



## **RESOLUTION No. \_\_\_\_\_**

### **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

**RESOLUTION DENYING THE APPEAL FILED BY SCOTT MERRITT REGARDING THE BUILDING AND ACCESSIBILITY STANDARDS BOARD OF APPEAL'S AUGUST 29, 2019 DECISION TO UPHOLD THE DETERMINATION OF THE BUILDING OFFICIAL REGARDING PERMIT 181444 AT 16887 CHAMPION RD, NEVADA CITY (APN 004-151-088) REQUIRING ALL HORIZONTAL AND VERTICAL STRUCTURAL MEMBERS OF DECKS EXPOSED TO WEATHER TO BE OF MATERIALS THAT ARE NATURALLY RESISTANT TO DECAY OR PRESSURE TREATED**

WHEREAS, on June 27, 2018, Scott Merritt applied for a Building Permit (181444) to construct a residence and workshop with decking on his property located at 16887 Champion Rd, Nevada City in unincorporated Nevada County (APN 004-151-088); and

WHEREAS, on November 1, 2018, the Building Permit (181444) was approved and issued to the owner, Scott Merritt. Construction of the structure commenced; and

WHEREAS, on May 16, 2019, the Nevada County Building Inspector conducted a scheduled inspection of the insulation and underground utilities. During that inspection, the building inspector noted that the installed deck posts were not of materials naturally resistant to decay or pressure treated as per minimum code requirements and state law; and

WHEREAS, pursuant to Section R317.1.3 of the 2016 Residential Code: In geographic areas where experience has demonstrated a specific need, approved naturally durable or pressure-preservative-treated wood shall be used for those portions of wood members that form the structural supports of buildings, balconies, porches or similar when those members are exposed to the weather without adequate protection from a roof, eave, overhang or other covering that would prevent moisture or water accumulation on the surface or at joints between members; and

WHEREAS, on July 12, 2019, Appellant Scott Merritt filed a timely appeal of the Building Official's decision to the Building and Accessibility Standards Board of Appeals, and requested that the deck be allowed to remain as constructed; and

WHEREAS, on August 20, 2019, the Building and Accessibility Standards Board of Appeals denied the appeal and upheld the decision of the Building Official and a formal decision was provided to the appellant dated August 29, 2019; and

WHEREAS, on September 5, 2019, the Building and Accessibility Standards Board of Appeals provided additional information on the appeals process to the appellant. The appellant submitted an appeal to the Clerk of the Board on September 30, 2019; and

WHEREAS, on October 22, 2019, the Board of Supervisors held a duly noticed public meeting at which the Board adopted Resolution 19-583 to accept the appeal and schedule a public hearing for November 12, 2019; and

WHEREAS, on November 12, 2019, the Board of Supervisors held a duly noticed public meeting at which the Board considered all evidence both oral and written regarding the appeal and denied the appeal.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that it hereby finds and determines that:

1. The facts set forth above are true and correct.
2. The deck construction does not meet minimum California Building Standards Code requirements, state law, and issued set of construction plans.
3. The Appellant was provided multiple options to meet minimum California Building Standards Code requirements by the Building Department.
4. The Appellant was provided an opportunity to present his concerns at the public hearing of the Building and Accessibility Standards Board of Appeals but the appeal was denied.
5. These findings are supported by substantial evidence in the record, as detailed in this Resolution, in the appeal hearing before the Building and Accessibility Standards Board of Appeals, and as discussed at this hearing. That evidence includes but is not limited to the recommendation of staff of the County's Building Department, County Counsel, as well as the judgment of the Board of Supervisors.
6. The location and custodian of the documents, which constitute the record of these proceedings, is the Nevada County Building Department, 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal of the Appellant and upholds the decision of the Building and Accessibility Standards Board of Appeals regarding Building Permit 181444 at 16887 Champion Rd, Nevada City (APN 004-151-088), regarding R317.1.3 of the 2016 California Residential Code requiring all horizontal and vertical structural members of decks exposed to weather to be of materials that naturally resistant to decay or pressure treated.

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure section 1094.6.