



RESOLUTION No. 19-583

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION MAKING FINDINGS, ACCEPTING THE APPEAL FILED BY SCOTT MERRITT FROM THE DECISION OF THE BUILDING & ACCESSIBILITY STANDARDS BOARD OF APPEALS TO DENY ISSUING A CERTIFICATE OF OCCUPANCY (PERMIT 181444) FOR THE RESIDENTIAL PROPERTY LOCATED AT 16887 CHAMPION ROAD, NEVADA CITY, CA 95959 (APN 004-151-088); AND SCHEDULING THE APPEAL FOR A PUBLIC HEARING

WHEREAS, on August 20, 2019, the Building & Accessibility Standards Board of Appeals ("BASBA") considered and denied an appeal issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088); and

WHEREAS, Section L-V 2.1 Section 113.1 of the Nevada County Land Use and Development Code as it relates to BASBA is silent as it relates to the issue of appealing BASBA rulings; and

WHEREAS, pursuant to Section L-II 5.12.B of the Nevada County Land Use and Development Code, the Board of Supervisors may use the provisions of such article in conducting public hearings on land use matters; and

WHEREAS, pursuant to Sections L-II 5.12.D of the Nevada County Land Use and Development Code, BASBA's decision is appealable to the Board of Supervisors within 10 days after the date of the decision; and

WHEREAS, a notice informing the Appellant, Scott Merritt ("Appellant") of BASBA's determination to deny issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088) was sent to the Appellant on August 29, 2019 which did not include information regarding appeal rights; and

WHEREAS, a Notice to Appeal was submitted to the Appellant on September 5, 2019 informing the Appellant of the right and procedures to appeal the decision of BASBA; and

WHEREAS, Appellant Scott Merritt did not receive such notice until September 23, 2019 via certified mail filed an un-timely appeal of the BASBA's decision; and

WHEREAS, Appellant filed his appeal on September 30, 2019 which included an explanation as to why the appeal was not filed timely due to him not receiving the notice until September 23, 2019; and

WHEREAS, pursuant to Section L-II 5.12.G of the Nevada County Land Use and Development Code, the Board of Supervisors shall determine if the appeal was filed within the applicable time limits and shall summarily reject an appeal that is filed beyond the time limits prescribed; and

WHEREAS, the Appellant expressed a clear desire and intent to appeal the decision of BASBA and did file an appeal within 10 days from the date the Appellant received the certified mail Notice to Appeal on September 23, 2019; and

WHEREAS, this is a unique situation in which the BASBA appeal rights were not clearly stated, providing due process to Appellant by accepting his late appeal is recommended by staff in the interest of fairness.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada that:

1. Appellant is an interested party who has standing to appeal the Building & Accessibility Standards Board of Appeals' determination to deny issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088), and
2. While appellant's appeal of the Building & Accessibility Standards Board of Appeals' denial of the Certificate of Occupancy was not filed within 10 days of the decision, it was filed within 10 days of receiving notice of the appeal rights via a certified mail notice of the appeal and, in this unique situation, the appeal is deemed to be timely pursuant to Section L-II 5.12.D of the Nevada County Land Use and Development Code, and
3. The contents of the appeal satisfies the minimum requirements set forth in Section L-II 5.12.F of the Nevada County Land Use and Development Code which include identification of the project and decision being appealed, statement of the reason for the appeal, statement of the specific provisions being appealed, statement of the action being requested, summation of the arguments being raised and identification of the appellant, and
4. Appellant's appeal of the Building & Accessibility Standards Board of Appeals determination to issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088) is hereby accepted in the interest of fairness by the Board of Supervisors and the Clerk of the Board is directed to schedule a Public Hearing on this appeal on November 12, 2019 at 10:30 a.m. at the Nevada County Board Chambers at 950 Maidu Avenue, Nevada City, CA 95959.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 22nd day of October, 2019, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Richard Anderson, Chair