



# WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

## Board of Adjustment Members

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

Thursday, October 1, 2020  
1:30 p.m.

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

**No members of the public were allowed in the Commission Chambers due to concerns for public safety resulting from the COVID-19 emergency and pursuant to the Governor of Nevada's Declaration of Emergency Directive 006 Section 1 which suspends the requirement in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate, in which case this meeting was held by teleconference only. If the Governor's Emergency Declaration and associated directives concerning public meetings and gatherings of more than 10 people were not still in effect at the time of this meeting, then the meeting would have been held at the above location at the above date and time. Attendance at any physical meeting location will be limited in accordance with any applicable Statutes, Declarations, Directives, Regulations, or Ordinances concerning the COVID-19 pandemic, including any applicable social distancing requirements and limits on the number of persons permitted to be physically present within the meeting room at the same time.**

The meeting was televised live and can be replayed on Washoe Channel at: <https://www.washoecounty.us/mgrsoff/Communications/wctv-live.php> also on YouTube at: <https://www.youtube.com/user/WashoeCountyTV>

## 1. \*Determination of Quorum

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

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

Members absent: None

Staff present: Roger Pelham, Senior Planner Planning and Building Division  
Donna Fagan, Recording Secretary, Planning and Building Division  
Katy Stark, Recording Secretary, Planning and Building Division  
Michael Large, Washoe County Deputy District Attorney

## 2. \*Pledge of Allegiance

The pledge was recited.

## 3. \*Ethics Law Announcement

DDA Michael Large recited the Ethics Law announcement.

## 4. \*Appeal Procedure

Roger Pelham recited the appeal procedure for items heard before the Board of Adjustment.

**5. \*General Public Comment and Discussion Thereof**

With no request for public comment, Chair Hill closed public comment.

**6. Approval of Agenda**

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of October 1, 2020. The motion was seconded by Member Thomas and carried unanimously.

**7. Possible action to approve July 24, 2020 and August 6, 2020 Draft Minutes**

Member Lawrence noted he was not in attendance for the August meeting therefore he will not be being voting on those minutes. DDA Large advised he could vote on the minutes. Chair Hill had some corrections for July 24, 2020 minutes that she shared with the recording secretary.

In accordance with the Open Meeting Law, Member Stanley moved to approve the minutes of July 24, 2020 (as corrected) and August 6, 2020. The motion was seconded by Member Lawrence and approved unanimously.

**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. Variance Case Number WPVAR20-0004 (Merritt Rear Yard Setback Reduction)** – For possible action, hearing, and discussion to approve a variance to allow the reduction of the required rear yard setback from 20 feet to 9 feet, 9 inches, to facilitate the construction of a new detached garage on a parcel of land with an existing single-family residence. This constitutes a reduction of 10 feet, 3 inches.

- Applicant/Property Owner: Jamey and Jennifer Merritt
- Location: 2152 Tanager Court, at the northern terminus of Tanager Court, approximately 400 feet north of its intersection with Wagtail Drive
- APN: 530-533-11
- Parcel Size: ± 0.44 acres (± 19,166 square feet)
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Spanish Springs
- Citizen Advisory Board: Spanish Springs
- Development Code: Authorized in Article 804, Variances
- Commission District: 4 – Commissioner Hartung
- Staff: Roger Pelham, Senior Planner  
Washoe County Community Services Department  
Planning and Building Division
- Phone: 775-328-3622
- E-mail: [rpelham@washoecounty.us](mailto:rpelham@washoecounty.us)

Chair Hill opened the public hearing. Roger Pelham reviewed his staff report dated September 10, 2020.

Member Lawrence asked what they plan to park in the garage and what it will be used for. Mr. Pelham said the applicant indicated they would be working on classic cars. Member Lawrence asked about an RV. Mr. Pelham said he believes the applicant mentioned something about a recreational vehicle. Member Lawrence spoke about the roof being 12 feet at its peak instead of 16 feet to the top plate. He asked what is the roof height. He noted the diagrams didn't show that. Mr. Pelham said 20 feet. Member Lawrence said if

it was 12 feet, there would be no issue with setbacks. Mr. Pelham confirmed. Mr. Pelham explained how they measured building height. It's not peak, but rather midpoint. He said a garage that is 10 feet at the wall and 14 feet at peak would average 12 feet.

Member Stanley asked if Mr. Pelham sat in the CAB Zoom meeting. Mr. Pelham confirmed he did attend the CAB meeting. Member Stanley asked if Mr. Pelham explained that this wouldn't easily fit within code. Mr. Pelham confirmed he did express that, but still wanted to ask the CAB since they were the experts on their neighborhood. Member Stanley asked about the drainage ditch that would preclude how close something could be. Mr. Pelham stated the drainage facility is a separate parcel of land. Member Stanley said there are instances on the south side of the drainage ditch that have a structure that is close to the lot line. He asked if those were variance or not variance. Member Stanley asked about parcels ending in 05 and 12 near the demarcation line. Mr. Pelham said those are legal structures. He said those structures are 12 feet or less in height. A detached, accessory dwelling may be placed within 5 feet of side and rear property lines in our residential regulatory zone in Washoe County. Member Stanley asked if Mr. Pelham advised the applicant that 12 feet would remedy their problem. Mr. Pelham said he did and discouraged the applicant from applying. He said in his opinion, good customer service is letting someone know if they don't have a reasonable chance of success. Member Stanley asked about a piece of language on page 9, staff's comment on the findings. He read a portion of it and asked the intention. Member Stanley asked about the drainage ditch and how that impacts this situation. Mr. Pelham said code provides us with several specific conditions which equal a hardship. One of those may be the location of the surroundings. He said in his opinion, a drainage ditch on the other side of the property line does not constitute a hardship. There is nothing on their parcel that prohibits the applicant from constructing this same garage either shorter in height in the current location, closer to the property line, or 10 feet towards the house. It's inconvenience, perhaps, but doesn't rise to the level of a physical hardship. Member Stanley asked an example of surroundings on the parcel. Mr. Pelham provided an example; if the drainage ditch crossed the parcel. Mr. Pelham noted the findings – special circumstances applicable to the property; it constrains the property itself.

Member Thomas asked about the house size versus the garage size. He said he wanted to make sure the garage wasn't larger than the house which would trigger another Washoe County Code. Mr. Pelham said it is not and that would have been an administrative permit, which isn't the case here. Member Thomas asked about the distance from house to the front of the garage, as proposed. He asked what would prevent them from moving it closer to the house and not have to worry about the setback. Mr. Pelham said we don't have that dimension in the report. Mr. Pelham stated he discussed that option with the applicant and the applicant said it would make it less convenient to access the garage door.

Member Stanley asked about the line drawing above the site plan on page 5 of 11; he asked about the line that creates a triangle on the encroached part of the proposed garage. Mr. Pelham shared his screen to show the line across the garage. Member Stanley asked if the garage was designed to not include that part that crosses the line, it would meet the set back. Mr. Pelham stated it would. He said if they square it off so that the foundation would be at the setback where it crosses.

Member Lawrence asked about the distance within the orange circle. Mr. Pelham said it's 10 feet, 3 inches. 9 feet 9 inches from the closest point of the structure from the property line. He would have to move it 10 feet 3 inches.

Member Stanley asked if there is a stepped setback based on the height of the roof. Mr. Pelham said no. Mr. Pelham said there is one built-in variance in the code – side and rear in residential regulatory zone for a detached accessory dwelling that is 12 feet or less in height. Otherwise, all standard building setbacks apply.

DDA Michael Large asked about the staff report's exceptional narrowness finding. He said based on the report, the average width is 115 feet, but the narrowing front portion is 48 feet. Typically, we make a finding of exceptional narrowness at 80 feet. Mr. Pelham said not exactly. Mr. Pelham explained the minimum average lot width is 80 feet – minimum average lot dimension is 80 feet. Mr. Pelham said there are several ways a land surveyor can calculate the width and depth of a parcel of land when irregularly shaped. The simple way is to average the front and back width. DDA Large asked if the house having a setback from the street and the shape of the property; does that decrease the amount of space they can use; therefore, causing an exceptional size argument. Mr. Pelham referenced his screen and showed the front yard setback and

existing garage. He showed the few feet between garage and setback. He showed additional room on the left and right sides. The dwelling could have moved forward an extra few feet and met the minimum setback.

Member Stanley asked if there is a code against the roof pitch on a building. If they move it to meet spec, it doesn't cause them inadequate drainage because of pitch. If they lower the height that could run foul for the slant of the roof. Mr. Pelham said that is building code, not planning, but said not as long as they have sufficient pitch to allow water to run off, in accordance with applicable standards in building code. There is no planning code for roof steepness.

Member Lawrence asked about the distance from the setback to the front of the garage. It appears to be the minimum setback. He asked if that distance is less than 10 feet 3 inches. Mr. Pelham said he speculated it's probably 5 feet. Member Lawrence said moving the house to the very edge, 4 feet, 11 3/4 inches would still put the garage in the proposed location and would still violate. The proposed garage could not be moved forward 10 feet 3 inches. Mr. Pelham said it could be moved forward 10 feet, 3 inches but the applicant stated it would be inconvenience based upon putting a vehicle into the garage. Member Lawrence said he could see that turning and trying to get that radius and backing a boat in or something like that. He said he could see that being a hardship for himself.

Member Stanley asked page 4, exhibit C, correspondence between homeowner's association and applicant, 'we have received another ARC request.' Member Stanley said it implies that there is another request like this. Chair Hill said she is on an architectural review committee and they review everything that gets changed such as lighting, structure, and landscaping. This would probably go before ARC, Architecture Review Committee, that's what it stands for.

Member Stanley asked what part of the garage cannot be over the line. Mr. Pelham said eaves of the roof can hang 24 inches into the setback. Member Stanley asked if foundation was within guidance, and eaves were ok, you moved back two feet for stem wall and added storage, would that be ok. Mr. Pelham said no. It would put an enclosed area of the building within the setback; only eaves, not interior space. Member Stanley asked about exterior wall or foundation. Mr. Pelham said he never seen someone cantilever space into a setback other than perhaps a bay window.

The applicant was not available for questions.

Chair Hill said it's a 2,000 square foot garage. She said she is not seeing a hardship other than Member Lawrence's comment about backing a boat in.

Member Thomas said after listening to presentation, he said he has a few issues. We aren't supposed to find every exception, but rather the individual presented to planning representative to see if it complies with Washoe County codes. If Washoe County code says X, but the HOA says it's okay, ie: for land use, just because they grant access, it doesn't make it okay by County code and we are bound by the code to make our decisions. He said he questions if this is a hardship. He said drainage ditch is not a consideration since it's not on the property. He said he can't see an undue hardship based on the perimeter of the property where this garage is place. He references schematic of drawing. Garage door is on the right side and passthrough is on the right side and it's a straight shot. He doesn't see that becoming an issue. Not knowing the distance from the garage to house whether it could be moved within, or the garage could be made smaller, this would not become an issue.

Member Stanley said he won't quarrel with Member Thomas' logic. He said it's a difficult one, and Mr. Pelham tried to advise the applicant of how it works. Member Stanley said the problem he has is with the idea of the CAB's 5 to 0 finding in favor; neighbor's letter in favor; the only deleterious affect identified was the harm would be against that code, in the instance. He is having trouble because the people who live there think it's fair. With a little adjustment, the outside wall versus foundation, there could be creative ways to deal with this.

Member Lawrence said we are struggling over roof height issue. The neighbors near there who would be impacted by viewshed don't seemed to be concerned. There is a 50-foot wash between house and structure. No view shed issue there. He wanted to know what the structure is going to be used for. He said he would be more sympathetic if it was for RV storage or something like that. The CAB voted unanimously and there

is some worth in their opinion. He said he is struggling with seeing a big problem with this and giving approval where it stands and not moving 10 feet 3 inches closer to the house. He said he doesn't know the intended use.

Member Thomas we are attempted to identify there is a hardship; it's the size of structure they are requesting. The average depth of a garage is 21-25 feet; this is double the length of standard garage. The hardship is not predicated on the land, it's based on the fact the applicant wants a large garage. It's the size of the garage; it's not the property. Member Lawrence agreed with Member Thomas. Member Lawrence said without comments from the applicant at this meeting, he is not able to supersede Member Thomas' opinion with his own. He said he would have liked to hear from the applicant and hear why moving the garage closer to the house would have created a hardship regardless of the size. He said he understands the opinion and makes it difficult without the applicant present.

Member Stanley said in addition to the CAB, the neighbor, 6-foot difference in the roofline, he said we have had several dozen applications that we approved or denied for garages much large than this. He said he doesn't consider it too impactful for his consideration. It could be for an RV. As stated by Mr. Pelham, they are repairing cars, said it's their land to do as they wish. He said he understands what has been said about the hardship but have trouble with the 221 square foot versus CAB findings and what the neighborhood thinks. Chair Hill said the CAB doesn't have to comply with the Washoe County Code nor does the architectural review committee or neighbors. She said we are responsible for enforcing the code and ordinances. Its hard to make the findings. She read their application which states it's for parking for classic vehicles, recreational vehicles, and other personal property. They could do it if they moved it closer to the garage and keep the same size.

Member Stanley agreed they have been offered options by the planner. He said he disagreed with Chair Hill's comment about CABs. They provide the BOA feedback and input to the thinking process. Member Hill said she normally agrees with the CAB. Member Stanley said it's their dirt and they live there. They are sincere. It's our job to act as a conduit in organizing that information to BCC. He said we need to take all facts into account. He said it was a unanimous opinion by the CAB. He understands the code and how it doesn't comply. He agreed with Member Lawrence and asked why the applicant isn't here. Chair Hill said the applicant said they were planning on attending via Zoom but aren't on.

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 deny Variance Case Number WPVAR20-0004 for Jamey and Jennifer Merritt, being unable to make all required findings in accordance with Washoe County Development Code Section 110.804.25. Those findings being 1 and 2 – special circumstance and no detriment as it applies to the purpose of the Development Code. Chair Hill seconded the motion. The motion passed, 3 in favor, 1 opposed (Member Stanley opposed). Member Stanley said he isn't comfortable denying this since the applicant wasn't present to clarify questions. DDA Large notified discussion already occurred and closed discussion.

## **9. Director's and Legal Counsel's Items**

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

Member Lawrence asked when Member Toulouse's seat will be filled. DDA Large noted it came before the BCC and a name was put forward and not passed, the person was not confirmed, and staff is working to fill that position expeditiously. He expected November or December to be filled. Member Stanley asked what would have happen if Member Lawrence would have voted denial. DDA Large said no action and it would be deadlocked. The applicant can appeal the decision to BCC.

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

None

## **10. \*General Public Comment and Discussion Thereof**

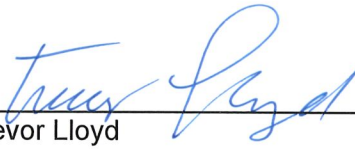
With no request for public comment, Chair Hill closed public comment.

**11. Adjournment**

Meeting adjourned at 2:32 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in session on December 3, 2020

  
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Trevor Lloyd  
Secretary to the Board of Adjustment