high. His neighbors to the rear are two-story houses about 30 feet high. The lighting around the proposed building is only two lights that point to the driveway. The parking is really not parking it's just a driveway so he can turn and drive into the building. The sign, he considers it artwork. It doesn't face the street.

Chair Lawrence asked Mr. Denny if he was living on the property now. Mr. Denny said no but he will be on Friday night. Chair Lawrence asked Mr. Denny if he had been putting things together there now. Mr. Denny said no. Member Thomas asked Mr. Denny why the design on the building. Mr. Denny answered he had a friend make it, he likes it, and wants to put it there. He never thought it would be an issue. It is on three sheets of sign board and will be attached to the building, not painted on it.

DDA Edwards wanted to clarify with Mr. Denny; will he be living there Friday night or just going to be there. Mr. Denny will be living here.

Member Hill said she thought the rear fence of Mr. Denny's property was wood and asked if that was part of the project. Mr. Denny said half of it is. Half is six foot wood fence and the other half is welded two by four screen. Member Thomas asked what the dimensions of his property are. Mr. Denny said approximately 200 feet by 210 feet.

Member Stanley asked Ms. Krause, in light of some of the public comment and email, how far and what the use is of a similar building in the area. Ms. Krause said Ms. Teuscher, at 605 Washoe Drive, has an 80 foot x 36 foot metal building in her rear yard which is zoned Low Density Suburban (LDS), and another residence that has a building that is 80 feet x 50 feet zoned General Commercial (GC). Both of which are similar in size to Mr. Denny's proposed building. Mr. Denny's property is zoned LDS.

Member Stanley asked Ms. Price what input she had regarding the size and zoning of the two buildings Ms. Krause spoke of. Ms. Price said the second one, 420 Washoe Drive, is a residential home. They also have General Commercial (GC) zoning with the building. Ms. Price doesn't know if they have access from behind to the highway. That property is not zoned residential. The property Mr. Denny is moving on is a single family residence. He's using this as a way to do zoning creep.

Member Hill opined this project needs an administrative determination to decide if the use has potential to adversely affect other land uses in the vicinity. She thinks it adversely affects other land uses in the vicinity it isn't really a use appropriate in the neighborhood due to the scale of the building.

Member Stanley opined the project should be supported but his concerns are consistency, view impact, and traffic.

DDA Edwards added, for the Board's clarification, they are not here today deciding whether or not this is a home based business that should have a business license. But, you are called upon to consider the proposed use and whether or not that is suitable for the property in question.

Member Thomas mentioned his concern regarding the size of the building in relation to the size of the property.

Member Stanley stated his desire of the applicant and neighborhood to go over how they might be able to work together on this project.

Chair Lawrence supports the project.

Mr. Whitney noted the Board has the option of continuing the item, if the applicant agrees; referring to Member Stanley's request for the applicant and neighbors to work together on the project.

Chair Lawrence asked Mr. Denny if he would consider continuing this item to the October 6, 2016 meeting so he can work with his neighbors to amend portions of his project. Mr. Denny said he would like to work with his neighbors. Mr. Denny agreed to continue the item to the next Board of Adjustment meeting.

Chair Lawrence moved to continue item AP16-003 to October 6, 2016 at 1:30 p.m. The motion carried unanimously. **(four in favor, none against)**

C. Variance Case Number VA16-004 (Powers Residence) – Hearing, discussion, and possible action to approve a variance to reduce the front yard setback from 20 feet to 0 feet and to reduce the south side yard setback from 8 feet to 0 feet and the north side yard setback from 8 feet to 4 feet to allow for the remodel of an existing four story residence abutting Lake Tahoe.

- Applicant: Ken Brown
- Property Owner: John Powers III
- Location: 1707 State Route 28, South of Incline
- Assessor's Parcel Number: 130-331-02
- Parcel Size: 0.072 Acres (±3,136 square feet)
- 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 Berkbigler
- Section/Township/Range: Section 26, T16N, R18E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd - Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

Chair Lawrence opened the public hearing. There were no disclosures. Trevor Lloyd reviewed his staff report dated July 14, 2016. Mr. Lloyd noted he addressed concerns from the neighbors to the north and south by adding conditions. Condition 1(i), to ensure continued access, by that neighbor, to the dock. Conditions 1(j), regarding vegetation and trees being placed along the front of the house.

Member Hill asked Mr. Lloyd how he measured the height of the house. Mr. Lloyd said there is a diagram in Washoe County Code section 110.902.15. Member Hill asked Mr. Lloyd if, without the variance, development of the parcel would be impossible. Mr. Lloyd said if not impossible, pretty close. Member Hill asked if a structure could be built over the existing footprint. Mr. Lloyd said yes, it would still require a variance. Member Hill asked if the existing pier is multi-use. Mr. Lloyd believes there is a shared agreement with the property owner to the south. Member Thomas asked Mr. Lloyd, if they grant the 0 setback to the south how close would the side of the proposed house be to the neighbor. Mr. Lloyd responded it would be the stairway. The house will be four feet from the property line and another three to four feet from the property to the house on the south, so, about seven feet between the houses. Member Hill noted; if you're on the stairway you are three to four feet from the house next door. Mr. Lloyd answered very close, yes. Member Stanley asked how many stories the house is from the lake sides. Mr. Lloyd said four stories plus the daylight basement. Member Thomas referred to Nevada Revised Statute (NRS) 278.300, noting one of the requirements "would result in peculiar or an exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property." Member Thomas said there is already a livable 2,100 square-foot house on the property and they want to tear it down and build a bigger house. He asked; where is the undue

hardship to the owner, if there is already an existing house there. Mr. Lloyd answered if the applicant wanted to remodel and build in the same exact location as the existing house they would have to go through the same process. Since they are building a bigger house is more a function of the height of the house both down the hill and two stories above grade. Every time there is an exterior expansion, exterior change, or remodel they would have to go through a very similar process. The applicants are asking to clean up certain things, like the stairway and house being placed on the property. In doing that they have to modify or realign where the house would be located so it is more in line with the property lines.

Kurt Brown, the applicant's representative, stated the proposed house is well within the guidelines of Washoe County. They have begun the preliminary meetings with Tahoe Regional Planning Agency (TRPA). They want to get the variance approved before they get too far with the TRPA. Mr. Brown says he realizes there may be reductions in the amount of glass, etc. He wants to show what the owner would like and there will probably be some changes to the lakeshore façade. He has met with both neighbors. The owner to the north's issue was his privacy would be encroached when in fact he didn't understand the proposed house would be rotated away from his home and there are wing walls created off the decks. After finding this out, his issues were resolved. He met Mr. Wilbur, the neighbor to the south, at the meeting and they will make a time to meet to discuss his concerns. Mr. Wilbur indicated to Mr. Brown, with the conditions Mr. Lloyd has added they have addressed his concerns. Mr. Brown went on to say with rotating the proposed house the view corridor has been opened up, it has been brought parallel with the houses to the north and south. He noted the eight foot setbacks proposed by County is not consistent with what is out there. Everyone is a lot closer to their property lines. Member Thomas wanted to confirm the neighbor to the north was John Miller. Mr. Brown said yes. Member Hill asked where the owner of the property was. Mr. Brown said he is in Phoenix running a large business. Member Hill asked if the owner was going to live in the proposed house. Mr. Brown said it isn't his primary residence. Member Hill asked if he was ever going to live there or sell it. Mr. Brown said this is a home he'd really like to stay in.

With no response to the call for public comment, Chair Lawrence closed public comment.

Member Stanley confirmed the Board is being asked to make a determination based on the variance and less on the structure itself. Mr. Lloyd said yes along with the potential impacts. Member Stanley asked if the Board's decision would take precedence over the TRPA. Mr. Lloyd said it will have to meet the other agencies standards, as well, so this doesn't supersede those standards.

Member Hill, as the representative of Incline Village, stated she has a hard time saying this project does not create a detriment to the natural resources in the area, including the lake. Viewing it from the lake she feels it is the most massive structure she's ever seen on the lake. It doesn't fit the character of the neighborhood or community.

Chair Lawrence asked Mr. Lloyd if there were any complaints on this application request. Mr. Lloyd said he's spoken to the neighbor to the south, received the email that was submitted from the neighbor to the north, Mr. Miller, and had a phone call from a neighbor three houses down. The email from Mr. Miller is the only complaint he's received and that was received prior to Mr. Miller's discussion with Mr. Brown.

Member Stanley asked if the application was seen by the Incline Village/Crystal Bay Citizen Advisory Board (CAB). Mr. Lloyd said yes and there was unanimous approval.

Member Thomas noted the current residence is 2,116 square-feet and the proposed house will be 5,036 square-feet; more than doubling the size of the existing home.

Chair Lawrence opined the proposed house is not that large for a home at Lake Tahoe. He agrees with the CAB, if they don't have a problem with it, Chair Lawrence doesn't either.

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 approve Variance Case Number VA16-004 for John Powers III, having made all five findings in accordance with Washoe County Development Code Section 110.804.25. Member Stanley seconded the motion which carried. **(three in favor, one opposed)**

9. Chair and Board Items

***A. Future Agenda Items**

***B. Requests for Information from Staff**

Member Hill requested a copy of the application be included in the staff report.

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

Mr. Whitney recommended, in Member Toulouse's absence, the Board continue this item to the October 6, 2016 meeting. Chair Lawrence will remain in his position until the election can take place.

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

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

Mr. Whitney gave the following updates from the June 2, 2016 meeting:

- Variance case VA16-003 (Fleming) which was denied has been appealed to the Board of Commissioners tentatively at the end of August.

- Appeal of Administrative Decision case AX16-002 (Mil Drae Lane) which was denied has been appealed to the Board of Commissioners and will be heard August 9, 2016.

- Mr. Whitney added, the applications should be contained in the staff reports but can also be found on the Planning and Development website under "applications".

***B. Legal Information and Updates**

11. *General Public Comment

Cathy Brandhorst spoke about machines.

12. Adjournment

The meeting adjourned at 3:49 p.m.

Respectfully submitted,

Donna Fagan, Recording Secretary

Approved by Board in session on _____, 2016

William H. Whitney
Secretary to the Board of Adjustment