



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Rob Pierce, Chair
Don Christensen, Vice Chair
Clay Thomas
Kathie Julian
Peter Ghishan

Thursday, August 03, 2023
1:30 p.m.

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

Secretary

Trevor Lloyd

and available via
Zoom Webinar

1. Determination of Quorum

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

Members Present: Rob Pierce, Chair
Clay Thomas
Kathie Julian
Peter Ghishan

Members Absent: Don Christensen, Vice Chair

Staff Present: Julee Olander, Planner, Planning and Building Division
Michael Large, Deputy District Attorney, District Attorney's Office
Adriana Albarran, Recording Secretary, Planning and Building Division
Brandon Roman, Recording Secretary, Planning and Building Division

2. Pledge of Allegiance

Member Ghishan led the pledge of allegiance.

3. Ethics Law Announcement and Instructions for Providing Public Comment via Zoom/Telephone

Deputy District Attorney Large recited the Ethics Law standards and instructions for providing public comment viz Zoom/Telephone.

4. Appeal Procedure

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

5. Public Comment

Ms. Katie Knepper spoke about the subdivision in which the Safe Embrace (SE) building existed. She recited Nevada Revised Statutes about the intent of low-density suburban regulatory zoning and commercial uses in that zoning. The maximum number of dwelling units per acre was one. She believed SE's proposal would place three group homes on a one-acre parcel, surrounded by residential parcels with one dwelling unit each. She felt a three-acre parcel should be required for the proposal to be compatible with the residential character of the neighborhood. Given the high number of occupants, she compared the group care facility to a short-term rental. She stated SE was illegally granted a group care facility business license, and she listed some of the violations caused by the facility.

Ms. Nora Constantino opposed the approval of the special use permit (SUP) for SE because of the intended use and for health and safety concerns. She spoke about the business failing to water their grass and the discovery of an unattended toddler in a neighbor's driveway. She said SE ruined the road, causing damage to vehicles. The neighborhood was developed for single-family homes, not multi-family use, and she felt the SUP should be denied. She expressed concern about people waiting at one end of the block to meet their partners, which was unsafe for SE residents and those on Ponderosa Drive.

Via Zoom, Mr. John Bird stated he called the police when he found a child in his driveway, and he told them he suspected the child came from SE. However, nobody from SE came to the door when the deputies knocked. He opined SE was not taking care of their business, and this occurrence was one in a long line of abuses with which neighbors had to contend.

6. Approval of the August 3, 2023 Agenda

In accordance with the Open Meeting Law, Member Thomas moved to approve the agenda of August 3, 2023. Member Julian seconded the motion, which carried on a 4-0 vote with Vice Chair Christensen absent.

7. Approval of the July 6, 2023 Draft Minutes

Member Julian moved to approve the minutes of July 6, 2023 as written. Member Thomas seconded the motion, which carried on a 4-0 vote with Member Christensen absent.

8. Planning Items

A. Resolutions of Appreciation – For possible action to approve resolutions of Appreciation of Service for Brad Stanley and to authorize the Chair to sign the resolutions on behalf of the Board of Adjustment.

Secretary Lloyd stated he received a phone call from former Member Stanley who requested that this item be continued as he would not be available.

9. Public Hearing Items

A. Amendment of Conditions Case Number WAC23-0007 (Greenview Garage) – For hearing, discussion, and possible action to approve an amendment to conditions of approval condition 1(b) for Case Number WPVAR19-0001, to extend for one year the requirement that the building permit shall be issued on or before June 4, 2024.

- Applicant: Greenview HOA
- Property Owner: Malinowski Family Living Trust et al
- Location: 692 Palmer Ct.
- APN: 128-310-05
- Parcel Size: 4,356 sq. ft.

- Master Plan: Tahoe
- Regulatory Zone: TA_IV3
- Area Plan: Tahoe
- Development Code: Authorized in Article 804 (Variances)
- Commission District: 1 – Commissioner Hill
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3627
- Email: jolander@washoecounty.gov

Planner Julee Olander conducted a PowerPoint presentation and reviewed slides with the following titles: Request; map; Background; Site Plan; Evaluation of Amendment of Conditions (2 slides); Noticing; Reviewing Agencies & Findings; Amended Conditions; and Possible Motion for Amendment of Conditions.

Planner Olander noted the original variance request was denied in 2019 because the Board found it to be detrimental. In addition to the pandemic, the applicant was experiencing problems with slope issues and some of the fire department's requirements. She added the applicant was available to answer any questions as well.

Questions for Staff and Applicant:

Member Julian thanked Planner Olander for answering many of her questions before this hearing took place.

Chair Thomas asked whether a one-year extension would be enough. Planner Olander responded that was her understanding. The applicant's building permits were already submitted, which had not happened before the prior extension was requested. She believed everything was ready except meeting the conditions on the permits.

Applicant John Hash spoke via Zoom and noted they spent four years with the Truckee Regional Planning Agency (TRPA) approval process because the lot never received an individual parcel evaluation system score. They hired a consultant to resolve some issues, and TRPA approval was granted in May. He added the permit was currently under review for the fifth time, during which the applicant was instructed to re-confirm the footings that had been confirmed by a structural engineer, which he estimated would be accomplished within two weeks. He commented they could not begin work on the site in May because there was three feet of snow on the ground. He pointed out they could only build for six months – May to October – whereas others in Reno could build year-round. He felt this should be reconsidered in the future.

Member Julian said she understood much of the foundation work had already been completed and the site was already under construction. Mr. Hash responded construction was done on the portions allowed by the TRPA. The TRPA permit gave permission to excavate up to five feet, though concrete could not be poured until the Washoe County permit was granted.

Member Ghishan asked whether the original conditions of approval would carry over, including a requirement to relocate a fire hydrant and address water meters. Mr. Hash explained that was no longer a requirement. However, the general improvement district asked the appellant to replace some water lines that ran into the building, which they did. He brought up that the requirement to install sprinklers had been adopted by the North Tahoe Fire Protection District after submission of the original plans, but the district relinquished that requirement and instead required them to install alarms.

Chair Thomas inquired whether the applicant was comfortable with the amendment to the hours mentioned by Planner Olander. Mr. Hash replied that would not be an issue for him or the contractor.

Public Comment:

There was no response to the call for public comment.

Board Discussion:

Member Thomas asked whether the applicant had met all the conditions approved on March 7, 2019. Planner Olander responded evaluation of the conditions was made during the building permit review process, and she had not yet signed off on the permit. Once the corrections were submitted, she would ensure the plans matched the proposal and that all conditions were met.

Member Julian asked whether staff would verify with Incline Village General Improvement District (IVGID) that all their conditions were satisfied before issuing a permit. Planner Olander said IVGID also received the building permit, so those agencies with purview over certain conditions were responsible for ensuring they were satisfied. It would be up to IVGID, for example, to determine whether or not a fire hydrant needed to be moved. Secretary Lloyd added that staff sent the action order with conditions to each reviewing agency, including IVGID, to provide comment.

Member Julian indicated she had visited the area and saw that the single-car garage was built in an area which blocked the view of a neighboring condominium. She inquired about County regulations which addressed obstructing views. Secretary Lloyd said those conditions were among the things staff considered at the time of the original variance. A neighboring property did not have ownership of a viewshed, he pointed out, and construction often blocked views. He said that would be considered as a potential negative impact, and that finding needed to be made during the review of the variance. He was sure that was addressed at that time.

Member Thomas recalled the applicant say that TRPA needed to sign off but, in his experience, that did not often result in an applicant needing to return to the Board of Adjustment (BOA). He summarized the history of the Board's initial denial, the overturning of the decision by the Board of County Commissioners (BCC), and the 2021 extension request. He said his choice to approve that extension request was predicated on the BCC's decision, though he later wished he had followed the BOA's guidelines and not the BCC's ruling. This, in addition to the Nevada Division of State Lands' opposition to the variance, made him conclude he should not support granting another extension.

Member Julian said she appreciated Member Thomas' perspective, adding that she did not understand why the BCC approved the matter. She agreed with Member Thomas' position.

Deputy District Attorney Large cautioned the Members that the issue before them was a one-year extension, and past decisions made by the BCC were not in their purview. They needed to consider whether they could make the findings under this one-year extension, and any motion made needed to reflect that.

Member Ghishan concurred with the comments about not understanding how the BCC could overturn the BOA's decision, but he said he could make the findings for the extension of time.

Member Ghishan moved to approve the Amendment of Conditions.

Member Thomas asked for clarification that the BOA's decision needed to be predicated on the five findings before them, which Mr. Large confirmed. Member Julian inquired whether decisions like this ever returned to the BCC for further consideration. Mr. Large replied this decision could.

Member Thomas listed the five findings. Mr. Large clarified that the item before the Board was whether they could make the findings that a one-year extension would not have an adverse impact on the surrounding properties. The previous conditions of approval regarding the project were not up for reconsideration.

Member Thomas stated granting the extension would allow the project to move forward predicated on the five findings. Mr. Large agreed it would move forward based on the findings that had previously been made.

MOTION: Member Ghishan moved that Amendment of Conditions Case Number WAC23-0007 for Greenview HOA be approved with the amended conditions included as Exhibit A to this matter, having made all five required findings in accordance with Washoe County Development Code Section 110.804.25. Chair Pierce seconded the motion, which failed on a 2-2 vote with Members Thomas and Julian voting no and Vice Chair Christensen absent.

Mr. Large indicated no action would be taken as the vote failed, and Secretary Lloyd recited the appeal procedure.

B. Amendment of Conditions Case Number WAC23-0008 (Lee Garage) – For hearing, discussion, and possible action to approve an amendment of conditions to amend condition 1(c) for Case Number WADMIN21-0002, to extend the requirement that the building permit shall be issued on or before June 8, 2025.

- Applicant / Property Owner: Brandon Lee
- Location: 15280 Kivett Lane
- APN: 017-123-22
- Parcel Size: 0.78 acres
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Southeast Truckee Meadows
- Development Code: Authorized in Article 306, Accessory Uses and Structures; and Article 808, Administrative Permits
- Commission District: 2 – Commissioner Clark
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3627
- Email: jolander@washoecounty.gov

Planner Julee Olander conducted a PowerPoint presentation and reviewed slides with the following titles: Request; map; Background; Site Plan; Evaluation and Amendment of Conditions (2 slides); Noticing; Reviewing Agencies & Findings; and Possible Motion for Amendment of Conditions. She noted the building permit had not yet been submitted and said the applicant was available by Zoom.

Questions for Staff and Applicant:

Member Julian referred to a letter in the staff report which mentioned a requirement for ignition-resistant class. She asked whether that was in regard to building materials, and whether that needed to be a part of the conditions. There was a discussion about the origin of that language, which Planner Olander responded was sometimes used but more as a comment than a condition.

However, the appropriate agency would need to review the building permit to determine whether the garage was in an appropriate location and if the correct irrigation class materials were used.

Planner Olander confirmed Member Ghishan's assertion that this request for was personal use, not commercial use.

Applicant Brandon Lee explained time had run out on the administrative permit and they needed more time to get the permit submitted. In response to Chair Pierce's query, he said the extension should provide plenty of time, adding they were ready to submit for permit.

Member Julian reiterated her question about the ignition-resistant class. Mr. Lee responded it was a metal structure, so he was unsure about that language. The garage was a kit which required assembly.

Public Comment:

There was no response to the call for public comment.

MOTION: Member Julian moved that Amendment of Conditions Case Number WAC23-0008 for Brandon Lee be approved with the conditions included as Exhibit A to this matter, having made all five findings in accordance with Washoe County Code Section 110.808.25: Consistency, Improvements, Site Suitability, Issuance Not Detrimental, and Effect on Military Installation. Member Ghishan seconded the motion, which carried on a 4-0 with Vice Chair Christensen absent.

2:15 p.m. The Board recessed.

2:20 p.m. The Board reconvened with Vice Chair Christensen still absent.

C. Special Use Permit Case Number WSUP22-0019 (Safe Embrace) – For hearing, discussion, and possible action to approve a special use permit to allow a group care facility for up to 25 occupants if connected to city sewer, or up to 18 occupants if utilizing the existing septic system. The regulatory zone of the parcel is Low Density Suburban (LDS) and a special use permit is required per Washoe County Code Table 110.302.05.2. The proposal also requests to modify the parking requirements in Washoe County Development Code Article 410 by not requiring any additional paved parking spaces or additional lighting in the parking area.

- Applicant / Property Owner: Safe Embrace
- Location: 1995 Ponderosa Drive
- APN: 026-422-14
- Parcel Size: 1 acre
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Development Code: Authorized in Article 304, Allowed Use, 322 Group Care Facilities & Article 810, Special Use Permits
- Commission District: 3 – Commissioner Garica
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3627
- Email: jolander@washoecounty.gov

Planner Julee Olander conducted a PowerPoint presentation and reviewed slides with the following titles or descriptions: Request; map; Mater Planning & Regulatory Zoning; Background

(2 slides); Background; map; Evaluation for SF & Occupancy; SF & Occupancy; Evaluation for Outdoor Space; Outside Areas; Building Characteristics & History; floorplan (2 slides); Utilities and Services; Landscaping; Front Yard Looking East...; Parking; three photos; Modifications – Parking; Modifications – Lighting; Neighborhood Meeting; Neighbor Concerns; Noticing; Reviewing Agencies; Amended Findings (2 slides); and Possible Motion.

Planner Olander provided a correction to the presentation that Alice Risley Elementary School was located to the west of the property and the church was to the east. She mentioned the square footages included in the presentation were provided by the applicant. She indicated the Board Members should have received copies of all emails sent to staff. The City of Sparks initially licensed the property's use as a facility group home, but that designation was removed and it was currently a group home; the language of the findings was changed to reflect this. She stated she and the applicant were available for questions.

Questions for Staff and Applicant:

Member Thomas inquired about the difference between a group home and a group care facility. Planner Olander explained the State allowed group homes in all neighborhoods with a maximum occupancy of 10; anything larger was considered a group care facility.

Member Thomas asked whether group homes were held to the same standard as residents with regard to the number of pets allowed. Secretary Lloyd responded that, according to Code, there was no limit on the number of domestic animals a resident could have as long as it didn't become a nuisance. Commercial kennels, he continued, required a special use permit (SUP). Deputy District Attorney Large added there were no restrictions in Washoe County Building Code, but there could be animal codes or other County codes which could impose a limit. In that case, Safe Embrace (SE) would have to comply just like every other individual. For instance, he understood an individual needed a permit to have more than three dogs. Member Thomas posited they might have to make a motion to ensure that SE complied with all applicable codes.

In response to Member Julian's query about the current occupancy of SE, Planner Olander said they currently could not have more than 10 residents.

Member Julian brought up a portion of the presentation which said 150 feet of space was required for every facility user, assuming that meant living space. However, she noted, the calculations included office space. She asked for clarification. Planner Olander said the section of Code referenced interior space, only disallowing bathrooms, garages, and hallways. The applicant calculated all interior space on the property eliminating those areas.

Member Thomas asked whether the garage conversion complied with Code. Planner Olander stated all building permits done on the property were finale, including the conversion of the attached garage, the four-bedroom addition, and the detached garage. Should this item be approved, she added, the applicant would need to obtain a new business license for the care facility. Inspections by the building, fire, and health departments, as well as the State, would be conducted through that process. Those agencies would then confirm that all conditions had been met. Referring to an earlier comment that a motion might be needed to confirm the applicant complied with Code, she said the proposals satisfied Code when they were finalized. The process was well-understood.

Member Thomas pointed out the garage may have been built to Code as a garage, but it might need to conform to different codes if residents lived in it. He clarified he was referring to both the attached and detached garages. Planner Olander explained the building was inspected at the time of conversion, and it was clear at that time that it was being converted. She believed the City of Sparks had purview at that time, and SE had a license as a care facility at that time. The building inspector who inspected it for the County, she continued, would have reviewed the conversion for

a care facility. She was unsure of whether that would apply for someone converting their garage for personal use.

Referring to Exhibit B in the staff report, Member Julian commented the engineering office questioned whether the indoor space was sufficient for 25 beds. She hypothesized that office space could be included in the total interior space calculation, but it would not be used to house beds. She asked whether staff reached out to the agency who regulated group facilities about this matter. Planner Olander replied the space requirement belonged to the County, not the State. Areas such as closets, hallways, and bathrooms were typically excluded because they were not considered living areas. She stressed the applicant's proposal was only for 18 occupants because they had not yet connected to sewer. Because this was a County Code requirement, she did not need to confirm anything with another agency. The facility had sufficient living space for 18 occupants without including the office space, though the approval left open the possibility of having 25 occupants if they were able to obtain a sewer connection through the City of Sparks.

Member Julian stated closets, hallways, and bathrooms had commonality with work spaces in that they did not accommodate living space. Planner Olander agreed, but said Code 110.322 did not specify the amount of bedrooms needed, only the amount of living space.

Member Ghishan asked for clarification about the timeline of the jurisdictions of and uses for the property. Mr. Large explained the expansion under the City of Sparks' sphere of influence (SOI) began in 2018, concluding in 2019. SE began operating with the full expansion after signoffs were completed. In 2020, the SOI changed, and since then SE was operating as a group home in accordance with a court order. He confirmed Member Ghishan's assertion that an SUP would be required under Washoe County Code to operate as a group care facility.

Member Julian noted that office and miscellaneous space constituted 1,000 square feet, so only 2,406 square feet was available for living space. Planner Olander reiterated that County Code did not eliminate office space from those calculations, only closets, hallways, garages, and bathrooms.

Chair Pierce sought confirmation that all building permits were completed and approved. Planner Olander confirmed the permits she found from 2002, 2006, 2019 were all finalized, and they all pertained to all additions to the house originally built in 1964.

Chair Pierce noted he drove past the location and the road in front of SE was torn up. He asked whether the damage had been caused by SE. Planner Olander responded it was an easement and not County public right-of-way ROW, so all property owners were responsible for maintaining the street. She said she had observed potholes all along the street.

Lisa Nash with Christy Corporation and Jennifer McMenemy, attorney for SE, introduced themselves. Member Thomas asked for clarification about the square footage issue. Ms. Nash said Code referenced interior space but did not specify livable space, so office space counted as livable space. A large portion of the building, including a playroom, was open to residents. She believed they met the interior space requirement, having excluded bathrooms, hallways, and garages.

Member Thomas inquired about an active neighborhood response program. Ms. McMenemy replied they had been working on a program to be more responsive, but it had not yet been implemented.

Member Thomas asked whether the program was previously supposed to be implemented as a way to regularly meet with residents to discuss potential issues. Planner Olander replied the program was included as part of the SUP, but at this point the building was a group home. Member

Thomas asked the applicant whether they had contact with the community or if they were waiting for approval. Ms. McMenemy said the applicant had recently offered monetary assistance to repair the road as the potholes ran all along the road. She admitted there was no formal neighborhood response program at this time. Additionally, there was a lawsuit pending, resulting in caution from both parties.

Member Julian wanted a further breakdown of the interior area, such as which areas were used for sleeping versus cooking. Ms. McMenemy said all residents slept in areas designated as bedrooms. She reminded the Board that 18 beds included children and infants; the shelter was designed to accommodate that many people. Ms. Nash explained there was a large, communal kitchen, small office spaces, and smaller areas where meetings could be held. Bedroom setups included bunk beds with double beds on the bottom, and some rooms had beds for four people. The detached garage was used primarily by staff but residents also had access. She said the large room included play equipment and computers. She described the bedrooms in the four-bedroom addition as larger with double bunk beds and private bathrooms. Each family had their own room.

Secretary Lloyd noted a neighborhood response program would be required before Washoe County would grant a license.

Member Thomas brought up the Engineering and Capital Project Report's conclusion that there was insufficient interior space to accommodate 25 beds. He asked what documentation was supplied to the applicant to support the County's opinion that that was not a concern. Planner Olander said the calculations were not originally provided, but she later forwarded that information from Ms. Nash to Christy Corporation to the author of the report, who later added a note to his comments. The Assessor's Office information conveyed the overall space, but calculations were needed on the interior space, which were not included in the original application.

Responding to Member Thomas' request for further clarity, Senior Engineer Janelle Thomas recognized there was likely a discrepancy between the Assessor's information and the actual construction figures. Planner Olander stated it was likely the result of a miscalculation by the Engineering department. Ms. Thomas agreed they were probably unaware of the second page of the Assessor's information, so the original number was probably based on partial square footage.

A brief discussion took place where it was determined the original square footage in 1964 was 2,131 square feet with an additional 650 feet of garage, and there was an additional 1,924 square footage. Planner Olander said the Assessor's information did not include the 1,000 square foot detached garage, which was not unusual for older parcels. Typically, the Assessor added in calculations after a permit was finalized, but that did not appear to be the case with this property.

Member Julian asked about the process for adding items discussed – such as hiring advocates to reside at the site during overnight hours and adhering to landscaping requirements – to the operational conditions listed in the staff report. Secretary Lloyd said each aspect would be handled differently. As for landscaping, the applicant would need to meet the stringent standards in the Development Code. The Board might want to consider adding elements such as limiting the number of dogs as a condition.

Member Julian asked how many employees staffed the facility at night. Ms. McMenemy said staff did not currently stay through the night, only the residents.

Secretary Lloyd reminded the Board it was in their purview to include additional conditions. The neighborhood response plan was also a Code requirement prior to approval of a business license.

Mr. Ghishan noted the findings had been amended to indicate that SE was not currently operating as a group care facility. He asked whether those findings could still be made. Planner Olander said the findings could be made as SE had housed that many individuals in the past. She reviewed the findings and why she believed each had been or would be met through the options suggested in the application. She added she received no recommendations for denial from any of the agencies who reviewed the plan, which she would have taken into consideration.

Chair Pierce pointed out current regulations allowed three dogs and seven cats; a variance permit would be needed for more. He could not find any citations for this location.

Public Comment:

Ms. Katie Knepper said SE did not do most of things they needed to when they operated as a group care facility, including neighborhood response and landscaping. She believed the application falsely describing the business as a group care facility for over 20 years when they were a group home, and the Planning Department's recommendations were based on that misrepresentation. She felt the application needed to be denied. She believed adjacent properties received no beneficial aspects from the SUP, and in fact SE's heavy equipment damaged the road. She pointed out Sparks' Code allowed this type of facility. She displayed pictures, copies of which were placed on file, showing the poor condition of the subject property.

Ms. Marvice Beutel thanked the Board Members for asking well-informed questions. She stated she objected to people who neglected animals. She expressed frustration about not being able to contact the advocate to lodge a complaint about a dog that barked for 90 days. She spoke about another incident where she approached SE employees about a neglected dog and was told the police would be called because she was trespassing. She said SE had no regard for neighbors, did not keep up their property, and were not willing to participate in repairing the road.

Mr. Mario Frugoli, who lived across from the building, believed SE did not regard the rules and regulations followed by other residents. He stated SE threatened to sue him and his wife for having a frame house even though their lot did not require brick construction. He expressed frustration about a car that was parked amongst tall weeds. He expressed distrust that SE would do what it pledged.

Ms. Samantha Gonzalez noted she lived at the end of Ponderosa Drive. She claimed that no neighbors received notice when the City of Sparks approved the permit, which was part of why litigation was filed. She felt the problems she had experienced in 22 years would be exacerbated if this was approved, and then listed many of those issues. The major reason they opposed the shelter was concern over safety, particularly because the shelter's address was not confidential. She thought the cameras that were installed were not useful because a child was able to go undetected to another property. She asked the Board to oppose the expansion for safety of the neighbors.

Via Zoom, Ms. Vickie DiMambro, Vice Chair of SE's Board of Directors, acknowledged SE had issues in the past, and their Board was constantly discussing ways to resolve them for the environment of the residents and the neighborhood. Despite being met with hostility, she said, they were dedicated to addressing concerns. She said those experiencing domestic violence often did not have an opportunity to escape, which was why more bed space was needed. Regarding comments about them moving to another place, she asked who would provide the funding to do so.

In Chambers, Mr. Bruce Snyder indicated he recently moved to Ponderosa Drive. He believed the litigation was a result of neighborhood input not being sought when the City of Sparks granted the permit. He said the courts rejected the building license and the certificate of occupancy. He expressed concern that the County did not give residents an opportunity to provide input and

about the square footage that SE was allowed to build. He claimed County Code required every house to have one covered parking space, but SE had converted their only space for interior use. He felt areas like the computer lab should not be able to be considered as living space. He noted the City of Sparks allowed two accessory dwellings to be used as living spaces, whereas the County only allowed one.

Board Discussion:

Member Thomas asked for clarification about the writ of mandamus issued by the court. Mr. Large said the writ required that Washoe County revoke SE's business license and the City of Sparks revoke the building permit and their approval of the expansion. That decision was stayed to allow the facility to run at pre-Code levels until either the litigation was concluded or the SUP for the property was issued. In response to an additional query by the Member, Mr. Large stated there was ongoing litigation with regard to the applicability of deed restrictions on the SE property, but no determination had been made at this time. He noted some of the legal avenues available to the County and the City of Sparks could occur at a future time.

Member Ghishan inquired about the certificate of occupancy. Mr. Large said that certificate was issued by Washoe County, but revoking it was not part of the mandamus relief.

Member Julian wondered whether the same living space criteria would be considered if this property were an STR. It seemed to her like 100 square feet was not sufficient for a family. She wondered whether the Board of Adjustment or even the Board of County Commissioners would approve an STR with a 25-person occupancy. She expressed concern both about the detrimental finding and about having 18 or 25 residents in a home with no nighttime employee supervision. She questioned the operation of the facility, citing their history of non-compliance. She expressed concern about a potential escalation of issues if occupancy were raised to 18 or 25.

Member Ghishan pointed out the writ of mandamus revoked the certificate of occupancy. Mr. Large said the order granting issuance of writ of mandamus designating what Washoe County and the City of Sparks needed to do; the County was ordered to revoke the business license. He stated Sparks never issued the certificate of occupancy.

Member Thomas opined the facility provided a vital community service, but others felt SE was unreceptive to the needs of the community. He said he was amenable to continuing as is but was reluctant to increase occupancy, partially because of the discrepancies in interior space and partially because of the ongoing litigation. He felt the proper course of action was to approve it as it currently was.

Member Pierce indicated he had driven past the location, and the property did not look much different than the neighboring properties; the pictures displayed earlier might have been outdated. He emphasized the importance of being a good neighbor. He said issues with dogs should be addressed by calling Animal Control. He thought hiring an advocate could alleviate some of the residents' concerns. Citing an earlier comment about the property not being confidential, he noted he searched the facility online and a location on Mill Street was the result, not the property on Ponderosa Drive. He expressed support for the application based on Planner Olander's calculations, though he wanted the footage to be verified.

MOTION: Member Thomas moved that Special Use Permit Case Number WSUP22-0019 for Safe Embrace to include varying the requested lighting and parking/paving requirements be denied, with the conditions included as Exhibit A to this matter, having not made all five amended findings in accordance with Washoe County Code Section 110.810.30, specifically Improvement and Issuance Not Detrimental. Member Julian seconded the motion, which failed on a 2-2 vote with Chair Pierce and Member Ghishan voting no and Vice Chair Christensen absent.

Mr. Large suggested a vote could be taken on a different motion or an impasse could be declared, and the SUP be denied, the latter of which was chosen. Secretary Lloyd recited the appeal procedure.

Member Thomas asked for confirmation that SE could continue to operate as a group home. Mr. Large said they would not even need a permit to operate as a group home, which was also established pursuant to litigation.

10. Chair and Board Items

A. Future Agenda Items

There were no future agenda items.

B. Requests for Information from Staff

Secretary Lloyd noted staff planned to host a training in September, and he asked the Members to respond to Administrative Secretary Supervisor Kathy Emerson with their availability on the proposed dates, which were included in an email. Deputy District Attorney Large suggested the Board possibly consider postponing those dates in light of potential future vacancies on the Board.

11. Director's and Legal Counsel's Items

A. Report on Previous Board of Adjustment Items

There were no reports, though Member Julian thanked Planner Olander for her work on a difficult day.

B. Legal Information and Updates

There were no legal updates.

12. Public Comment

There was no response to the request for public comment.

13. Adjournment

The meeting adjourned at 3:53 p.m.

Respectfully submitted by Derek Sonderfan, Independent Contractor

Approved by Board in Session on September 7, 2023



Trevor Lloyd
Secretary of the Board of Adjustment