



DEPARTMENT OF HEALTH AND HUMAN SERVICES





Cody Phinney, MPH Administrator

Ihsan Azzam, Ph.D., M.D. Chief Medical Officer

NOTICE OF PUBLIC HEARING

JESSICA STRANGE MASON 1, LLC, 3420 DUANE DRIVE, FALLON NV 89406 IS REQUESTING A VARIANCE, #752, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN that JESSICA STRANGE OF MASON 1 LLC, 3420 DUANE, FALLON, NEVADA 89706 has requested a variance from Nevada Administrative Code (NAC) 444.790 "Lot Size".

A public hearing will be conducted on SEPTEMBER 1, 2023, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held in person and online.

Meeting Locations:

- Southern Nevada Health District (SNHD)
 Red Rock Trail Rooms A and B
 280 S. Decatur Boulevard; Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)
 Hearing Room No. 303, 3rd Floor
 4150 Technology Way; Carson City, Nevada 89706

Join from a computer using the Microsoft Teams meeting link:

https://teams.microsoft.com/l/meetup-

join/19%3ameeting_N2E0OWNkNzUtNGU2NC00NjJjLTk0NTEtODRmZDlyZjFhNjRl%40thread.v2/0?context =%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22faba961c-6d7e-488b-8c7c-60c19eff2cbd%22%7d

Join by Phone:

1-775-321-6111

Phone Conference ID Number: 196 838 95#

JESSICA STRANGE OF MASON 1, LLC., 3420 DUANE DRIVE, FALLON NEVADA 89406, is requesting a variance from NAC 444.790 which states:

NAC 444.790 Lot size. (NRS 439.200, 444.650)

1. A minimum area of 1 acre (43,560 square feet), including public streets and alleys or other public rights-of-way, lands or any portion thereof abutting on, running through or within a building site, is required for the installation of an individual sewage disposal system on a lot served by a well.

- 2. For a lot that is a part of a tentative map that is approved before January 1, 2000, a minimum area of 1/4 acre (10,890 square feet), including public streets or alleys or other public rights-of-way, lands or any portions thereof abutting on, running through or within a building site, is required for the installation of an individual sewage disposal system on a lot served by a community water supply.
- 3. For a lot that is part of a tentative map that is approved on or after January 1, 2000, a minimum area of 1/2 acre (21,780 square feet), including public streets or alleys or other public rights-of-way, lands or any portions thereof abutting on, running through or within a building site, is required for the installation of an individual sewage disposal system on a lot served by a community water supply.

[Bd. of Health, Indiv. Sewage Disposal Systems Reg. Note, eff. 1962; A and numbered as §§ 7.1-7.3, 11-23-72]—(NAC A 10-22-93; R129-98, 3-25-99; R100-07, 10-31-2007)

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health Division of Public and Behavioral Health 4150 Technology Way, Suite 300 Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/



Director



DEPARTMENT OF HEALTH AND HUMAN SERVICES





Cody Phinney, MPH Administrator

Ihsan Azzam, Ph.D., M.D. Chief Medical Officer

MEMORANDUM

DATE: September 1, 2023

TO: Jon Pennell, DVM, Chairperson

State Board of Health

FROM: Cody Phinney, Secretary

State Board of Health

RE: Case #752, Ms. Jessica Stanger, Mason 1 LLC

Nevada Administrative Code (NAC) 444.790(1) states:

"A minimum area of 1 acre (43,560 square feet), including public streets and alleys or other public rights-of-way, lands or any portion thereof abutting on, running through or within a building site, is required for the installation of an individual sewage disposal system on a lot served by a well."

STAFF REVIEW

Variance applicant Ms. Jessica Strange, Mason 1 LLC ("Applicant") submitted a request for a variance from the requirements of NAC 444.790(1) on October 24, 2022. The Applicant is requesting approval to install an Individual Sewage Disposal System on an unimproved lot. The lot in question is a total area of 0.51 acres. NAC 444.790(1) requires a minimum of 1 acre for an ISDS on a lot served by a domestic well.

Many of the lots surrounding Ms. Stranges' property are between 0.5 acres to 1 acre. Four parcels within the immediate area do not contain any septic systems. There is a 10.32-acre parcel to the west and a 30.13-acre parcel to the northeast does not have any septic systems. Which creates a significant area of low density.

A variance was granted to this parcel on March 4, 2004, Case #491 with the same circumstances.

DEGREE OF RISK TO PUBLIC HEALTH

There is little to no risk to public health in allowing the applicant to replace her septic tank. The system would be installed in an area where there is a low density of existing septic systems.

EXCEPTIONAL AND UNDUE HARDSHIP

The strict application of NAC 444.790(1) would require the Applicant to abandon their property. Compliance with the regulation in this case is unduly burdensome given that many similar lots have been improved with a well and septic, therefore the burden of enforcement for this individual versus the others would be unfair and inequitable.

PUBLIC COMMENT RECEIVED

Notice of the hearing is scheduled to be posted on the Division of Public & Behavioral Health website at http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/ and at the 4150 Technology Way Office in Carson City, NV 89706 by August 11, 2023 by 5:00 pm. The Division of Public & Behavioral Health is not aware of any objections to this variance by any local authorities, and no public comments have been received to date.

STAFF RECOMMENDATION

DPBH staff recommend the State Board of Health approve Case #753, Jessica Strange, Mason 1 LLC, request for a variance to NAC 444.790(1) without conditions.

PRESENTER

Teresa Hayes, Health Program Manager 3, Environmental Health Section

ATTACHMENTS

1. Proposed Plot Map

NEVADA STATE BOARD OF HEALTH DIVISION OF PUBLIC AND BEHAVIORAL HEALTH 4150 Technology Way, Suite 300

CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the app	ropriate box that pertains	to the NAC	for which you a	re reques	sting a variance.
Division Admi (NAC 439, 441)		Health Care Quality & Compliance (NAC 449, 457, 459 & 652)			
Child, Family & Community Wellness (NAC 392, 394, 432A, 439, 441A, & 442)			Health Statistics, Planning, Epidemiology and Response (NAC 440,450B, 452, 453, 453A, & 695C)		
	& Clinical Services 4, 446, 447, 583, & 585)				
Date: 5/18/2023					
Name of Applicant:	Mason 1, LLC		Phone:	775-74	5-6601
Mailing Address:	3305 US Highway 50 A	4			
City: Fernley	State:	NV	Zip:	89408	
We do hereby apply for chapter/section Administrative Code (N	a variance to AC). (For example: NAC 4	444.7 49.204)	90 (1) Lot Siz	e	of the Nevada
Title of section in question:	Lot Size				
Statement of existing or Parcel is less than of	proposed conditions in violone acre.	ation of the	NAC:		
					-

NEVADA STATE BOARD OF HEALTH

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH 4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Date of initial operation (if existing):
ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:
Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))
 The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that: (a) There are circumstances or conditions which:
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)
Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.
Statement of degree of risk of health Will need water to build a house on the lot.

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APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

		And the state of t
1. An e	xceptional and undue hardship results	from a strict application of the Regulation:
Bought the	e lot with the intent to build a ho	ouse. We were advised that the well could be
		otic tank had to be 100' from well. The lot is
98' x 205'.		
2 77		
	variance, if granted, would not:	
	Cause substantial detriment to the publi	
The well w	ill be a minimum 100' from the	proposed septic (see plot plan). The septic on
the propert	ty to the west is over 300'. Prop	perty to the east is similar in distance.
B. In	mpair substantially the purpose of the	regulation from which the application seeks a variance.
The bureau mapplication:	ay require the following supporting do	ocuments to be submitted with and as a part of this
1.	Legal description of property concerned	APN 010-104-07; Lot 42 Marvel Vista
	Subdivision	
_ 2.	General area identification map	

NEVADA STATE BOARD OF HEALTH DIVISION OF PUBLIC AND BEHAVIORAL HEALTH 4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

-	_ 3.	Plat map showing locations of all pertinent items and appurtenances
	_ 4.	Well log (if applicable)
	_ 5.	Applicable lab reports
	_ 6.	Applicable engineering or construction/remodeling information
	₋ 7.	Other items (see following pages)
or more a supporting and recon	ns or sp after re g docu nmenda	must be accompanied by evidence demonstrating the costs of your compliance with becific statutory standards. Your request will be placed on the Board of Health agenda 40 days ceipt in this office if accompanied by the required fee (NAC 439.210). The application and mentation will form the basis for the Division of Public and Behavioral Health staff report ation(s) to the Board. Failure to respond to the above statements may cause the Board to deny the application at the requested Board meeting.
Please sch	nedule	this hearing during:
V T	he next	t regularly scheduled Board of Health meeting, regardless of location.
T	he next	scheduled meeting in Carson City.
TI	he next	scheduled meeting in Las Vegas.
		Signature:
		Printed Name: Jessica Stanger
		Title: Member

Date:

Duane Dr 3420 Wise -981 -The Neighbors Well Hse 20-90'-2/00 A 5 PT C Part. SC 305/ 1847

* Previously Approved Variance*

BEFORE THE STATE BOARD OF HEALTH

IN THE MATTER OF)
Ms. Cathy Wise)
VARIANCE REQUEST: CASE #740)

The Nevada State Board of Health ("Board"), having considered the application for a variance and all other related documents submitted in support of the application in the above-referenced matter, makes the following Findings of Fact, Conclusions of Law, and Decision.

FINDINGS OF FACT

- On October 24, 2022, the Division of Public & Behavioral Health ("Division") received a request for a variance from NAC 444.790(1).
- 2. NAC 444.790(1) states: "A minimum area of 1 acre (43,560 square feet), including public streets and alleys or other public rights-of-way, lands or any portion thereof abutting on, running through or within a building site, is required for the installation of an individual sewage disposal system on a lot served by a well."
- 3. Ms. Wise is requesting to construct a new septic system on an unimproved lot. NAC 444.790(1) requires a minimum of 1 acre for a septic system on a lot that is served by a well. The majority of the lots surrounding Ms. Wises' property are between 0.5 acres to 1 acre. Four parcels within the immediate area do not contain any septic systems. There is a 10.32-acre parcel to the west and a 30.13-acre parcel to the northeast do not have any septic systems. Which create a significant area of low density.
- 4. Ms. Wises property and those immediately adjacent have acceptable distances from well and septic to place the new septic system so there are not expected to be any negative impacts to public health based on the location of the well relative to the property.

- 5. A variance was granted to this parcel on March 4, 2004, Case #491 with the same circumstances.
- 6. Compliance with the regulation in this case is unduly burdensome given that many similar lots have been improved with a well and septic, therefore the burden of enforcement for this individual versus the others would be unfair and inequitable.
- 7. Granting the variance in this case would not be detrimental to or pose a risk to public health.

CONCLUSIONS OF LAW

- 1. This matter is properly before the Board pursuant to NRS 439.200 and determination of the matter on the merits is properly within the subject matter jurisdiction of the Board.
- 2. NRS 439.200(3) provides:

The State Board of Health may grant a variance from the requirements of a regulation if

- (a) A strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and
- (b) The variance, if granted would not:
 - (1) Cause substantial detriment to the public welfare; or
 - (2) Impair substantially the purpose of the regulation.
- 8. The Board finds that strict application of the regulation would cause an undue hardship. Strict application of NAC 444.790(1) would impair Ms. Wise' ability to build on the parcel and the lot would have to be abandoned. Compliance with the regulation in this case is unduly burdensome given that many similar lots have been improved with a well and septic, therefore the burden of enforcement for this individual versus the others would be unfair and inequitable.
- 3. The Board finds that granting this variance would not cause substantial detriment to the public welfare or impair the purpose of the regulation substantially.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing, therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Variance Request: Case #740, waiving the strict application of NAC 444.8301(5), be GRANTED.

DATED this 2nd day of December , 2022.

Lisa Sherych, Executive Officer Nevada State Board of Health

CERTIFICATE OF MAILING

I hereby certify that I am employed by the Department of Health & Human Services, Division of Public & Behavioral Health, and that on the 13th day of December, 2021, I served the foregoing FINDINGS OF FACTS AND DECISION by mailing a copy thereof to:

Cathy Wise

C/0 Jordan Wise

672 Brinkby Avenue, Apt 1609

Reno, Nevada 89509

Teresa Hayes, EHS Program Manager