



# Community Development

*"Dedicated to Excellence in Public Service"*

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



**Washoe County Board of Adjustment**  
Richard "R.J." Cieri, Chair  
Philip J. Horan, Vice Chair

Mary S. Harcinske  
Andrea Manor

## WASHOE COUNTY BOARD OF ADJUSTMENT

### MINUTES

September 4, 2008

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, September 4, 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  
Mary S. Harcinske  
Philip Horan  
Andrea Manor

Members absent: None

Staff present: Adrian Freund, FAICP, Director, Community Development  
Kimberly H. Robinson, Planning Manager, Community Development  
Sandra Monsalve, Senior Planner, Community Development  
Eva Krause, AICP, Planner, Community Development  
Don Morehouse, Planner, Community Development  
Blaine Cartlidge, Deputy District Attorney  
Cathi Moldenhauer, Recording Secretary, Community Development

#### PLEDGE OF ALLEGIANCE

Member Harcinske led the pledge of allegiance to the flag.

#### APPROVAL OF AGENDA

In accordance with the Open Meeting Law, Member Manor moved to approve the agenda of September 4, 2008. The motion, seconded by Member Horan, passed unanimously.

#### APPROVAL OF MINUTES

Member Harcinske moved to approve the minutes of August 7, 2008. The motion was seconded by Member Horan and passed unanimously.

**PUBLIC COMMENT**

Lois F. Nelson, 816 Washington Street, expressed concern regarding the number of rangers assigned to patrol public camp sites during the winter.

**CHAIR AND BOARD ITEMS**

- a. Report on Previous Board of Adjustment Actions

None

**DIRECTOR'S ITEMS**

Ms. Robinson reminded the Board of the new schedule of meetings for the ensuing year, which will be every other month commencing with October 2008. She distributed copies of the new fee schedule for discretionary permits approved by the Board of County Commissioners on July 22, 2008. She reported on the recruitment efforts for a fifth member of the Board of Adjustment.

**CONSENT ITEMS**

None

**PROJECT REVIEW ITEMS**

**AGENDA ITEM 1**

PUBLIC HEARING: VARIANCE CASE NO. VA08-012 (BEAR BEACH PROPERTIES LLC) - To vary the side yard setback from 8 feet to 6.5 feet on the north side, in order to build a single-family residence with an attached garage as authorized in Article 804 of the Washoe County Development Code. A previous request to vary the front yard setback from 15 feet to 0 feet has been approved. The project is located at 1709 State Route 28, Lot 3, Block G, of the Rocky Point Subdivision. The property is approximately four hundred feet north of the Lake Tahoe State Park boundary. The 0.84-acre property is designated as Medium Density Suburban (MDS) in Tahoe Area Plan, being part of the Washoe County Comprehensive Plan, and is situated in a portion of Section 26, 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 130-331-03)

Chair Cieri opened the public hearing.

Eva Krause reviewed the staff report dated August 26, 2008. Staff recommended denial of this variance.

Member Harcinske noted that the Nevada State Lands letter objected to variances in general, not to any specific variance. Ms. Krause explained that the agency was very concerned about the negative impacts to its properties where variances have been granted, such as trespassing, using the property for construction parking, and destruction of trees.

Member Manor suggested adding a condition requiring the applicant to restore the land to its original state. Ms. Krause noted that such a condition would be difficult to enforce.

Elise Fett, Elise Fett & Associates, P.O. Box 5989, Incline Village, representing the applicant, advised that the application requested the setback be reduced to five feet, not six and a half feet.

Deputy District Attorney Carlidge stated that, under the Open Meeting Law, the Board could not increase the size of that setback beyond that stated in the notice. He suggested the applicant could request the hearing be continued to time and date certain, and a new notice must be issued.

Ms. Fett asserted she was empowered by her client, the applicant, to make decisions regarding this application, and she requested the hearing be continued.

Chair Cieri closed the public hearing.

Member Horan moved to continue this hearing to 1:30 p.m., Thursday, October 2, 2008. The motion was seconded by Member Manor and passed unanimously.

## **AGENDA ITEM 2**

**PUBLIC HEARING: VARIANCE CASE NO. VA08-010 (IRA RODMAN) – To reduce the front yard setback from 20 feet to 15 feet for a corner lot to facilitate construction of a new home with attached garage. The project is located at 517 Cross Bow Court in Incline Village at the intersection of Cross Bow Court and Eagle Drive. The ±0.75-acre parcel is designated Medium Density Suburban (MDS) in the Tahoe Area Plan, and is situated in a portion of Section 14, 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 131-224-13)**

Chair Cieri opened the public hearing.

Don Morehouse reviewed the staff report dated August 26, 2008. Because of the increased safety of the placement of the proposed driveway, staff recommended approval with conditions of the variance.

Member Horan asked the difference in size between the existing house and that proposed. Mr. Morehouse stated the existing house was approximately 3,400 square feet, and the proposed house was approximately 6,000 square feet.

Ira Rodman, P.O. Box 426, Crystal Bay, the applicant, explained that the reduction of the setback by five feet would decrease the grade of the driveway from 14-15% to 11-12%. With the imposition of setbacks on this corner lot, only about 55 feet in the center of the lot was available to place a building.

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

Member Manor recognized the increased safety to the public by the repositioning of the driveway.

Member Horan stated that he would usually be opposed to such a variance if it were just to allow the construction of a house almost twice the size of the existing house, which was in conformance with all setbacks. However, since the driveway placement would increase the safety of the street, he would support the application.

Member Harcinske noted that if this was an interior rather than a corner lot, this variance would not be required. She would therefore support the approval of the variance.

Member Horan moved to approve with conditions Variance Case No. VA08-010. The motion was seconded by Chair Cieri and passed unanimously.

The motion was based on the following findings.

1. Special Circumstances. Because of the special circumstances applicable to the property due to exceptional topographic conditions with the steep slope and driveway causing a safety hazard, the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property; 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: ADMINISTRATIVE PERMIT CASE NO. AP08-002 (KEVIN AND RONDA BARNES)** - To continue the operations of an established Equestrian facility which includes up to 60 stalls, four riding arenas, turnout area, barn, hot walkers, obstacle and trail course, dressage area, BBQ pit, and a single-family residence. The subject property is located at 454 Calle De La Plata, approximately 1.25 miles east of Pyramid Highway (SR 445). The subject parcel totals ±9.70 acres, is designated General Rural (GR) in the Spanish Springs Area Plan, and is situated in portions of Sections 24 and 25, T21N, R20E, MDM, Washoe County, Nevada. The property is located in the Spanish Springs Citizen Advisory Board boundary and Washoe County Commission District No. 4. (APN 534-582-04)

Chair Cieri opened the public hearing.

Sandra Monsalve reviewed the staff report dated August 27, 2008. She advised that the applicant did not have a business license to operate this facility, and approval of this

administrative permit would be required to obtain a business license. Staff recommended approval with conditions of this permit. She observed that the applicant was not present.

Dan Fuhrman, 9855 Pasquel Street, Sparks, an adjacent property owner, stated he was not opposed to the operation of an equestrian facility. Conditions in existence on the property, however, required improvement. There was trash, such as old refrigerators, on the property. Fences were broken down. There were currently 77 horses on the property. Manure was not disposed of properly and was stacked three feet deep. Mr. Fuhrman was concerned about the quality of the water aquifer when impacted by the amount of urine produced by that many horses. The property was equipped with only one domestic well, and each horse uses at least ten gallons of water per day. The applicant was not cooperative about keeping his animals on his own property.

Chair Cieri asked how deep the wells in the neighborhood were. Mr. Fuhrman replied that his well was 160 feet deep. He stated that 36 wells in the area had gone dry in the last three or four years.

In reply to Chair Cieri, Mr. Fuhrman stated that the fence was of a mesh type, such as chicken wire, and large portions of it were lying on the ground. The applicant's dogs have roamed onto his property, attacked Mr. Fuhrman's dogs and threatened his child. The fencing along the horse stalls is intact. Large watering troughs are emptied daily, creating mud along the property line. Flies are a problem also.

Member Moran asked if disclosure was made at the time Mr. Fuhrman purchased the property that horses would be on the neighboring properties. Mr. Fuhrman stated it was disclosed, and he was not opposed to living next to horses. He was just concerned that 77 horses were too many to be kept on ten acres.

Len Rogalla, 15 Velda Rose, Sparks, a neighbor, expressed concern about the use of water from a single-family residential well for the number of horses on the property. He described the facility as a feed-lot environment. He provided a flyer he obtained from a local grocery store advertising the services provided by this business.

In response to Member Harcinske, Ms. Monsalve stated that administrative permits are required for commercial stables, which includes three or more horses for boarding, grazing, breeding, and riding clubs.

Director Freund noted information was obtained through today's testimony of which staff was not previously aware. He explained that an unlimited number of horses is allowed on property greater than one acre. However, conditions may be attached to an administrative permit for commercial stables limiting the number of horses allowed.

Chair Cieri asked if the Health Department reviewed this application. Ms. Monsalve stated the application was sent to the Health Department; however, no comments from that department were received. Director Freund noted there were suggested guidelines, or "best management practices," for manure management; however, to date, a specific plan was not available from the Health Department.

Chair Cieri expressed his concern about water consumption. Ms. Monsalve stated she had discussions with the Department of Water Resources (DWR), and they felt minimal water

would be used on the site. A request for a waiver of landscaping was submitted, which would also reduce the amount of water used. DWR felt there were adequate water rights for the proposed use.

Ms. Monsalve suggested adding a condition requiring a solid fence between the commercially used and residential property. She also requested that Condition Number 5 be changed to require the applicant to obtain a business license within ten days after the date of the final action order of this body.

She reminded the Board that this property owner received a Notice of Violation from Code Enforcement and was being monitored by that group. Ms. Monsalve was unaware of the fact there were 77 horses on the property, and the application for an administrative permit would only allow a total of 60 horses. The applicant indicated no special events would be held on the property. If any special events were scheduled, the applicant must apply for a special use permit stating the number of horses, the days, the hours, and the number of participants.

Member Harcinske asked the consequences of denying this administrative permit. Ms. Monsalve advised that Code Enforcement could issue three Notices of Violation, the applicant would have a certain amount of time to comply with those notices, then civil action could take place with fines, or the applicant could appeal this decision to the Board of County Commissioners and, if upheld, could then proceed to the District Court.

Deputy District Attorney Cartlidge clarified the Board's options: approval with conditions, with the Board's discretion to add, modify or delete those conditions; denial, which, if upheld by the BCC on appeal, would force the applicant to cease operation, and would prevent the applicant from reapplying for the administrative permit for one year; or denial without prejudice, which would allow the applicant, after correcting outstanding issues, to reapply within the year.

Chair Cieri noted the applicant was not present, and he closed the public hearing.

Member Horan stated he could not support approval of this application.

Member Manor stated this appeared to be a health and safety issue, and she could not support it.

Member Harcinske noted that if this was a new facility, all improvements and licensing would have to be in place. She moved to deny without prejudice Administrative Permit Case No. AP08-002. The motion was seconded by Member Horan 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 Spanish Springs Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have not 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 commercial stables, and for the intensity of the development;
4. Issuance Detrimental. That issuance of the permit will 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. Due Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the staff report and information received during the meeting.

**OTHER ITEMS**

None

**ADJOURNMENT**

There being no further business to come before the Board of Adjustment, the meeting adjourned at 2:43 p.m.

Respectfully submitted,

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Cathi Moldenhauer, Recording Secretary

Approved by Board in session on October 2, 2008

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