



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, October 6, 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, October 6, 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 1:31 p.m. The following members and staff were present:

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

Members absent: None

Staff present: Eva Krause, AICP, Planner, Planning and Development
Roger Pelham, Senior Planner, Planning and Development
Bob Webb, Planning Manager, 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, Legal Counsel, recited the Ethics Law standards.

4. *Appeal Procedure

Bob Webb recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

Wayne Ford stated he was present on behalf of his client Thomas Lypka whose Variance was supposed to be heard today, VA16-005. He understood the Board could not discuss his request at this time, yet he felt it was imperative to get on the record why the Variance was put off until December 1, 2016. He said the action was caused by the County not giving proper notice to the surrounding property owners. The Notices

were sent to people in Reno, Carson City and Washoe Valley for the most part, yet not one person on the list lived in Incline Village. He said on August 24th, prior to those Notices, a courtesy notice went to the correct people and they held a meeting at the Citizen Advisory Board (CAB). He stated the delay would put them in a no-win situation. He said they had no choice but to defer the hearing to December 1, 2016 with having the legal deficiency hanging over them that anyone could appeal the decision and they would have to start all over. The no-win was that Mr. Lypka could not correct the safety issues on his property this year; one being ice problems in the front entry; and, the second was the rear doors of his residence freezing shut. He said they had no issues with this Board, yet it was the only public forum they could go to and put on record that Mr. Lypka would hold the County liable for any issues that took place this winter due to the Community Services Department incorrectly applying the Variance process and thus forcing them into a process that would now take over 110 days to be heard. He said he wanted to thank this Board for their time and would look forward to presenting their case for approval of their request for a Variance in December if it came down to having to wait until then. His statement was placed on file with the Board.

Pete Todoroff, Chairman of the Incline Village CAB, stated the Variance was approved unanimously and his only concern was what would be their approach now, because he had no idea until after the meeting was over that the Notices had been sent to the wrong people. He hoped the Board would grant the Variance.

Chairman Lawrence asked Mr. Edwards, Legal Counsel, if he had any comments. Mr. Edwards, Legal Counsel, stated the County was reserving all of their legal rights and positions as well. Bob Webb, Planning Manager, said if he could draw the Board's attention to item 2 of the handout that Mr. Ford provided, it stated the Applicant actually had two choices; he had a choice to have the Variance heard today or to continue and the Applicant made the choice to continue. Member Toulouse stated no matter what decision was made, it could be appealed to the County Commissioners.

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Toulouse moved to approve the agenda for the October 6, 2016 Board of Adjustment meeting. The motion was seconded by Member Hill, which carried unanimously.

7. Approval of August 4, 2016 Minutes

Member Hill moved to approve the minutes of August 4, 2016 as written. The motion was seconded by Member Stanley, which carried unanimously.

8. Public Hearings

A. Administrative Permit Case Number AP16-003 (Denny) – Hearing, discussion, and possible action to approve the construction of a 3,750 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 75 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 Numbers: 050-235-06
- Parcel Size: 1.019 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 306 Accessory Uses and Structures
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 24, T17N, R19E, MDM, Washoe County, NV

- Prepared by: 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. Eva Krause, Planner, stated Mr. Denny came in about 12:45 p.m. and said he wished to withdraw the case.

There was no one wishing to speak under public comment.

Chair Lawrence closed the public hearing. There was no action taken on this item.

B. Special Use Permit Case Number SB16-004 (Verizon Arrowcreek Golf Course) – Hearing, discussion, and possible action to approve the construction of a new wireless cellular facility consisting of a 56 foot high tower utilizing a stealth design disguised as an elevated water tank with 4 sectors comprised of twelve 8 foot tall antennas per sector, all enclosed within the faux water tank, 12 ground mounted remote radio units (RRU), associated outdoor equipment cabinets, and surrounded by a fenced 20' x 22' lease area,

- Applicant: Verizon Wireless
C/O Epic Wireless
- Property Owner: Friends of Arrowcreek
- Project Address: 2905 Arrowcreek Parkway
- Assessor's Parcel Number: 152-021-03
- Total Parcel Size: 149 Acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Residential (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 23, T18N, R19E, MDM, Washoe County, NV
- Prepared by: Chad Giesinger, Senior Planner
Planning and Development Division
Washoe County Community Services Department
- Phone: 775.328.3626
- Email: cgiesinger@washoecounty.us

Chair Lawrence opened the public hearing. Roger Pelham, Planner, reviewed Chad Giesinger's staff report in Mr. Giesinger's absence.

Chair Lawrence asked if the Board had any questions. Member Thomas asked if there were any other stealth towers that were made to look like a water tower, or was this the first. Mr. Pelham stated he thought there might be one located within the City of Sparks, but he did not know of any in this jurisdiction.

Member Toulouse stated he read a comment from a CAB member and to him looking at the water tower design, he believed a monopole Pine tree stealth antenna would be a lot less intrusive. He wondered if there was a particular reason why they chose the water tower design. Member Thomas said according to the Nevada Revised Statute it addressed unreasonable discrimination and one of the things had to do with structure. He asked if they approved the water tower structure would that open the door for everyone else to ask for water tower structures. Mr. Pelham stated he would hesitate to speculate what could come in the

future. He explained stealth designs as outlined in the Code would be reviewed individually in the context of their particular area. Mr. Edwards, Legal Counsel, concurred that if the Board approved this it would not establish a precedent that would lead to the County having to approve future applications for fake water towers. He stated the Special Use Permit process was case-by-case and others would be dependent upon the facts, the surrounding area, and a whole host of factors.

Buzz Lynn, Applicant, stated these sites had been considered and reconsidered within the last 18 months, which led them to the Clubhouse. Their Radio Frequency Engineers directed them to move forward with the Clubhouse site because they felt it had the best characteristics for filling in the wholes and providing additional capacity for users. However, the members and homeowners told them they would like the tower moved somewhere else. They were asked, after their submission to the Clubhouse to please reconsider the site, so he addressed the Radio Frequency Engineers and asked why they had not picked the location up the hill and was told it would not work. The Radio Frequency Engineers gave their approval to move ahead with the proposed facility.

Mr. Lynn stated originally they had proposed to do a monopole Pine tree but one of the members of the Clubhouse had seen the water tank at the Wingfield Springs course and suggested that. They said okay but he told them they did not want to be in a position where they would have to defend something that the community did not want. Through a series of discussions and working very closely with staff, it was determined to go with the water tower. Mr. Webb and Mr. Edwards were advised during the progress of those decisions and discussions and they had all agreed to go with the water tower design.

Member Stanley asked if there would be a significant improvement in the 911 service and any kind of security or safety provisions through this facility. Mr. Lynn stated the 911 service would be enhanced.

Member Thomas asked if the proposed facility was approved at the maintenance yard, would that cover the rest of the area or was there a possibility they would come back and ask for additional water towers or structures. Mr. Lynn said it would cover, but there was a definite distinction between coverage and capacity. He said capacity was when a whole bunch of kids on Christmas morning got their new I-devices and they started filming and uploading, which placed an incredible data strain on the system, and in so doing the demand created gaps and the inability to service that particular user, which a carrier did not want to happen. Coverage would be enhanced and capacity at this moment would be enhanced; however, capacity in the future as the market matured may no longer be met and there very well could be an application for some of those sites again that were passed on now.

Chair Lawrence opened up discussion to public comment. There was no one wishing to speak. Chair Lawrence closed public comment.

Member Stanley stated he had been privy to the other Verizon efforts for a presence in that area and he thought this was extremely well thought out. Member Toulouse stated he thought a Pine tree made better sense, but he was fine with it. Member Thomas stated he agreed with what was presented, he understood capacity, and it appeared this could handle the additional needs. Chair Lawrence stated he was pleased to see within the application that the Friends of Arrowcreek and the CAB expressed an interest in this and came to a mutual agreement.

Member Stanley moved, after considering the information contained within the staff report and the information received during the public hearing, the Washoe County Board of Adjustment approve, with the conditions included as Exhibit A in the staff report, Special Use Permit Case Number SB16-004 for Verizon Wireless, being able to make the findings required by Washoe County Code Section 110.810.30, Section 110.324.75, and the finding required by Policy SW.2.14 of the Southwest Truckee Meadows Area plan, a part of the Washoe County Master Plan, for approval of Special Use Permits. Member Thomas seconded the motion, which carried unanimously. **(Approved; five in favor, none against)**

The motion was based on the following findings:

Findings from WCC Section 110.810.30:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Truckee Meadows 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 wireless communications facility 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. That issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation;

Findings from WCC Section 110.324.75:

1. Meets Standards. That the wireless communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of the Planning and Development Division and/or his authorized representative;
2. Public Input. That public input was considered during the public hearing review process; and
3. Impacts. That the proposal will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

Findings from Policy SW.2.14, of the Southwest Truckee Meadows Area Plan:

1. Impact on the Community Character. That impact on the Community Character can be adequately conserved through mitigation of any identified potential negative impacts.

C. Special Use Permit Case Number SB16-007 (Springs of Hope Trans4mation Ministries) – Hearing, discussion, and possible action to approve a Special Use Permit to allow religious assemblies including Bible studies and ministry meetings.

- Applicant: Kristie Calder
26740 Rose Mist Court
Reno, NV 89521
- Property Owner: Kristie Calder
26740 Rose Mist Court
Reno, NV 89521
- Location: 888 Zolezzi Lane, directly south of the intersection of
Zolezzi Lane and Creek Crest Road
- Assessor's Parcel Number: 049-351-26
- Parcel Size: 1.07 acres
- Master Plan Category: Suburban Residential (SR)

- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 20, T18N, R20E, MDM,
Washoe County, NV
- Prepared by: Roger D. Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775.328.3622
- E-Mail: rpelham@washoecounty.us

Chair Lawrence opened the public hearing. Roger Pelham reviewed his staff report.

Member Toulouse said he noticed that of the agencies that reviewed the project, the Truckee Meadows Fire Protection District would not approve the proposed fire department turnaround shown on the map. He said he noticed there was no Condition of Approval that addressed that. Mr. Pelham stated that was correct and the reason was that was a Standard Code requirement; they must meet Fire Code and the turnaround would meet Code before they received a Certificate of Occupancy and a Business License. Member Toulouse stated the Board did not have to stipulate that as an additional Condition of Approval. Mr. Pelham stated that was correct because it was already required by the Standard Fire Code.

Member Hill asked if the building had ever been used as a residence. Mr. Pelham stated it had. Member Hill asked what the current use of the building was. Mr. Pelham stated it was currently unoccupied. Member Hill asked if the Applicant was the owner of the property. Mr. Pelham explained they were currently purchasing. Member Hill asked if the LDS zoning allowed for a religious building. Mr. Pelham stated a religious assembly use type was essentially allowed in every zone subject to the approval of a Special Use Permit.

Leann Pengualo, Applicant's representative, stated it was intended to be used for a maximum of 22 people where they would conduct training two weeks out of the year. She noted they outgrew their current homes and purchased this location to allow them to meet in a central place for training and Bible study. She said it was not going to be used to live in. Member Thomas asked if there would be any activities on the weekends. Ms. Pengualo stated there would be no services on the weekends, and the groups would meet on Wednesday mornings every other week and a group would meet on Thursdays for lunch. In January they scheduled to hold a six week training on Thursday evenings and again the following August.

Member Toulouse stated he was a little concerned about the proposed phasing of the project because they had not had a lot of projects that had phasing contingent upon future funding being available. He wondered if there was a plan to address the potential funding issue in the future. Ms. Pengualo stated she did not think she could speak directly for the Applicant, but they had a 501c3 nonprofit set up, would personally oversee the maintenance and care of the facility and if it was something that had to be done immediately, they would handle it personally.

Chair Lawrence opened up the discussion for public comment.

Steve Jarvis stated his residence was approximately located one block north of the proposal and his main concern was traffic. He said if any of the Board members had driven on Zolezzi Lane they would know that it already had a heavy traffic load and also as a residential area it was very popular with bike lanes and walking trails. He said right now they had one religious facility, approximately a half mile from the proposed facility, and there was a lot of traffic from there already. Member Thomas asked if there was a school right

across the street from the location. Mr. Jarvis explained the school was about one block down from Clearwater Drive, so it would be approximately two blocks north and also had a lot of traffic.

Karen Gallio stated she lived close to the proposal and the area was indeed rural suburban. Some of the properties had animals and they did not have street lights, and it was a quiet semi-country environment. She said she had a lot of questions about who the owners were, who and what were they meeting for, and who were they training and for what purpose. She said they had one of three largest religious facilities in the Reno/Sparks area on Zolezzi Lane and with the membership of 1,500 to 2,000 people there were streams of traffic going up and down and sometimes she had to wait five minutes to be able to turn on or off Zolezzi Lane. She said the Montessori School was two blocks east of the proposal and those people parked up and down Zolezzi Lane and up and down Valley Springs Road for picking up children twice a day.

Don Cose said he was representing his neighbors who could not attend. He agreed with the traffic flow concerns, but another area of concern was their property values. One of his neighbors lived directly behind the proposal and had to use the easement to access Zolezzi Lane. He asked if bringing in this type of facility would eventually have an effect on being able to keep animals in the area.

John Lukens stated his property was one block south of the proposal and his main concern was traffic, as there was no left hand turn lane at the driveway. The driveway was not easy to see, it was a dirt path and there were trees on both sides of it. He continued saying there were no street lights and it would be even more difficult to see at night.

Thomas Murphy stated the Board was going to be following Article 810 of the Development Code, which did not allow religious assembly within LDS zoning and Table 110.302.05 did not list religious assembly as an approved use. He was not opposed to the proposal, but he was not 100 percent sure what they were proposing. He was concerned they were not a valid church or if they had a Charter, if they had a legitimate nonprofit status, and how long had they been operating. He said also in Article 810 it asked for a lighting plan and a traffic plan and he had not seen either of those. He thought the Board needed more information from the Applicants. Mr. Murphy stated he was also present to speak for his partner who was the individual that created this subdivision. He explained the proposed property had been used as a residence and a church, but that was some time ago.

Member Hill asked Mr. Murphy if he lived on the property. Mr. Murphy stated he did not and explained where his property was in relation to the proposal. Member Stanley stated he attended the CAB meeting and he did not remember hearing that it had been a church once before. Mr. Murphy stated he understood it was a school, not a church. Member Toulouse stated he understood Mr. Murphy to say that he shared the driveway with the proposal. Mr. Murphy stated that was correct and they had an exclusive easement over the property and the Applicant did not.

Chair Lawrence asked Mr. Pelham to clarify some of the questions. Mr. Pelham stated the Washoe County Development Code, Table 110.302.05.2 allowed for religious assembly. He explained S2 indicated a Special Use Permit approved by the Board of Adjustment was necessary for Low Density Suburban (LDS). He said before this could be effective and meetings would start taking place, lighting would be one of the things that would need to be brought into compliance with the Code. He stated one of the typical requirements of Article 414 was that all of the lighting be shielded; the light would travel down and not out.

Member Hill asked if the Applicant stated that it was affiliated with a specific church in the area or was this their own thing. Mr. Pelham stated they were seeking a religious assembly use type and this one was perhaps a little different where one thought of large gatherings on a Sunday morning, which was not what they were asking for. However, were they associated with another church or not, or were they associated with a particular religion or denomination was not something that would come under this Board's consideration. He said from staff's perspective, and he believed within the Development Code, they could look at things like the impact on the surrounding area, the Standards and the uses, but he did not think they would be in a position to evaluate the legitimacy of the religious organization.

Kelly Degregori said what the map did not show in the packet that was handed out was that Zolezzi Lane was one lane for each direction, had a double-solid line in the middle and no parking on the street was allowed. She noted there were bike paths on each side of the street. Her concerns were the school and drop off times, limited parking, parking on the street, and blocking the bike paths. She said parents would let the kids out and then have to go out the other way and turn either east or west. Her other concern was there was no consideration right now for how they would go west, turn across traffic to get into the lot and then visa versa to get out unless they did a roundabout. She said if there was no consideration for the turning through the property like the fire department had mentioned, then they would completely block Clear Water and Creek Crest from the residents getting out. She also had a concern about what type of church it was and what type of counseling. She thought if it was for drug and DUI counseling that would be a concern to the residents. She said for the last 22 years, that property had been a residence and it was sold as a residence.

Chair Lawrence closed the public comment period and brought the discussion back to the Applicant. Ms. Pengualo stated the Applicants were a registered 501c3 and this was proposed as a Bible study ministry; they were not a counseling service, they were strictly an all women, faith-based ministry that was separate from a church, they held retreats in Tahoe and they conducted trainings for women.

Member Hill asked why the owners could not be present today. Ms. Pengualo stated they had a scheduled vacation in Hawaii. Member Hill asked if there were two couples who owned it and Ms. Pengualo stated that was correct.

Member Thomas stated at this time the Applicants were looking to expand or move away from their residences, and the intent was to find a location for a ministry and when they purchased this property they were aware it was being utilized as a residence. Ms. Pengualo stated the property was originally built to be a church 26 years ago and it was a church for several years.

Chair Lawrence brought the discussion back to the Board. Member Stanley stated he had the opportunity to watch this go through the CAB process and he thought some of the questions raised there were similar to the questions today. He said that most of the conversation referenced an existing school, an existing church, existing Code and how much traffic was created.

Member Toulouse said this was an allowed use under the Special Use Permit and they were not changing the zoning. He agreed there were existing problems and traffic issues with the existing school and with some other existing uses, but the RTC looked at this and determined it would not add significantly to traffic in the area.

Member Hill stated she had reservations about a use going in there that was not a single-family dwelling. She said there was already a school and church exacerbating the traffic problems and to have another nonresidential use could be detrimental.

Member Thomas stated he had been on Zolezzi Lane when the school was in session and it was a two-lane road had a double yellow line and there was a lot of congestion. He said turning movements became an issue without a center lane, which backed traffic up even further. He said as to the timeline of asking for some leeway as to when they would comply with all the other requirements was his concern. He understood the septic did not meet standards, it was not in compliance with the fire department and they were asking for going out to 2019 before the last alteration would be done. He thought they should come into compliance and then come back before the Board for approval.

Chair Lawrence stated he looked at this project and saw the impact would be about 22 car trips daily, which was not a significant factor in whether or not he would be for this or against it. He said they just dealt with a planning commission issue and they were looking at 5,500 car trips in a 10-hour period on his road and that was significant. He was leaning towards supporting the project based on the fact that the CAB approved it.

Member Hill stated she understood that CAB members did not have to make the findings the Board of Adjustment had to make to approve a project. Mr. Webb said that was correct, they actually discouraged CAB members from going down the path of findings.

Member Toulouse stated while the CAB members did not have to make the same findings that this Board did, for the most part a lot of those findings would eventually be addressed through questions and answers. He agreed if the CAB looked at this and was unanimous in their approval of the project, he put a lot of weight on their approval.

Member Stanley 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 Special Use Permit Case Number SB16-007 for Kristie Calder and Springs of Hope Trans4mation Ministries, having made all four required findings in accordance with Washoe County Development Code Section 110.810.30 and with the Southwest Truckee Meadows Area Plan. Member Toulouse seconded the motion, which carried on a 3 to 2 vote. **(Approved: Chair Lawrence, Member Stanley and Member Toulouse in favor, and Members Hill and Member Thomas against)**

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Truckee Meadows 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 religious assembly 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. Southwest Truckee Meadows Area Plan. The community character as described in the character statement can be adequately conserved through mitigation of any identified potential negative impacts.

D. Special Use Permit Case Number SB16-009 (CSA Pre-K School) – Hearing, discussion, and possible action to approve a preschool facility for up to 20 children in the teen center building at the Sun Valley Community Park.

- Applicant: CSA Pre-K
- Property Owner: Sun Valley General Improvement District
- Location: 115 W. 6th Avenue
- Assessor's Parcel Number: 085-211-03
- Parcel Size: 26.086
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Parks and Recreation (PR)
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley
- Commission District: 3 – Commissioner Jung
- Section/Township/Range: Section 18, T20N, R20E, MDM, Washoe County, NV

- Prepared by: Roger D. Pelham, MPA, Senior Planner
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Chair Lawrence opened the public hearing. Roger Pelham reviewed his staff report.

Chair Lawrence opened public comment.

Garth Elliott stated he was a Board member of the Sun Valley General Improvement District (SVGID) and they currently owned the subject property. He noted the building had been renamed and had been used for slightly older kids, but he felt it was adequate for younger children. He concurred it had been empty for a year, which was a concern to the SVGID. He said they had no problem making the changes to bring the building up to Code.

Chris Melton, Field Supervisor SVGID, stated the SVGID was in full support of this project. He noted that the Sun Valley community lost the Head Start Program a few years ago, which affected quite a few families and that was why this program was vital to the District and the community. He noted the Community Service Agency (CSA) completed all of their requirements and the building was move-in ready at this time.

Kristen Demara, Applicant, stated they were excited to be able to have 20 children because not only did they provide educational services for children who were going in to Kindergarten, they also provided meals for those children, health screenings and anything else they would need to be ready for school.

Chair Lawrence closed public comment and opened discussion to the Board. Member Toulouse stated it was rare to have unanimous support for a project and also that the SVGID was behind the project, which made their job easier.

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 Special Use Permit Case Number SB16-009 for CSA Pre-K School, having made all four findings in accordance with Washoe County Development Code Section 110.810.30. Member Thomas seconded the motion, which carried unanimously. **(Approved: five in favor, none against)**

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Sun Valley 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 preschool, and for the intensity of such a development; and
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.

E. Variance Case Number VA16-006 (Eget Residence) – Hearing, discussion, and possible action to approve a variance 1) to reduce the front yard setback along Wassou Road from 20 feet to 7 feet to

allow for a storage room below the existing deck; 2) to reduce the north side yard setback from 8 feet to 5 feet to allow for a half bath addition on the house and deck rebuild on the existing residence; 3) to reduce the front yard setback along Teresa Court from 20 feet to 10 feet and the front yard setback along Tuscarora Road from 20 feet to 8 feet for a detached accessory structure to be used as a garage; 4) to permit a second story above the garage; and, 5) to allow additional plumbing fixtures in the accessory structure.

- Applicant: Jeffrey D. Eget
- Location: 45 E. Tuscarora Road, Crystal Bay
- Assessor's Parcel Number: 123-136-02
- Parcel Size: 0.19 Acres (8,351 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 Berkgigler
- Section/Township/Range: Section 19, T16N, R18E, MDM, Washoe County, NV
- Prepared by: 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. Eva Krause reviewed her staff report. Ms. Krause noted the following correspondence received before the meeting which has been forwarded to the Board for review: a CAB worksheet from Mr. Wolf, a CAB worksheet from Mr. Todoroff, the CAB meeting draft minutes dated October 2, 2016, a letter from Mr. McAuliffe, and a letter sent by lawyer, Rick Elmore, for the neighbors, Terry and Brian Nelson.

Mr. Webb stated the description on the staff report talked about reduction on the side yard setback to accommodate for a half bath addition. Ms. Krause stated it was for a full bath addition. Mr. Webb said the Agenda before the Board stated it was for a half bath, so the Board action to be taken was for approval of a half bath. He said if the Applicant wished to have something other than a half bath, the Board had a couple of choices. The Applicant could request to continue, wherein this could be noticed for something other than a half bath, or the Board could choose to take action and approve the agenda as published with a half bath addition. Chair Lawrence thanked him for that clarification.

Member Toulouse stated the Staff Report mentioned the sauna being located within the front setback and that a condition of approval should be removal of that sauna, but he did not see it in the Conditions of Approval. Ms. Krause explained it was not removal; it was for relocation within the setback. She said she spoke with the property owner and they told her they already moved it. Member Toulouse asked if the Board should add it and Ms. Krause stated the Board did not need to add it as a condition because the Code stated they could not have accessory structures in the front yard setback. Mr. Webb asked if she had verified the sauna had been moved. Ms. Krause replied she had not verified it yet. Mr. Webb stated the Board could add that as a condition to ensure the sauna was relocated.

Jeffrey Eget, Applicant, showed the Board a picture depicting the sauna had been moved. He explained the sauna was more in the middle of the front yard and closer to Wassou Road, so they moved it into the left corner closer to the tree and right by the deck so it was now as far away from the street as possible. Ms. Krause confirmed the previous location of the sauna and she located the setback lines on the map. Member

Toulouse asked if the sauna was in the setback and Ms. Krause stated it was behind the setback where it was supposed to be.

Member Hill stated she attended the CAB meeting and went to the site. She noticed a Sugar Pine tree that was being proposed to be removed and she wondered if there was any alternative to saving the tree. Ms. Krause stated Washoe County did not regulate tree removal and she did not know of any alternatives.

Member Toulouse stated he had a concern about the definition of a dwelling unit because someone living in a house or an accessory structure made it a dwelling unit; however per Code it was not a dwelling unit if it did not have a kitchen. Ms. Krause stated that was correct and this is a definition they had been struggling with over the years. Member Toulouse stated he was not sure if it could be made clearer in the Code and to make sure both pieces of the Code mimicked each other so the question did not come up again. He said if it were classified as a dwelling it would not be allowed per TRPA Code, but the County would allow it.

Member Thomas stated the Tahoe Area Plan Modifiers limited one sink and one toilet. Ms. Krause stated when that was put into place Washoe County Code also said two plumbing fixtures. She said she did not know the exact reason why they decided that had to be a sink and a toilet. There was a lot of objections and a lot of reasons why two plumbing fixtures were not adequate even for an accessory structure. She stated the other issues staff had were a lot of people put in two plumbing fixtures and re-plumbed to make accessory dwellings out of them. So the solution, rather than limit the plumbing fixtures, was to have them record something on the deed stating it would not be used as a separate dwelling. Member Thomas stated the accessory structure section within the Development Code was changed to allow that, but the Tahoe Area Plan Modifiers did not. Ms. Krause stated that was correct. Member Thomas asked which one was in force, or was both of them in force and could this Board override one or not. Ms. Krause stated that was why the Applicant was asking for a Variance to the Code. She said the justification for the Variance was that both of them were in effect.

James Borelli stated he was the architect for the Applicant. He said that due to the unusual shape of the lot and the restrictions placed on it having basically frontages on three sides of a four-sided lot, they were requesting a Variance to the setback on the east side from 20 feet to seven feet to allow for the construction of the storage area underneath the existing deck, which was in the front setback and had been there for a number of years. He said it was considered to be legally non-conforming because it was built before a certain date. They were asking for a reduction in the setback on the north side from eight feet to five feet for the bathroom addition, which would be a full bath even though it was described in the Agenda as being a half bath. He said it was clearly a full bath on the floor plans that were submitted. He said on the west side of the property they were again squeezed by the 20 foot setback on the south side of the property, so they were asking for a reduction from 20 feet to eight feet. He stated around the corner on Teresa Court, they were asking for reduction in the 20 foot setback to 10 feet. He said the two other things they were asking for was a second story over a detached garage.

Mr. Borelli stated there were no alternatives in regard to removing the tree, it was right in the middle of the driveway and there was no way he could squeeze to the other side. He noted it would be up to the TRPA permit for the project to make the findings for the removal of that tree. He said they had a project that basically received CAB approval with one Member opposing. He said some of his fellow Board members were not sure what his actual objection was and they were having trouble getting specifics out of him. He said all the agencies reviewed it and none of them had any objections. He said there were four letters of support and there were two neighbors in the audience who would speak in favor. He stated there was one neighbor in opposition, but when they built their home in 1997 their list of variance request items read just like the Applicants and theirs were granted.

Member Thomas said he understood the laundry room would be where the garage was now. Mr. Borelli stated it would be on the lower floor of the new garage. Member Thomas said when they needed to do laundry they would bundle it up and leave the house, walk up to the garage and do the laundry. Mr. Borelli

stated if they were staying in the cabin that would be correct. Member Thomas asked if there was a laundry room in the cabin now. Mr. Borelli stated there was not and they were trying to tread lightly on the cabin. He explained the cabin only had so much modification capacity, so this project was intended to address some of the Applicant's needs through the construction of a whole separate building rather than try to adapt the cabin, which would be difficult structurally.

Chair Lawrence stated he wanted to be clear about the bath, whether it was full or a half bath. Mr. Webb stated the Board would be taking action, based on the Agenda and staff report for a half bath. Mr. Borelli stated the Board was looking at a submittal that described the project with a half bath; however, as he pointed out earlier, at staff's request, they provided floor plans which proposed a full bath. Chair Lawrence said the written information they received was for a half bath and the pictograph and the architectural design was not up to interpretation beyond the written description. Mr. Webb said if it was a full bath they were after, he suggested the Board continue this and have the Applicant resubmit an application representing a full bath. He stated if the Board approved the Special Use Permit as written for the half bath, when his plans were submitted if it showed a full bath, staff had no option but to deny the Permit because the application would not be in conformance with the approved Special Use Permit. Ms. Krause asked if they had to submit a whole new application or would they just have to re-advertise the project with the correct language. Mr. Edwards, Legal Counsel, stated they did not have to do a whole new application. The Agenda description limited what power the Board had to approve something by action in a meeting; the Board could approve less than what was being requested in an application and described in an Agenda, but they could not approve more.

Chair Lawrence told Mr. Borelli it was up to the Applicant to decide whether to continue this until December or have approval of a half bath. Mr. Borelli wondered what the procedure would be if the Board approved a half bath today to get a full bath later; would he have to go through the entire Variance process again. Mr. Webb responded the Applicant would have to ask for an Amendment of Conditions, which was a separate process that would follow the same process as a Variance. He would have to submit an application to amend the conditions and what was approved, and enter a full cycle of approvals. He said they would not have it done by December 1st. Mr. Webb asked if the Board could take a break and allow the Applicant and his representative to discuss this.

3:56 p.m. The Board took a recess.

4:04 p.m. The Board reconvened with all Members present.

Mr. Webb stated the Board could act on items 1, 3, 4 and 5 and continue item 2 to a later date. Chair Lawrence asked if the Applicant was interested in that and Mr. Borelli replied he was.

Chair Lawrence opened up public comment. Rod Nussbaum stated he lived below the subject property toward the Lake and he had owned his home since 2005. He said he looked at the plans and the work that Mr. Borelli had done on the other side of Wassou Road and he thought the overall proposal would substantially improve the location and blend in nicely with the neighborhood. He stated that part of Crystal Bay was an eclectic neighborhood, but over the last five years the property owners had been improving their residences, which was positive.

Chair Lawrence closed public comment and opened rebuttal to the Applicant. Mr. Eget said he thought there was another letter of support that he wanted put on the record. He said he purchased the property in November of 2015 and they loved it, but it was uncomfortable to live in. He learned they needed to make some improvements because the bathroom they had was small and did not have any closets. He stated it was a step saver cabin and they hopefully would be able to keep the existing cabin in tact because it was built in 1936. He said his immediate next door neighbor, Rick, called him and told him he had his support and he thought they would be able to work together.

Mr. Edwards said the letter in support of the project received from Mr. McAuliffe was distributed to the Board and made part of the record.

Chair Lawrence opened up discussion to the Board. Member Hill said she thought it was a great project, she's been to the site twice, and the 1936 cabin is precious. The fact the Eget's want to preserve that and still have a livable property is admirable. She added any way to save the Sugar Pine tree would be appreciated. Mr. Edwards, Legal Counsel, stated this was a Variance application and on page 3 of the Staff Report the Variance Standard, as set forth in the Nevada Revised Statute, was laid out. He noted the Board needed to consider if there was exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, which had to be part of the analysis. He also wanted to make sure that as the Board moved through the discussion, if there was an appetite to approve it, the Statute be considered and taken into account.

Member Toulouse said he appreciated the Applicant's willingness to preserve as much of the cabin he could, even though it was not a registered historic landmark. He said because of the narrowness and the steepness of the property, he did not have an issue with granting the Variance. Member Stanley stated he liked the fact that the Chair of the CAB came to this meeting showing support of the project. He was also pleased that a compromised solution had been reached.

Member Thomas stated he struggled with these types of requests. He said when someone purchased a property, they knew what they were getting and then that individual would come before the Board and say they did not like what they bought and want to expand. He was not sure that was really a hardship or not.

Chair Lawrence said the function of this Board was to look at these projects and determine whether they complied and were consistent with Variances and Special Use Permits. He said he lived in a house that was built on a 16 percent grade and he understood the challenges associated with that and the size of the lot and the setbacks. He said he was in support of this project based upon the fact that it met the criteria for a Variance. He also noted for the record the Board received a letter in support from Bryan McAuliffe, and a letter from Brian and Terry Nelson stating they were not in support of the project.

Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number VA16-006 for Jeffery D. Eget, with the conditions of approval included as Exhibit A for this matter, having made all four findings in accordance with Washoe County Code Section 110.804.25, with the exception of item #2 on the Agenda to reduce the north side yard setback from eight feet to five feet to allow for a half bath addition on the house and deck rebuild on the existing residence, which will be continued to the Board of Adjustment meeting to be held in February 2017. Member Toulouse seconded the motion, which carried unanimously. **(Approved: five in favor, none against)**

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;

4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

9. Chair and Board Items

***A. Future Agenda Items.**

None.

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

Chair Lawrence stated the maps were hard to read because they were in such small print. Member Toulouse stated he would also like to receive the maps in color if possible. Mr. Webb stated staff would be notified.

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

Mr. Webb stated this was continued from the last meeting due to all the members were not present. Member Stanley moved to nominate Member Toulouse as Chair. The motion was seconded by Member Thomas, which carried unanimously.

Member Lawrence moved to nominate Member Thomas as Vice Chair. The motion was seconded by Member Hill, which carried unanimously.

Chair Toulouse assumed the gavel.

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

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

Mr. Webb reminded the Board that the December meeting would be held in the Health District Conference rooms A & B.

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

None.

11. *General Public Comment

There was no response to the call for public comment. It was noted that a letter had been received by Kirk Short, which was placed on file.

12. Adjournment

The meeting adjourned at 4:29 p.m. with no objections.

Respectfully submitted by *Jaime Deller*, Independent Contractor

Approved by Board in session on _____, 2016

William H. Whitney
Secretary to the Board of Adjustment