

SEP 30 2019

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NEVADA COUNTY
BOARD OF SUPERVISORSCOUNTY OF NEVADA

(Attach pages if needed)

APPEAL TO BOARD OF SUPERVISORS

(Per Article 5 of Chapter II of the Land Use and Development Code)

NEVADA COUNTY
BOARD OF SUPERVISORScc: Bldg
Counsel

Any applicant or interested party may file an appeal with the Board of Supervisors requesting review of any final action taken by Various County Agencies. Such appeal shall be filed with the Clerk of the Board of Supervisors within **ten (10) calendar days** from the date of the decision, except for recommendations on general plan amendments which by State law are subject to a **five (5) calendar day** appeal period. Filing shall include all information requested herein and shall be accompanied by the appropriate filing fee. The statements (required below) must contain sufficient explanation of the reasons for and matters being appealed in order to facilitate the Board of Supervisors initial determination as to the propriety and merit of the appeal. Any appeal which fails to provide an adequate statement may be summarily denied. The filing of such an appeal within the above stated time limit shall stay the effective date of the action until the Board of Supervisors has acted upon the appeal.

I. APPEAL: I/We, the undersigned, hereby appeal the decision/recommendation of the

BUILDING DEPARTMENT
Agency Name

Agency File No.

Date of Decision

PLANNING AGENCY DECISIONS:

- ☐ Airport Zoning
L-III Airport Zoning; Truckee-Tahoe Airport, 2.12 Appeals; Nevada County Air Park, 3.10
- ☐ Environmental Impact Report
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.20 Appeals of the Adequacy of the EIR
- ☐ Floodplain Management Regulations (Floodplain Administrator)
L-XII Floodplain Management Regulations; 1.4 Administration
- ☐ Historic Preservation Combining District
L-II Zoning Regulations; Zoning Districts; 2.7.2 HP Combining District
- ☐ Inoperable Vehicles
L-II Zoning Regulations; Administration and Enforcement, 5.20 Abatement and Removal of Inoperable Vehicles
- ☒ Land Use Applications
L-II Zoning Regulations; 5.12 Administration and Enforcement
- ☐ Negative Declaration
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.12 Negative Declaration

Rules of Interpretation

L-II Zoning Regulations; 1.4 Rules of Interpretation Regarding:

PUBLIC WORKS DECISIONS:

Roadway Encroachment Permit

G-IV General Regulations; 4.A Regulating Roadway Encroachments;
15.1 Appeals

FIRE AGENCY DECISIONS:

Fee Assessments (Fire Protection District)

L-IX Mitigation and Development Fees; Fire Protection Development
Fees; 2.6 Appeal from Fee Assessment

Fire Safety Regulations; General Requirements (Fire Safety Reg. Hearing Body)

L-XVI Fire Safety Regulations; General Requirements; 2.7 Appeals

Fire Safety Standards (County Fire Marshal or Fire Chief)

L-V Buildings; 5.8 Fire Agency Appeals

ENVIRONMENTAL HEALTH DECISIONS:

Sewage Disposal (Sewage Disposal Technical Advisory Group)

L-VI Sewage Disposal; 1.18 Appeals

Water Supply and Resources (Health Officer)

L-X Water Supply and Resources; 5.1 Appeal Procedures

List All Agency Action(s) Taken That Are Being Appealed: _____

BUILDING DEPARTMENT

II. STATEMENT OF THE REASONS FOR THE APPEAL:

SEE ATTACHED SHEETS

III. STATEMENT OF THE SPECIFIC PROVISIONS WHICH ARE BEING APPEALED:

SEE ATTACHMENTS

IV. STATEMENT OF THE CHANGES OR ACTION REQUESTED OF THE BOARD OF SUPERVISORS:

SEE ATTACHMENTS

V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY THE APPELLANT(S):

SEE ATTACHMENTS

VI. IDENTIFICATION OF THE APPELLANT(S):

SCOTT MERRITT
(Name)



LOREN SWIFT MERRITT

SAME

VII. NOTICE: (Multiple appellants should select one representative for purposes of notice.

All notices to appellant(s) should be mailed to: (Please Print)

SCOTT MERRITT

(Name/Representative)

(Mailing Address)

(Telephone)

Appellant:

Scott Merritt

(Sign)

Dated: SEPT. 30, 2019

SCOTT MERRITT

(Print)

FOR OFFICE USE ONLY

1546.40

Filing Fee

9/30/19

Date Filed

Tine, COB

Received By

Appeal form to be returned to: Nevada County Board of Supervisors Office, Eric Rood
Administrative Center, 950 Maidu Avenue, Nevada City, CA 95959-8617. (530) 265-1480

September 30, 2019

NOTE:

We are filing this appeal after the stated deadline for the following reason:

When we were mailed the notice of the ruling by the Board of Appeals we were not given information on how to appeal the ruling.

A certified letter was sent to my post office box days later to explain the appeal process, but I did not receive a phone call or email to alert me that it was sent.

I do not check my PO Box often, and when I did see the notice of a certified letter to pick up it was a few days before I could get to the post office during their business hours to do that.

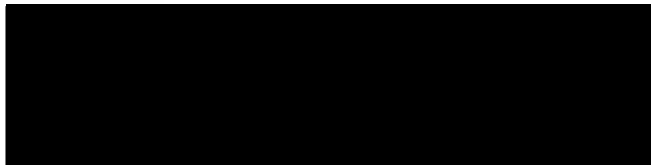
I picked up the letter last week, September 23, to find the period for filing the appeal had lapsed. I asked the Clerk of the Supervisors how to address our desire to appeal the ruling, again made more complicated because I had to be out of town until today. I was told to include this explanation along with my application for the Appeal to the Supervisors.

So I am asking that my appeal be accepted and processed as if the notice to me had been sent when it was supposed to be because we would have acted on it immediately.

Thank you,



Scott Merritt



APPEAL TO THE BOARD OF SUPERVISORS

II. STATEMENT OF THE REASONS FOR THE APPEAL:

- The vote was called for without giving me an opportunity to make a closing statement to summarize and concisely explain or clear up confusion or misunderstandings. I had been told that I would have that opportunity.
- The process of the hearing was not explained well, and the result was that I was confused by the proceeding and was not prepared as I would have if I was experienced with how the Board worked. I had the impression that it would be an open discussion involving the Board members, the Building Department Chief, and myself, pursuing solutions.

III. STATEMENT OF THE SPECIFIC PROVISIONS WHICH ARE BEING APPLIED:

- We are asking that California Residential Code, Section 317.1.4 be applied to the deck structure that is completed on our new house, built according to plans. The Chief Inspector of the Building Department does not accept this, insists on applying California Residential Code, Section 317.1.1. This code references that the local jurisdiction can make a determination based on geographical location to rule that all components of the deck be pressure treated.
- The only difference between the two codes as they apply to our construction is regarding the deck posts. The code applied by the Chief Inspector calls for pressure treated or 'decay resistant' material. The 36 posts that are installed are Structural Grade Douglas Fir. Even though they are graded as more structurally sound than the approved materials, having tighter grain and being painted, they are not approved of by the Department Chief.
- According to the code we want to have applied, the posts are not required to be pressure treated because they are elevated above the ground, are on stand-off post bases, and the concrete piers (will be) surrounded by concrete once the slabs are poured. In addition, the posts are covered with a cap rail. And painted. The As-Built construction meets every concern for meeting the weather related issues.

IV. STATEMENT OF THE CHANGES OR ACTION REQUESTED OF THE BOARD OF SUPERVISORS:

We request that the deck be approved as built, meeting 317.1.4 explicitly.

V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY THE APPELLANTS:

* The only parts of the deck that are not pressure treated are the posts, which are tight-grained Douglas Fir that have been painted, with a top railing of cedar, (an approved 'rot resistant' material), totally protecting the cut end of every post. The posts are all on metal 'stand-off' bases, ensuring against water absorption. This construction meets the building code that we are asking to be applied in this case. It is the code that is applied by the Building Department here only because of a higher risk of wood decay in our band of elevation, and the concerns that his preferred code addresses have been met to ensure that decay is essentially eliminated as a possibility.

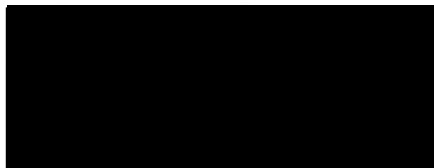


**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
BUILDING DEPARTMENT**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-8794 www.mynevadacounty.com

**DECISION BY THE BUILDING & ACCESSIBILITY STANDARDS BOARD OF
APPEALS**

September 5, 2019



Re: Follow-up to Appeal of Determination by Building Official
17688 Champion Road, Nevada City, CA 95959
Permit: 181444

Dear Mr. Merritt:

On August 29, 2019 a decision letter was emailed to you regarding the above appeal. The letter did not have information for you regarding your rights to an appeal of that decision.

Nevada County Land Use and Development Code Section L-II 5.12-5.15 addresses appeals of land use applications. These sections provide the procedure for appeals of agency decisions to the Board of Supervisors, instructing appellants to use an official form provided by the Clerk of the Board.

The Clerk of the Board's webpage "Land Use Appeals" provides guidance for "Board review of any final action taken." If you want to exercise your option to appeal to the Board of Supervisors, the Clerk's office can provide you further information on the appeal process, or at their webpage: <https://www.mynevadacounty.com/878/Land-Use-Appeals>.

Although the decision on your matter is final, because you were not provided notice of the process to appeal in your decision letter, your time to appeal will begin on today's date.

A handwritten signature in black ink, appearing to read "Andrew Pawlowski", is located above the typed name.

Andrew Pawlowski
Chair
Nevada County Building & Accessibility Standards Board of Appeals

cc: Craig Griesbach, Chief Building Official

* The California Residential Code has conflicting codes, where either could be applied in this case. That the Building Department was to apply the code that called for the posts to be pressure treated was not made clear from the plan check. We would have had no argument with changing the post material if we knew the Building Department insisted on it. There were no notations on the plans by the architect indicating that the posts were to be pressure treated, and our feeling is that it should have been highlighted and emphasized by the Plan Checker due to the conflicting codes.

* We had the framing inspection with no mention made by the field inspector that the posts were not in compliance. It was a week later when a different inspector came out for a trench and insulation inspection, (when that inspector chose to review the previous inspector), coming up with this post issue. Meanwhile, we completed installing the deck boards and had the deck posts painted. This raised the question of, "How many times are we subject to review of previously 'passed' inspections of the job"?

* Mr. Griesbach has offered that a mitigation he would approve is to cover the deck with a roof that is even with the edge of the deck. I think that a roof that is built even with the edge of the deck provides absolutely no additional protection against the elements than the protections that are already in place. It is absurd to think that a roof that is 8 feet above the deck is going to protect posts from the elements. It leaves the impression that he has no interest in finding reasonable solutions that actually work to meet the intent of the Residential Code, that he is more interested in his personal desire to have 'consistency' with his application of the codes. I respect his desire for that goal, but a policy of 'no exceptions' does not serve the public fairly.

* This deck is extremely well built, done with the intention that it will be durable and serviceable for 20 years or more. It is our retirement home, and we intend to pass it on to our children. If the home ever was sold there would be a Pest Inspection, which would discover any weather related decay and be addressed at that time.

* We have estimates of doing the work to replace the posts running \$40,000 and up. And if the work is done we have concerns that the overall integrity of the structure will inevitably be compromised to some degree by the partial demolition and rebuild. Also, within the industry, it is widely recognized that the grade of Douglas Fir used for pressure treating is inferior to the Structural grade that we used on this deck.

* In summary, the choices that Mr. Griesbach offers to meet his demand do nothing towards making the deck safer or less subject to weather related damage, and the cost of replacing the deck posts is an unreasonable demand, inappropriate, and unnecessary from a safety and durability standpoint.

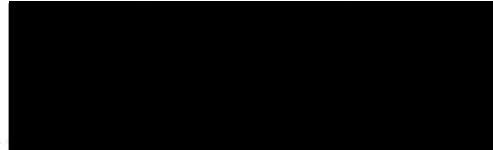


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Andrew Pawlowski
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