



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Kristina Hill, Vice Chair
Lee Lawrence
Brad Stanley
Kim Toulouse
Trevor Lloyd, Secretary

Thursday, February 7, 2019
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, February 7, 2019, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

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

Members present:

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

Members absent:

None

Staff present:

Julee Olander, Planner, Planning and Building Division
Kelly Mullin, AICP, Senior Planner, Planning and Building Division
Chad Giesinger, AICP, Senior Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Michael Large, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division

2. *Pledge of Allegiance

Member Hill led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Large recited the Ethics Law standards.

4. *Appeal Procedure

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

5. *General Public Comment and Discussion Thereof

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

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Toulouse moved to approve the agenda of February 7, 2019 as written. The motion, seconded by Member Hill, passed five in favor and none opposed.

7. Possible action to approve December 6, 2018 Draft Minutes

Member Stanley moved to approve the minutes of December 6, 2018 as written. The motion was seconded by Member Lawrence and passed five in favor, none opposed.

8. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

A. Special Use Permit Case Number WSUP18-0021 (SonRay Construction) (previously SB05-014 – Sonoran Roofing) – For possible action, hearing and discussion to approve the expansion of an existing Construction Sales and Services use type. The expansion includes a 3,570 sq. ft. addition to an existing 3,636 sq. ft. metal storage building used for the storage of materials, tools and equipment for a heating, ventilation and air conditioning (HVAC) and roofing contractor. The expansion will be connected to and similar to the existing building and will also be used for the storage of construction materials and equipment generally used in the roofing and HVAC industries. The original building was approved under Special Use Permit SB05-014.

- Applicant: Rollapart Buildings, Inc.
- Property Owner: John and Brenda Daly
- Location: 1565 Geiger Grade
- APNs: 017-051-06 (±1-ac.) and 017-051-09 (±0.33-ac.)
- Master Plan Category: Commercial
- Regulatory Zone: General Commercial
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810
- Commission District: 2 – Commissioner Lucey
- Staff: Kelly Mullin, Senior Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775-328-3608
- E-mail: kmullin@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. There were no member disclosures.

Kelly Mullin, Washoe County Senior Planner, provided a staff report presentation.

Rob Lauder, applicant representative, engineer, was available for questions.

Public Comment:

Bruce Bacon, resident of King Lane, said he bought the property in 1996. He said there have been significant changes in the neighborhood. He said he researched the Special Use Permit (SUP). He said he is a retired surveyor. He said he saw the recommended access is through a parcel. In 2005, it was required to be boundary abandonment so the property could never be sold and destroy the access. It's congested on the highway. The concern is if the parcel goes away, and access to Geiger Grade goes away, then King Lane would become more overburdened. King Lane is unimproved. He said he has tried to maintain it. A neighbor filled up the drainage ditches which affected King Lane. The requirements are vague. Intensified uses require street improvements. Mr. Bacon said he is asking that the parcel be completed as stated in the original 2005 SUP. He said it's easier to approve them than to find out the SUP is in violation.

Mr. Lauder responded to Mr. Bacon's concern. The documents include conditions that the two parcels become one before a building permit is issued.

With no further public comments, Chair Thomas closed the public comment period.

Member Stanley asked if the original SUP was addressed. Ms. Mullin answered the question if the previous SUP was completed as planned; she said it was a requirement in 2005 with reversion to acreage, and that it is why it is a condition to this application.

Member Toulouse asked if that was a condition on the original SUP and now a condition of approval on this SUP, who is making sure the conditions are met. Ms. Mullin clarified that it wasn't actually a condition on the original SUP, but it was listed in the original staff report. She said if there are any discrepancies between the previous conditions of SUP and new SUP, the stricter would apply.

Member Stanley asked about the process for seeing that the conditions are actually met. Ms. Mullin said current practice is to establish a time certain or that a trigger is in place to make sure conditions are met. In general processes, conditions of approval are checked during different stages moving forward. During building, those conditions should be checked prior to issuing a business license. She said we do have timing for building permits to be issued within two years from date of approval. The SUP resides with the land. If a property is sold or business changes hands, the new owner needs to meet with the County staff to make sure the conditions are still valid and to make sure the use doesn't change. Ms. Mullin showed the map of the existing structure and proposed structure. The red hatching indicates the proposed, which is on the same parcel. Member Stanley asked about the sale of the property. She said that is a concern, and that is why we required the reversion to acreage. They were part of the original use permit. It's all part of one parcel. Parking is used for the business. She said we consider the development as a whole and consider it one parcel moving forward.

MOTION: 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 the conditions attached as Exhibit A, Special Use Permit Case Number WSUP18-0021 (previously known as SB05-014) for SonRay Construction, having made all six findings in accordance with Washoe County Code Section 110.810.30 and Southeast Truckee Meadows Area Plan Policy SETM.11.3:

- 1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southeast 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 the type of development, 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.
6. **Air Quality.** No significant degradation of air quality will occur as a result of the special use permit.

Member Toulouse seconded the motion. The motion passed unanimously.

B. Code Enforcement Appeal Case Number WVIO-PLA18-0259 (Carol Drive) – For possible action, hearing, and discussion to affirm, modify, reverse, or remand an Administrative Hearing Officer’s dismissal of a code enforcement case concerning an alleged violation of WCC Section 110.406.50(a), Fences, Walls or Perimeter Planting, Residential Use Types, occurred due to an existing fence that is over 4.5 feet high in the front yard setback on the subject property.

- Appellant: Washoe County
- Property Owner: Jessica Richards
- Location: 5235 Carol Drive
- APN: 085-043-18
- Parcel Size: 31,039 square feet
- Master Plan: Suburban Residential
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Sun Valley
- Citizen Advisory Board: Not Applicable
- Development Code: Authorized in Articles 406, 910, and 912
- Commission District: 3 – Commissioner Jung
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3627
- E-mail: jolander@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. There were no member disclosures.

Julee Olander, Washoe County Planner, provided a staff report presentation

Member Toulouse asked Ms. Olander about records of a variance issued by Washoe County Building Department. Ms. Olander said when it was first ordered by the court; we reviewed the

building permit process maintained by the Building Department and could not find a variance or anything that stated a fence was required. Included in the packet was the court order from the Sparks Justice Court which states it needs a fence with permits. Ms. Olander said they could not locate anything that indicates allowing a 6 foot fence which was stated from the previous property owner. No variance or fence permit was found. Member Toulouse asked about the court order. Ms. Olander said it was the information in the back of the staff report. It advises to get a fence with a proper permit, but doesn't specify a 6 foot fence.

Member Lawrence asked when the fence was built, and how far back did she search the permits. Ms. Olander said our records go back to the 1950s or earlier in some cases. We have information regarding permits and applications. Ms. Olander said there are orthophotos back to 1997, but the photos were blurry. She said she couldn't see if the fence was 6 foot, but it appeared that there was a fence where the current fence is located. Member Lawrence asked when the Sparks Justice Court issued the decision. Ms. Olander said January 29, 1990.

Member Stanley thanked Ms. Olander. He asked about original court decision referenced, Richard Kishpaugh, Washoe County Planning. He asked if he worked for Washoe County. Mr. Lloyd said Mr. Kishpaugh was a Code Enforcement Officer with Washoe County. Member Stanley asked if he was a party to the decision as he is the plaintiff in the original court decision. He asked if he would have had input to the height of the fence or permits. Ms. Olander said Mr. Kishpaugh would have addressed it the same way we would address the fence in place now. He would have made the original compliant which was for debris. It went through several months of review. She said she doesn't have any record of his decision regarding the fence. She said we have copies of code requirements back to 1982 and a 6 foot fence has not been allowed since then. We don't know when the fence was installed. The current property owner might have information of when it was installed, but it was installed before she bought the property.

Member Stanley asked since City of Sparks doesn't have any policy about fencing height, the County is the governing body. Ms. Olander said it's not in the City of Sparks, it was just heard by the Sparks Justice Court.

Member Stanley referenced the document handed out this morning. Ms. Olander said there was a complaint made regarding the vehicles and RV parked on the property, and the Code Enforcement Officer went out to take a look but couldn't see due to the 6 foot fence along the property. Code Enforcement Officer cannot go onto the property. The Code Enforcement Officer could see through the fence that those items were on the property. The 6 foot fence inhibited the officer from clearly seeing the items on the property and the Code Enforcement Officer has the ability to cite violations for things other than the original complaint. The 6 foot fence became the complaint. The Hearing Officer felt the 6 foot fence was not the issue; the debris was the original complaint. The Hearing Officer stated her decision and said she felt Washoe County was complaining about the fence to get the property cleaned up. Member Stanley clarified the situation: in 1990, there was a complaint and the court advised the owner to install a fence; then a complaint was made last year, and the Code Enforcement Officer couldn't see the debris due to the height of the fence, and wrote up a citation regarding the height of the fence. There are no variances or permits regarding the fence. We are trying to decide if the 6 foot fence is appropriate in the setback. Member Stanley thought a citation was rescinded. Ms. Olander said no. The citation for the fence was made in complaint in June.

Chair Thomas said the Code Enforcement Officer didn't rescind the decision. The Hearing Officer elected to dismiss the 6 foot fence since the debris was cleaned up.

Member Lawrence asked if there are other 6 foot fences in the neighborhood. Ms. Olander said there are some properties in the area with fences greater than 4.5 foot. They won't go cite those properties unless there was a complaint.

Member Lawrence asked a clarifying question regarding code enforcement. He asked if they often require properties to install fencing to help screen yards that have a lot of debris. Mr. Lloyd said yes, that is a common practice to recommend a fence is installed to screen a yard. Member Lawrence asked about the requirement with the fence. Ms. Olander said 4.5 foot fences can be installed in the front yard set-back, beyond the front yard setback, it can be 6 feet in height and you do not need a permit.

Member Lawrence asked what the County recommended to the resident. Ms. Olander said initially they requested the resident to remove the fence or alter it to 4.5 feet. That is when the property owner appealed the violation. Ms. Olander said the property owner would have the option to locate a 6 foot fence 20 feet from the property line. They could apply for a variance for the current 6 foot fence, but they have to show a hardship.

Member Stanley asked a process question. He asked what are the options to modifying this. Mr. Lloyd said a variance is not an option for this board today. The recommendation from staff is to reverse the hearing officer's decision.

Chad Giesinger, Washoe County Planner, said the language regarding possible modification is complicated – might not be helpful in this instance. He wasn't sure of other options at this time.

Mr. Edwards said language in the agenda about modification is tied to the code regarding appeals. If it doesn't apply, then you wouldn't use it. If you can't find anything to modify, then you wouldn't consider it.

The respondent was present but was unable to speak.

DDA Large wanted to make sure that the respondent had adequate time to review all the documents and ability to respond to the new documents provided today in terms of the packet. Mr. Large asked the respondent if she had enough time to review. She said she received the packet on the 2nd of February. Mr. Large said in order to ensure the respondent had a fair opportunity to respond to these issues, this Board should defer this item to the next meeting for an abundance of caution for the open meeting law. Mr. Large said she received packet on February 2nd, but for notice requirements, he recommend this be deferred until next meeting.

Chair Thomas asked the respondent what packet she received. Jessica Richards said Hearing Officer decision, meeting paperwork, and paper work about this meeting. She said she didn't receive it until February 2nd. County staff said she sent her the staff report and a copy of the meeting agenda. That is what she received on the 2nd, but not the hearing officer's decision that the board received today. Chair Thomas said we are assuming she received that around November 5th.

Chair Toulouse said he has sympathy for the respondent. He said we are tasked to make a decision on the appeal of the Hearing Officer's decision. He wants to offer the respondent a continuance to the April meeting to explore options to come up with an alternative scenario. It would suspend actions including any enforcement fines. He said he is appalled by the Hearing Officer's language stating it was a bootstrap attempt by Washoe County to take action that isn't warranted. He is appalled by her language.

Member Stanley said he agrees with the continuance. He asked if that satisfied the proper notification. Mr. Large said yes.

Chair Thomas said he understands the abundance of caution and everyone needs a fair chance.

Member Lawrence asked if the Hearing Officer receives a report from the Board. Mr. Large said this board has the appellant power and the minutes can be conveyed to the Hearing Officer as long as

the Board is required to issue an order in this matter, it could be given to them, after the Board takes action. Member Lawrence agreed with Member Toulouse about the language towards the County. Her approach was less than professional, and should consider some more training.

Chair Thomas asked Mr. Large for language for a motion. Mr. Large said Mr. Toulouse spoke about exploring potential options with a continuance to April 4th Board of Adjustment agenda with a recommendation to staff to work with the respondent to see if there is a resolution that can be reached. Exhaust all avenues.

Mr. Lloyd said we need applicant or appellant's agreement for a continuance; since the County is the appellant, he asked that it be on record that Washoe County agrees to the continuance.

MOTION: Member Toulouse moved that Code Enforcement Appeal Case Number WVIO-PLA18-0259 be continued to the Board Of Adjustment April 4, 2019 meeting to be conducted in these chambers at 1:30 p.m. Member Stanley seconded the motion for a continuation. The motion passed unanimously.

9. Chair and Board Items

- *A. Future Agenda Items – There were no requests.
- *B. Requests for Information from Staff – There were no requests.

10. Director's and Legal Counsel's Items

- *A. Report on Previous Board of Adjustment Items – Mr. Lloyd had nothing to report.
- *B. Legal Information and Updates – Mr. Edwards introduced Mr. Large. There has been some shifting in the DA's office. Mr. Edwards said he will see some planning and day- to-day operations. Mr. Large will take over Board of Adjustment representation; he will be your counsel. He has a lot of experience. Mr. Edwards said he has enjoyed working with this Board. Chair Thomas thanked Mr. Edwards for expertise, resourcefulness, and guidance. He welcomed Mr. Large.

11. *General Public Comment and Discussion Thereof

There were no requests for public comment.

Mr. Lloyd said all meetings will be monthly going forward unless otherwise modified. There is a meeting in March. This board gave the Respondent two months to review the documents.

12. Adjournment

The meeting adjourned at 2:50 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in session on _____, 2019

Trevor Lloyd
Secretary to the Board of Adjustment