

STATE OF NEVADA

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director



CODY PHINNEY
Administrator

TRACEY D. GREEN, MD
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
4220 S. Maryland Parkway, Suite 810, Bldg D, Las Vegas, NV 89119
Telephone: 702-486-6515, Fax: 702-486-6520
dpbh.nv.gov

September 11, 2015

MEMORANDUM

To: Dr. Steven Kendall Jones, Vice Chair
State Board of Health

From: Cody Phinney, Secretary
State Board of Health

Re: Case #673, Sterling Ridge

Request for Variance to NAC 449.218 (3), "The combined size of the panes of glass of the windows in a bedroom in a facility that was issued a license on or after January 14, 1997, must equal not less than 10 percent of the floor space in the room." Request to waive this requirement.

STAFF REVIEW

Sterling Ridge is a 65 bed Residential Facility for Group which provides Assisted Living services for fifteen elderly or disabled persons and/or persons with chronic illness, with the remaining 50 beds for persons with Alzheimer's disease. The facility submitted a licensure application on December 16, 2013, for 95 beds but is focusing on mostly the memory care unit first before opening the additional 30 beds.

During the facility's initial licensure inspection on June 3-4, 2015, it was determined the 35 studio bedroom windows failed to meet at least 10 percent of the floor space in the room. Listed below are the measurements of three floor plan models involved:

Memory Care Studio handicap access floor plan

Floor Space: 259.9 square feet

Window pane 22.36 square feet

The window pane measured to 8.6% of the floor space in the room

Memory Care Studio floor plan

Floor Space: 283.97 square feet

Window pane 22.36 square feet

The window pane measured to 7.9% of the floor space in the room

Assisted Living Studio floor plan

Floor Space: 201.37 square feet

Window pane 18.93 square feet

The window pane measured to 9.4% of the floor space in the room

To meet the regulation the facility would be required to replace 35 existing windows with larger windows. According to the contractor's report the scope of this project would involve demolition of drywall, stucco, framing, flashing and removing the existing windows. Installation would require new framing, wood headers, new flashing, stucco patching, drywall patching, and paint inside and out. The quote for this project is \$142,767.47 which does not include engineering, design, permits or plans required. Any modification to any unknown plumbing, electrical or mechanical is also not included.

Because the operator met substantial compliance with this regulations and complied with all other regulations they were issued a license on June 4, 2015 with the proviso of submitting a variance request for relief from NAC 449.218 (3) window sizes.

The Board of Health has not granted similar variances for this facility type.

INTENT OF THE REGULATION

The intent of the regulation is to provide sufficient window size for a secondary egress route for the residents in case of a fire and provide enough ambient light in the room as a quality of life measure.

DEGREE OF RISK TO HEALTH AND SAFETY

The State Fire Marshall approved the facility with a Certificate of Compliance. The studio rooms have a large amount of floor space which benefits the residents but as a consequence it negatively skewed the floor to window size percentages. The ambient light coming from the windows is adequate.

EXCEPTIONAL AND UNDUE HARDSHIP

The operator of the facility noted either removing the 35 rooms from use or remodeling the windows to meet the standard would cause undue hardship financially. The operator reports spending \$4.8 million to totally remodel this older building. The cost to replace the windows to meet the regulation has been estimated by one contractor starting to start at \$ 142,757.47, as noted in the attached quote.

PUBLIC COMMENT RECEIVED

None

STAFF RECOMMENDATION

Staff supports approval of Case #673, Sterling Ridge's request for a variance to NAC 449.218 (3) regarding floor space to window size percentages.

PRESENTER

Kyle Devine, M.S.W., Bureau Chief
Bureau of Healthcare Quality and Compliance
Division of Public and Behavioral Health

MJ/ds

Enclosures

Case #: 673

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

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

- | | |
|---|---|
| <input type="checkbox"/> Division Administration (NAC 439, 441A, 452, 453A, & 629) | <input checked="" type="checkbox"/> Health Care Quality & Compliance (NAC 449, 457, 459 & 652) |
| <input type="checkbox"/> Child, Family & Community Wellness (NAC 392, 394, 432A, 439, 441A, & 442) | <input type="checkbox"/> Health Statistics, Planning & Emergency Response (NAC 440, 450B, 452, 453, 453A, & 695C) |
| <input type="checkbox"/> Frontier and Rural Health Services (NAC 211, 444, 446, 447, 583, & 585) | |

Date: 06/04/15
 Name of Applicant: STERLING RIDGE Phone: 702-732-0652
 Mailing Address: 1255 SPENCER STREET
 City: LAS VEGAS State: NV Zip: 89119

We do hereby apply for a variance to chapter/section NAC 449.218(3) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: BEOROOM, PRIVACY, PANES OF GLASS

Statement of existing or proposed conditions in violation of the NAC:

THE AMBIENT LIGHTING FROM THE WINDOWS IS LESS THAN THE 10% REQUIREMENT

Date of initial operation (if existing): BUILDING STRUCTURE DATE IS 1976

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))

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 him to preserve and enjoy his property; 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 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 THE UNITS ARE VERY BRIGHT AND
CHEERFUL AND I DO NOT BELIEVE THAT THERE WOULD
BE ANY HEALTH RISK TO ANY RESIDENT.

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

1. An exceptional and undue hardship results from a strict application of the Regulation:

SINCE THIS BUILDING IS OLDER AND THE ENTIRE
SECTION IS TOTALLY REMODELED, TO RE-DO WINDOWS AT
THIS POINT WOULD REQUIRE A CAPITAL OUTLAY OF \$142,767.47
(SEE ENCLOSED BID) ON TOP OF THE \$14.8 MILLION REQUESTED IN
THE REMODEL AND WOULD INTERRUPT THE LIVES AGAIN
FOR OUR RESIDENTS.

2. The variance, if granted, would not:

A. Cause substantial detriment to the public welfare.

IT WOULD NOT CAUSE SUBSTANTIAL DAMAGE TO PUBLIC WELFARE AS THE LIGHTING (NATURAL) IS VERY ADEQUATE

B. Impair substantially the purpose of the regulation from which the application seeks a variance.

GRANTING THE VARIANCE WOULD NOT SUBSTANTIALLY IMPAIR THE PURPOSE OF THE REGULATION AS THE UNITS INVOLVED ARE SPACIOUS AND BRIGHT WITHOUT NEEDING TO INCREASE WINDOW SIZE.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

- _____ 1. Legal description of property concerned _____
- _____ 2. General area identification map
- _____ 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)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application

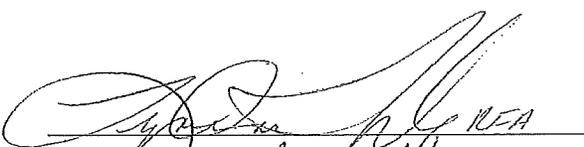
and supporting documentation will form the basis for the Health Division staff report and recommendation to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: 

Printed Name: Richard Whitley

Title: ADMINISTRATOR

Date: JUNE 04, 2015

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)



T. 702-431-7002
F. 702-946-0360

June 3, 2015

Sterling Ridge
Attn: Lynn Homnick
4255 Spencer Street
Las Vegas NV 89119

RE: Removal & Replacement of 34 Existing Windows

Dear Lynn,

It's my pleasure to present you with my proposal for the removal and replacement of the 34 existing windows at Sterling Ridge. As discussed yesterday you are seeking a price associated with the removal of 22 windows at the Memory Care Wing located at the west side of the first floor of your facility; and 12 windows at the Assisted Living Wing, located at the north side of your facility. The existing windows are approximately 5 ft. wide and 4 ft. tall and it is my understanding that you want to replace the existing windows with windows that are approximately 9 ft. wide and 5 ft. tall. Please see attached sheet for pricing.

The removal & reinstall of the windows shall include demolition of drywall, stucco, framing, flashing, and the existing windows. Install shall require new framing, wood headers, new flashing, stucco patching, drywall patching, as well as paint inside and out. This proposal does not include modifying any unknown plumbing, electrical, or mechanical. Nor does it include engineering, design work, permits, or new plans that may be required by local authorities. Should you have any questions please do not hesitate to contact me. Please let me know if you wish to proceed with the work as presented and I will provide you with my contract for your approval.

Sincerely,

A handwritten signature in black ink, appearing to read "James McGaughey III".

James McGaughey III
President

