

JAMES APPEAL OF THE JULY 27, 2022 ARCHITECTURAL STANDARDS COMMITTEE DECISION

BOARD OF DIRECTORS SPECIAL MEETING OCTOBER 11, 2022

APPEAL HEARING PROCEDURES

- Each hearing is scheduled for 30 minutes
- Staff provides summary staff report – 10 min
- Appellant states his/her case – 10 min
- Board asks questions of staff and appellant – 10 minutes
- The board will deliberate and act on the appeal in open session
- Appellant will receive written decision of the board within 10 days of the hearing

ARCHITECTURAL STANDARDS COMMITTEE DECISION

Did the Committee Act Accordingly?

- Procedures
 - Meeting Notice – Was the owner properly noticed of the meeting?
 - Meeting Proceedings – Did the committee follow submittal procedures and guidelines?
 - Decision Letter – Was a decision letter provided include appeal rights?

- Hearing Decision – Were the actions taken by the committee within their authority, consistent with rules, regulations, and practices, and fair and reasonable?

COMMITTEE PROCEDURES

Did the Committee Act Accordingly?

- Meeting Notice - Was the owner properly noticed of the meeting?
 - Meeting Notice to Owner – July 6, 2022
 - Neighbor Notification for Shed and Variance Request – July 6, 2022

- Meeting Proceedings - Did the committee follow submittal procedures and guidelines?
 - Committee reviewed plans and other submittal documents
 - Owner was provided time to speak to submittal
 - Committee discussed submittal and variance authorities
 - Committee deliberated, motioned and voted on matter

- Decision Letter – Was a decision letter provided include appeal rights?
 - Decision Letter – August 2, 2022 includes section of minutes, decision and appeal rights

COMMITTEE DECISION

Did the Committee Act Accordingly?

Submittal for unpermitted shed and variance request

Action 3:0 (Whitten, Phelps, Hipkins) The committee denied the variance and instructed the owner to move the shed at least 5 feet from the side property line.

COMMITTEE DECISION- SHED

Covenants and Restrictions – Article V section 6

Authority to approve and deny improvement projects so long as they meet provisions set forth in section 6.

Highlights of Section 6

- Owner's plans and specifications conform; construction will result in harmony with external designs and landscaping; will not interfere with any other neighboring properties' reasonable enjoyment of scenic and solar access
- "Will otherwise be consistent with the architectural and aesthetic standards"
- "Shall act reasonably and in good faith"

Improvement – Shed

- Allowable improvement
- Color – current color must match house
- Roof – committee considered undue hardship in requiring matching material
- Siding – must match house in material and color
- Windows and trim color – committee considered aesthetic and agreed that requiring red matching trim would make the shed stand out rather than blend in

COMMITTEE DECISION- VARIANCE

Covenants and Restrictions – Article V section 8

The Environmental Control Committee shall be entitled to allow reasonable variances in any procedures specified in this Article, the ECC Rules, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Owner-applicants.

Variance Request

- Side Setback
 - Shed sits less than 1 foot off the property line with entire structure within the 10 foot side setback.
 - Committee has the authority to approve variance into the 5-foot side setback if it believes the owner has demonstrated hardship.
- Public Utility Easement (PUE)
 - A PUE exists over the 5-foot side setback. The shed encroaches in this easement controlled by the Truckee Donner Public Utility District. TDA does not have the authority to approve encroachment on their easement without their abandonment or approval for encroachment.

APPELLANT APPEAL BASIS

Appellant does not believe the committee took into consideration;

- The mitigating circumstances that the project was completed during the Covid 19 pandemic;
- The lack of responsiveness of the Tahoe Donner ASO during the pandemic;
- The mistaken front left corner marker;
- The supply chain constraints; and
- The lack of resources for local business to do the work for the completion of the project.

Appellant states the impact of the committee's decision will result in unnecessary financial hardship.

RECOMMENDED ACTION

By Motion:

The board of directors deny the appeal made by the Owner of Unit 01, Lot 171 and uphold the July 27, 2022 decision of the architectural standards committee.