



# Community Development

*"Dedicated to Excellence in Public Service"*

Adrian P. Freund, AICP, Community Development Director  
Blaine Cartlidge, Legal Counsel



**Washoe County Board of Adjustment**  
Richard "R.J." Cieri, Chair  
Gary Feero, Vice Chair

Mary S. Harcinske  
Philip J. Horan

## WASHOE COUNTY BOARD OF ADJUSTMENT

### MINUTES

June 5, 2008

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, June 5, 2008 at 1:30 p.m., in the Washoe County District Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

### DETERMINATION OF QUORUM

Chair Cieri called the meeting to order at 1:30 p.m. The following members and staff were present:

Members present: Richard "R.J." Cieri, Chair  
Gary Feero  
Mary S. Harcinske  
Philip Horan

Members absent: None

Staff present: Michael Harper, FAICP, Planning Manager, Community Development  
Grace Jensen, Planner, Community Development  
Don Morehouse, Planner, Community Development  
Blaine Cartlidge, Deputy District Attorney, District Attorney's Office  
Cathi Moldenhauer, Recording Secretary, Community Development

### PLEDGE OF ALLEGIANCE

As there was no flag in the Chambers, the pledge was not recited.

### APPROVAL OF AGENDA

In accordance with the Open Meeting Law, Member Harcinske moved to approve the amended agenda of June 5, 2008. The motion, seconded by Member Feero, passed unanimously.

### APPROVAL OF MINUTES

Member Horan moved to approve the minutes of May 1, 2008. The motion was seconded by Member Harcinske and passed unanimously.

## **PUBLIC COMMENT**

None

## **CHAIR AND BOARD ITEMS**

- a. Report on Previous Board of Adjustment Actions

None

- b. Presentation by the Nevada State Contractors Board and discussion

Don M. Smith, Criminal Investigator, Nevada State Contractors Board, 9670 Gateway Drive, No. 100, informed the Board of Adjustment of the Contractors Board's ability and willingness to provide assistance with situations where excavation is performed without proper permitting by licensed and unlicensed contractors.

The Contractors Board is charged with regulating contractors within the State of Nevada, licensed contractors in particular, and with enforcing the criminal violations performed by unlicensed contractors. Licensed contractors are required to adhere to all building laws in the state.

Not obtaining permits prior to excavation is a violation of regulations. Complaints can be opened against those contractors merely by having the Building Department notify the Contractors Board. Investigation and resulting disciplinary action against licensed contractors can then be implemented. Discipline can include a warning, a fine, and/or suspension or revocation of the contractor's license. Unlicensed contractors acting in the capacity of a contractor or one submitting bids without a contractor's license are committing a criminal violation. Discipline is administered through the justice courts. First offense is a misdemeanor punishable by a \$1,000 fine and up to six months in jail; second offense is a gross misdemeanor; and a third offense is a Class E felony.

Mr. Smith stated that his office will immediately investigate any complaints received and take enforcement action.

Member Horan asked if the Contractors Board would be prevented from addressing an action if the Board of Adjustment issued an after-the-fact permit on a project with illegal grading. Mr. Smith said it would not prevent them from pursuing the matter, as the law states a permit is required prior to commencement of the work. A complaint indicating when the job was done and copies of the application and permit indicating when it was issued would provide evidence that the contractor acted improperly.

Mr. Harper responded affirmatively to Member Horan's request to direct Community Development to refer such situations to the Contractors Board to take appropriate action in the future.

Member Harcinske asked if there was an internal process between Community Development and Building and Safety to notify one another of illegal grading that has taken place that does not require a special use permit. Mr. Harper stated a request for a grading permit not requiring a special use permit would be subject to additional fees if the work had

already been done. Those situations could also be forwarded to the Contractors Board for further action.

Responding to Member Feero, Mr. Smith advised that action could be taken at any time a contractor breaks any of the County's regulations. The complaint filed must identify the regulation violated and an investigation would ensue.

Member Horan asked if actions would be reported to either Community Development or the Board of Adjustment. Mr. Smith explained that complaint forms are available on their website. Upon receipt of the complaint, correspondence is initiated acknowledging receipt. A letter of notification is sent to the complainant upon completion of the case detailing the actions taken.

Member Feero asked if a property owner performing illegal work on his own property would be subject to the Contractors Board's jurisdiction. Mr. Smith believed that would present a problem. Licensed contractors are aware of the law and its requirements for permitting. Unless a property owner hires an unlicensed contractor to do the work, there is nothing in the statutes that allows the enforcement by the Contractors Board over persons working on their own property.

Chair Cieri asked about work performed on a non-fee basis by either licensed or unlicensed contractors. Mr. Smith stated the law was black and white for licensed contractors, whether compensated or uncompensated. It would be more difficult to prove that a violation occurred with an unlicensed contractor.

Mr. Smith stressed that where the Contractors Board could be most helpful was in the prosecution of licensed contractors who perform services without permits.

Mr. Harper advised that a procedure would be implemented to send complaints to the Contractors Board.

## **DIRECTOR'S ITEMS**

Mr. Harper announced that Eric Scheetz tendered his resignation from the Board of Adjustment. His reason was to avoid the appearance of a conflict of interest, as he accepted a position on the Truckee River Flood Management Project, a division of Washoe County. Advertisement for the vacancy has commenced, and it is hoped the appointment will be on the July, 2008 agenda of the Board of County Commissioners.

Mr. Harper noted that Member Feero completed two terms on the Board of Adjustment and is not eligible for reappointment. Member Feero's presence will be greatly missed.

At the Planning Commissioner meeting of June 3, 2008, a Development Code amendment was recommended to the Board of County Commissioners that all special use permits, except those required by state law, would be handled by the Board of Adjustment. This is in response to budget restrictions and would allow the Planning Commission to spend more of its time as an advisory body to the Board of County Commissioners. Additionally, it is anticipated that the Board of Adjustment will go to an every-other-month meeting schedule, and the Planning Commission will go to a once-a-month schedule. It is possible a hearing examiner will be appointed to handle all variances.

Discussion ensued regarding provision of paperless copies of staff reports and supporting documents to the Members. All Members were in agreement that many advantages would be provided, including cost reductions.

## CONSENT ITEMS

None

## PROJECT REVIEW ITEMS

### AGENDA ITEM 1

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB08-005 (ALAIN AND LISA KOVALTCHOUK) – To allow the construction of a 640-square-foot detached accessory dwelling on a parcel with an existing ±5,000-square-foot main dwelling as authorized in Section 110.306.25 of the Washoe County Development Code. The project is located at 4265 Ross Drive, at the northeast corner of Ross Drive and Palomino Circle, approximately 370 feet southeast of the Bridle Way/Ross Drive intersection. The ±1.21-acre parcel is designated Low Density Suburban (LDS) in the Southwest Truckee Meadows Area Plan, and is situated in a portion of Section 20, T19N, R19E, MDM, Washoe County, Nevada. The property is located in the West Truckee Meadows Citizen Advisory Board boundary and Washoe County Commission District No. 1. (APN 009-093-05)

Chair Cieri opened the public hearing.

Grace Jensen reviewed the staff report dated May 16, 2008. Staff recommended approval with conditions of the special use permit.

As no one wished to speak, Chair Cieri closed the public hearing.

Member Feero moved to approve with conditions Special Use Permit Case No. SB08-005. The motion was seconded by Member Harcinske and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the West Truckee Meadows Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for a detached accessory dwelling and for the intensity of such development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or

improvements of adjacent properties; or detrimental to the character of the surrounding area;

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of a military installation.
6. Reasoned Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

## **AGENDA ITEM 2**

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB08-006 (MICHAEL T. ENOS) – To legalize the previous conversion of a portion of a detached accessory structure into a detached accessory dwelling of 1,044 square feet and to allow additional remodeling within the structure to conform with Development Code requirements, as authorized in Table 110.302.05.1 of the Washoe County Development Code. The project is located on the north side of Onyo Way, approximately 1,100 feet east of its intersection with Calle De La Plata. The ±10.21-acre parcel is designated General Rural (GR) in the Spanish Springs Area Plan, and is situated in a portion of Section 20, T21N, R21E, MDM, Washoe County, Nevada. The property is located in the Spanish Springs Citizen Advisory Board boundary and Washoe County Commission District No. 4. (APN 076-690-42)

Chair Cieri opened the public hearing.

On behalf of Roger Pelham, Grace Jensen reviewed the staff report dated May 22, 2008. Ms. Jensen noted that the accessory dwelling was completed prior to application for a special use permit. Staff recommended approval with conditions of the special use permit.

Member Harcinske commented on a letter in the staff report from the District Health Department dated April 29, 2008. Ms. Jensen explained that the requirements of that department must be met prior to the issuance of a building permit. In response to Member Harcinske, Mr. Harper stated it would be prudent to add a condition of approval referencing compliance with the District Health Department's concerns prior to issuance of a certificate of occupancy.

Chair Cieri noted the letter from the District Health Department identified the property owners as Nanette and Robert Marshall. Ms. Jensen explained that Mr. Enos recently sold the property to the Marshalls.

Robert Marshall, 625 Onyo Way, Sparks, the current owner of the property, stated he and his wife purchased the property in November, 2007. No heating or air conditioning was in the accessory unit, although the sales documents represented that all permits were obtained for the dwelling. When he attempted to have heating and air conditioning added, it was discovered that proper permitting was not done when the living space was added and, therefore, Mr. Marshall could not obtain building permit. This special use permit was processed by Mr. Enos with Mr. Marshall's knowledge, consent, and, in fact, insistence. Mr. Marshall was in agreement with the conditions of approval proposed.

Deputy District Attorney Carlidge queried Mr. Marshall about the timing of the purchase of the property and the filing of the application for this special use permit. Mr. Marshall confirmed that the application was filed several months after his purchase. He testified that Mr. Enos was acting on his behalf and at his insistence. He had no objection to and accepted Mr. Enos's acting as his agent for the purpose of this application. If Mr. Enos had not filed this application, Mr. Marshall would have pursued completion of the construction in a legal manner.

Upon discussion, Deputy District Attorney recommended that the references to "applicant" be changed to "property owner" throughout future documents, including the conditions of approval.

Member Harcinske expressed concern that the District Health Department's issues were addressed to the applicant, Mr. Enos, and the conditions of approval were addressed to the property owner. Mr. Harper suggested the new condition read, "The property owner shall meet with the District Health Department to address their concerns enumerated in their letter dated April 29, 2008, prior to the approval of a building permit."

Paul Luksza, 1890 McCloud Avenue, representing the applicant, Mr. Enos, assured the Board that he worked with the District Health Department to install a new septic system for the detached dwelling, and he was only awaiting the permit to commence installation.

Member Harcinske asked Mr. Luksza who constructed the accessory dwelling unit. He replied one contractor was involved with the garage, but he was not aware of who performed the plumbing and electrical work. He would have to ask Mr. Enos.

Chair Cieri closed the public hearing.

Member Horan moved to approve with conditions Special Use Permit Case No. SB08-006, changing all references in the conditions from "applicant" to "property owner" and adding new Condition 10 as noted above. The motion was seconded by Member Feero and passed unanimously.

The motion was based on the following findings.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the applicable area plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for the type of development and for the intensity of the development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area; and

5. Reasoned Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

### AGENDA ITEM 3

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB08-007 (PENOBOTTOM TRUST) – To construct a new 1,200-square-foot detached accessory dwelling unit and a new 6-foot-tall stone and wrought iron fence on the west property line. The project is located at 1035 Lakeshore Boulevard, between Country Club Drive and Selby Drive in Incline Village. The ±4.945-acre parcel is designated High Density Rural (HDR) in the Tahoe Area Plan, and is situated in a portion of Section 22, T16N, R18E, MDM, Washoe County, Nevada. The property is located in the Incline Village/Crystal Bay Citizen Advisory Board boundary and Washoe County Commission District No. 1. (APN 130-230-08)

Chair Cieri opened the public hearing.

Don Morehouse reviewed the staff report dated May 19, 2008. Staff recommended conditional approval of the special use permit.

As no one wished to speak, Chair Cieri closed the public hearing.

Member Harcinske moved to approve with conditions Special Use Permit Case No. SB08-007 as recommended by staff. The motion was seconded by Chair Cieri and passed unanimously.

The motion was based on the following findings.

1. Consistency. The proposed use is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the applicable area plan;
2. Improvements. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. The site is physically suitable for the type of development and for the intensity of the development;
4. Issuance Not Detrimental. Issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; detrimental to the character of the surrounding area; or unduly detrimental to surrounding properties, land uses and the environment in general;
5. That the proposed development will not unduly block scenic views or degrade any surrounding scenic resources; and
6. Reasoned Consideration. The Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

**OTHER ITEMS**

Member Horan expressed his best wishes to Member Feero. He also stated he would miss Member Scheetz. All other Members concurred.

**ADJOURNMENT**

There being no further business to come before the Board of Adjustment, the meeting adjourned at 2:36 p.m.

Respectfully submitted,

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Cathi Moldenhauer, Recording Secretary

Approved by Board in session on July 3, 2008

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Adrian P. Freund, FAICP, Director  
Secretary to the Board of Adjustment