



Memorandum

Date: May 27, 2021

To: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

From: Robert Fyda, PE, REHS, *Environmental Health Engineer/Supervisor*
Herbert Luis Sequera, REHS, *Environmental Health Manager* *HLS*
Chris Saxton, MPH-EH, REHS, *Environmental Health Director* *CS*
Fermin Leguen, M.D., MPH, *Acting Chief Health Officer* *FL*

Subject: Variance Request for an Application to Construct a Septic System located at 2177 Via Spes Nostra St., Mount Charleston, Nevada with the following provisions: 1) allow installation of a septic system on an undersized lot; and 2) allow a reduced property line setback.

I. BACKGROUND:

Anthony Viacava, Owner ("Petitioner"), is requesting a variance to permit and install an individual sewage disposal system (ISDS) on an undersized lot ("Subject Property") served by municipal water, located at Assessor's Parcel Number (APN) 129-02-410-011, also known as 2177 Via Spes Nostra St., Mt. Charleston, NV 89124.

Petitioner requests a variance from Section 5.1 of the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management* ("SNHD ISDS Regulations"), which states that "no septic tank or soil absorption system shall be located within ten feet (10') of any property line." Petitioner proposes reducing this setback to five feet (5').

Petitioner further requests a variance from Section 11.20.2 of the SNHD ISDS Regulations, which requires a minimum lot size of 0.25 acre for the installation of an ISDS on a lot served by municipal water. The Subject Property has an area of approximately 0.18 acres.

Petitioner states the following with regards to these requirements:

1. There must be circumstances or conditions which are unique to the petitioner, and do not generally affect other persons subject to the regulation:

"Requesting for 5' set back (Regulation 5.1) to install ISDS for single family home. Property is located in Lee Canyon, Mt. Charleston with no sewage system in community of 'Camp Lady of the Snows.'"

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

"All family homes in 'Camp Lady of the Snows' are to be on ISDS due to no community sewage. This property's square footage is 7869 in total. Variance approval is requested due to (Regulation 11.20.2) with the minimum property S.F. is 10,900 S.F. Building permits for family home will not be issued until approval of ISDS on this property."

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:

"The variance approval and installation of a ISDS will ensure the health and safe living conditions for a single family home. Granting the variance approval and installation of ISDS will allow building permits to be given so construction on this property may begin."

II. RECOMMENDATION:

The Subject Property is depicted in Attachment C as Lot 9 of Block 1 of the recorded subdivision known as Camp Lady of the Snows, which was approved in 1959. The existing subdivision was created prior to the adoption of the current SNHD ISDS Regulations in 2009 and no changes to the Subject Property have been recorded. There are three (3) existing public water system wells located downgradient and an additional well located upgradient within thirteen hundred feet (1300') of the proposed ISDS. The Subject Property is also located in an area with a moderate density of existing ISDS; there are 53 lots with an active, traceable ISDS permit within one square mile of the property boundaries.

The Subject Property has an area of approximately 0.18 acres, which is smaller than the minimum lot size of 0.25 acres required by the SNHD ISDS Regulations. Lot size variances have been approved for other properties in the Camp Lady of the Snows subdivision, many of which are smaller than 0.18 acres. The proposed ISDS will be five feet (5') from the closest property line, where ten feet (10') minimum separation is required by the SNHD ISDS Regulations. A five-foot

(5') property line setback has been approved for other undersized lots in Mount Charleston.

Staff is of the opinion that granting the variance would not endanger public health or safety. Staff recommends approval of the variance. If the Board of Health approves the variance, staff recommends approval with the following conditions outlined in Section III.

III. CONDITIONS:

1. Petitioner will submit a Cone of Influence letter signed by a State of Nevada registered professional engineer stating the separation distance and that the stress influence of the building foundation will not adversely affect the septic tank and the stress influence of the septic tank will not adversely affect the building foundation.
2. The applicants and their successor(s) in interest shall abide by all local governmental regulations requiring connection to community sewage systems. Use of the ISDS shall be discontinued and the structure it serves shall be connected to any community sewage system constructed in the future to within four hundred feet (400') of the applicants' property line when connection can be made by gravity flow and the owner(s) are notified and legally required to do so.
3. The applicants and their successor(s) will abide by the operation and maintenance requirements of the most current SNHD regulations governing individual sewage disposal systems.
4. Construction of the ISDS must be commenced within one (1) year of the date hereof. If the construction has not been commenced within that period, this variance shall automatically expire and be of no further force and effect, unless application is made and approved for an extension of time prior to the expiration date by the applicants or the applicants' successor(s) in interest.

Attachments:

- A. Variance Candidate Application
- B. Justification Letter
- C. Camp Lady of the Snows Subdivision Map
- D. Proposed ISDS Plan
- E. Percolation Test
- F. Public Notice



VARIANCE CANDIDATE WORKSHEET

PART I:

ESTABLISHMENT INFORMATION

Name of Facility/Establishment: ANTHONY VIACAUA
Health Permit Number: OND033129 Date of Inquiry: 3-26-2021
Name of Operator/Agent: ANTHONY VIACAUA
Address of Operator/Agent: 8112 VILLA FREESTRA DR.
Contact Information of Operator/Agent:
Office Phone: _____ Cell Phone: 702-545-5876
Fax Number: _____ Email Address: VIACAUAANTHONY@YAHOO.COM
If corporation, the name/title of individual to sign for Variance document:
Name: _____
Title: _____

OWNER INFORMATION

Name of Property Owner: ANTHONY VIACAUA / JULIE VIACAUA
Address of Property Owner: 2177 VIA SPES NOSTRA ST.
Contact Information of Property Owner:
Office Phone: _____ Cell Phone: 702-545-5876
Fax Number: _____ Email Address: VIACAUAANTHONY@YAHOO.COM

PROPERTY INFORMATION

Property Address: 2177 VIA SPES NOSTRA ST.
Assessor's Parcel Number (APN): 129-02-410-011
Describe location within larger facility (i.e. hotel/casino/resort, etc.):
PRIVATE PROPERTY LOCATED IN LEE CANYON, MT. CHARLESTON
0.18 ACRE LOT AT CAMP LADY OF THE SNOWS.

Describe Variance Issue (s): (Include sections of the Regulation or Nevada Administrative Code that applies to the request for a variance)

(REGULATION 11.20.2) THIS PROPERTY HAS A TOTAL OF
7869 SQUARE FOOTAGE IN TOTAL. THE MINIMUM REQUIRED
IS 10,900 SQUARE FEET. PROPERTY IS ON COMMUNITY WELL
(REGULATION 5.1) WE WILL NEED TO USE 5' SET BACK
FOR ISDS TO PROPERTY LINE, WHERE A 10' SET BACK IS
NORMALLY REQUIRED.

Attachment A: Variance Candidate Application (Page 2 of 3)

PART II:

Nevada Administrative Code 439.240 states in general that certain conditions or circumstances must be shown to exist in order for a Board of Health to approve a request for a Variance from adopted public health regulations. A variance application letter (as noted below in PART III) MUST specifically address each of the following issues:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation. Please indicate how your request is unique to your situation and is, therefore, not likely to affect other persons subject to the regulations:

REQUESTING FOR 5' SET BACK (REGULATION 5.1) TO INSTALL
ISDS FOR SINGLE FAMILY HOME.
PROPERTY IS LOCATED IN LEE CANYON, MT. CHARLESTON
WITH NO SEWAGE SYSTEM IN COMMUNITY OF "CAMP LADY OF
THE SNOWS."

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

ALL FAMILY HOMES IN "CAMP LADY OF THE SNOWS" ARE TO BE
ON ISDS DUE TO NO COMMUNITY SEWAGE. THIS PROPERTY'S
SQUARE FOOTAGE IS 7869 IN TOTAL. VARIANCE APPROVAL IS REQUESTED
DUE TO (REGULATION 11.20.2) WITH THE MINIMUM PROPERTY S.F.
IS 10,900 S.F.
BUILDING PERMITS FOR FAMILY HOMES WILL NOT BE ISSUED
UNTIL APPROVAL OF ISDS ON THIS PROPERTY.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:

THE VARIANCE APPROVAL AND INSTALLATION OF A ISDS
WILL ENSURE THE HEALTH AND SAFE LIVING CONDITIONS
FOR A SINGLE FAMILY HOME.
GRANTING THE VARIANCE APPROVAL AND INSTALLATION OF ISDS
WILL ALLOW BUILDING PERMITS TO BE GIVEN SO CONSTRUCTION
ON THIS PROPERTY MAY BEGIN.

Attachment A: Variance Candidate Application (Page 3 of 3)

NAC 439.240 Approval by State Board of Health. (NRS 439.150, 439.190, 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:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable the applicant to preserve and enjoy his or her property right; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
 2. Whenever an applicant for a variance alleges that he or she suffers or will suffer economic hardship by complying with the regulation, the applicant must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable.
- [Bd. of Health, Variances Reg. §§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]

PART III:

A **Variance Application Letter**, which includes all information provided by the applicant on his worksheet, must be submitted in writing to the Environmental Health Division (EHD) Director no later than 40 days before the monthly Board of Health Meeting. The Application letter must be on the owner's letterhead signed by the Owner/Corporate Officer specifically listing which part(s) of the Regulation the proposed Variance covers with this completed Worksheet as an attachment. The written Application Letter must take particular care in providing statements and evidence of circumstances or conditions and reasons why the District Board of Health should grant the Variance as listed in NAC 439.240 as shown at the top of this page. *ALL information you have provided in PART I and II of this Worksheet must be included in the body of the letter.* The evidence required may include 8 1/2" x 11" or 11" x 17" detailed drawings and/or photographs.

The Variance process is outlined in Nevada Administrative Code (NAC) 439.200 through 439.260 with the exception that an application fee is payable to SOUTHERN NEVADA HEALTH DISTRICT (SNHD).

This section to be completed by SNHD staff ONLY

Next closing date is: _____ for the _____ BOH Meeting.

Referred by: _____
(Print Name of REHS)

Completed by: _____ Date: _____
(Print Name of REHS if not by supervisor)

Received by: _____ Date: _____
(Owner/Operator/Agent)

Reviewed by: _____ Date: _____
(Signature of SNHD Manager)

Attachment B: Justification Letter from Petitioner

Justification/Hardship Letter

To: Southern Nevada Health District
280 S. Decatur Blvd.
Las Vegas, NV 89128

From: Anthony Viacava

Parcel # 129-02-410-011

To whom this may concern;

I hereby make application and petition to the Southern Nevada District Board of Health for a variance to the Regulations Governing Individual Sewage Disposal and Liquid Waste Management Section 10 and Nevada Department of Environmental Protection Policy.

This variance request is made to permit construction of an ISDS on a lot with a septic density greater than maximum for a conventional septic system.

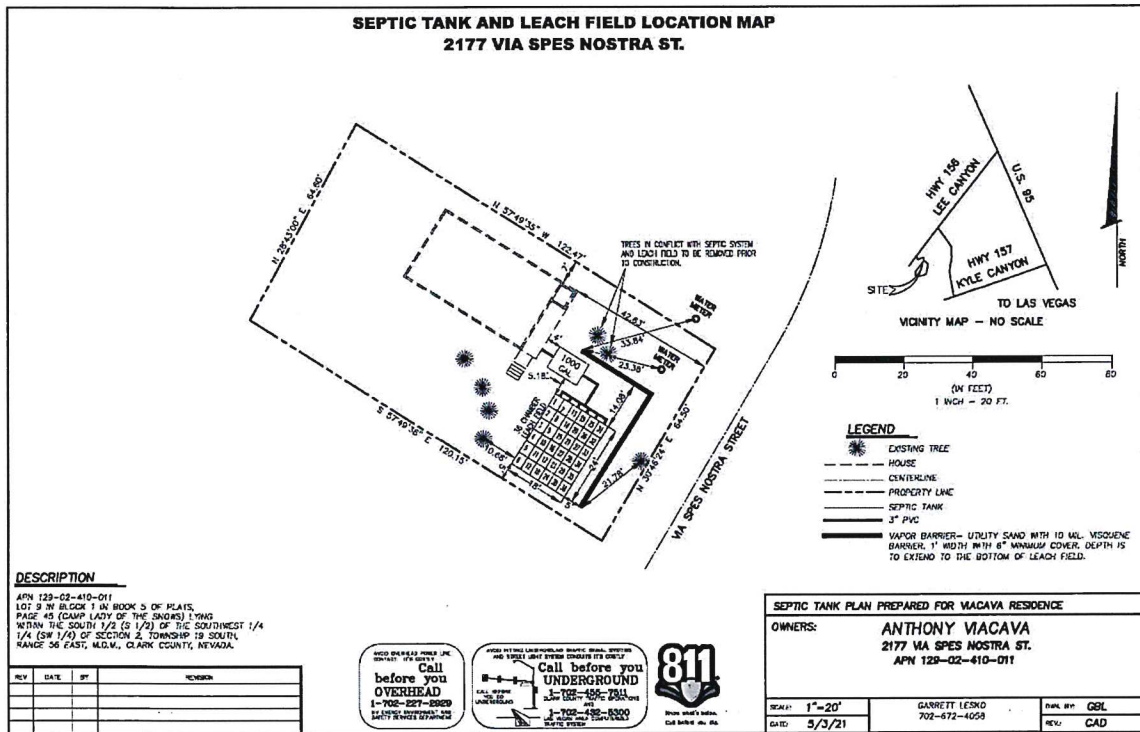
Request for approval of Septic tank to be placed 4 feet away from patio to house, and request for approval for leach field to sit 4 feet away from neighboring property line, rather than the permitted 5 feet.

The legal description of said property is APN # 129-02-410-011 and further described as address 2177 Via Spes Nostra St. Mt Charleston, NV 89124

I have owned this property since 11/09/2018 and wish to own and live on this land for the rest of my life.

Thank you for your consideration,
Anthony Viacava
702-545-5876

Attachment D: Proposed ISDS Plan



Attachment E: Percolation Test (Page 3 of 4)



**SOUTHWEST
GEOTECHNICAL**

**PERCOLATION TEST
(NAC 444.796 TO 444.7968)**

5275 Arville Street, Suite 108, Las Vegas, NV 89118 (702) 323-6000

PROJECT: Viacava Residence **PROJECT NO:** 196205
LOCATION: 2177 Via Spes Nostra **REPORT DATE:** 5/15/2020
CLIENT: Anthony Viacava **TESTED BY:** J. Johnson
REVIEWED BY: Justin Stratton, PE **REGISTRATION NO:** 12526

TEST HOLE DATA

TEST HOLE NO: P-1	START DATE: 5/12/20	TEST FINISH DATE: 5/12/20
LOCATION OF TEST HOLE: South end of property		
Fill Hole 12 inches - Time to seep away:	14 Minutes	2nd 12" fill: 10 Min.
<i>If 2nd 12" fill to empty <10 min, skip 4 hour pre-soak and 16 to 32 hour wait for slow perc test</i>		
PRESOAK START:	END:	PRESOAK HOURS:
DEPTH TO BOTTOM OF HOLE: 48 (inches)	DIAMETER OF HOLE: 6 (inches)	

SOIL PROFILE (see attached boring logs for more detail)

DEPTH	SOIL TEXTURE
0-7	Silty Clayey SAND with Gravel
7-10	Clayey GRAVEL with Sand
10-15	Silty GRAVEL with Sand

PERCOLATION TEST

TIME	TIME INTERVAL (minutes)	MEASUREMENT (inches)	DROP IN WATER LEVEL (inches)	PERCOLATION RATE (min/inch)	REMARKS
10 08	0	6			start test
10 18	10	4.75	1.25	8.00	
10 20	0	6			refilled
10 30	10	4.5	1.5	6.67	
10 32	0	6			refilled
10 42	10	4.5	1.5	6.67	
10 45	0	6			refilled
10 55	10	5	1	10.00	
10 58	0	6			refilled
11 08	10	4.5	1.5	6.67	
11 13	0	6			refilled
11 23	10	5	1	10.00	
11 27	0	6			refilled
11 37	10	5	1	10.00	
11 38	0	6			refilled
11 48	10	5	1	10.00	

PERCOLATION RATE (minutes per inch): 10.00

Attachment E: Percolation Test (Page 4 of 4)



**SOUTHWEST
GEOTECHNICAL**

PERCOLATION TEST
(NAC 444.796 TO 444.7968)

5275 Arville Street, Suite 108, Las Vegas, NV 89118 (702) 323-6000

PROJECT:	Viacava Residence	PROJECT NO:	196205
LOCATION:	2177 Via Spes Nostra	REPORT DATE:	5/15/2020
CLIENT:	Anthony Viacava	TESTED BY:	J. Johnson
REVIEWED BY:	Justin Stratton, PE	REGISTRATION NO:	12526

TEST HOLE DATA					
TEST HOLE NO:	P-2	START DATE:	5/12/20	TEST FINISH DATE:	5/12/20
LOCATION OF TEST HOLE:	South end of property				
Fill Hole 12 inches - Time to seep away:	10	Minutes	2nd 12" fill:	8	Min.
<i>If 2nd 12" fill to empty <10 min, skip 4 hour pre-soak and 16 to 32 hour wait for slow perc test</i>					
PRESOAK START:		END:		PRESOAK HOURS:	
DEPTH TO BOTTOM OF HOLE:	48	(inches)	DIAMETER OF HOLE:	6	(inches)
SOIL PROFILE (see attached boring logs for more detail)					
DEPTH	SOIL TEXTURE				
0-7	Silty Clayey SAND with Gravel				
7-10	Clayey GRAVEL with Sand				
10-15	Silty GRAVEL with Sand				
PERCOLATION TEST					
TIME	TIME INTERVAL (minutes)	MEASUREMENT (inches)	DROP IN WATER LEVEL (inches)	PERCOLATION RATE (min/inch)	REMARKS
9 52	0	6			start test
10 02	10	3.5	2.5	4.00	
10 04	0	6			refilled
10 14	10	3.25	2.75	3.64	
10 18	0	6			refilled
10 28	10	3.5	2.5	4.00	
10 31	0	6			refilled
10 41	10	3.25	2.75	3.64	
10 44	0	6			refilled
10 54	10	3	3	3.33	
10 57	0	6			refilled
11 07	10	3	3	3.33	
11 12	0	6			refilled
11 22	10	3	3	3.33	
11 25	0	6			refilled
11 35	10	3	3	3.33	
PERCOLATION RATE (minutes per inch):				3.33	

Attachment F: Public Notice



PUBLIC NOTICE

The Southern Nevada District Board of Health will conduct a PUBLIC HEARING on Thursday, May 27, 2021 at 9:00 AM during its regular monthly meeting in the Red Rock Conference Room at the Southern Nevada Health District at 280 S. Decatur Blvd., Las Vegas, Nevada, to approve or deny a variance request filed by Anthony Viacava ("Petitioner"), to permit and install a new individual sewage disposal system on the property located at 2177 Via Spes Nostra St., Mt. Charleston, NV 89124, APN 129-02-410-011.

The variance request is made to allow the Petitioner to permit the installation of a conventional septic system not in accordance with the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management*. The variance will allow the Petitioner to 1) install a septic system on an undersized lot; and 2) allow a reduced property line setback.

All interested persons may appear at the hearing and state their positions. All written and oral submissions will be considered by the Southern Nevada District Board of Health. Written comments must be forwarded by May 26, 2021 to:

Robert Fyda, P.E., REHS
Environmental Health Engineer/Supervisor
Southern Nevada Health District
P.O. Box 3902
Las Vegas, Nevada 89127
fyda@snhd.org

The variance application is available for review at the Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas, Nevada 89107. Please contact Mallory Jett-Edwards at (702) 759-0660 to schedule an appointment to review the application during the normal business hours of 8:00 AM to 4:30 PM.

- S -

Chris Saxton, MPH-EH, REHS
Environmental Health Director

May 7, 2021

Date