



Community Development

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Adrian P. Freund, FAICP, Community Development Director
Nathan Edwards, 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

October 2, 2008

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, October 2, 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 1:32 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
Eva Krause, AICP, Planner, Community Development
Grace Sannazzaro, Planner, Community Development
Kelly Mullin, Planner, Community Development
Blaine Cartlidge, Deputy District Attorney
Nathan Edwards, 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 Harcinske moved to approve the agenda of October 2, 2008. The motion, seconded by Chair Cieri, passed unanimously.

APPROVAL OF MINUTES

Member Manor moved to approve the minutes of September 4, 2008. The motion was seconded by Member Harcinske and passed unanimously.

PUBLIC COMMENT

Gary Schmidt, a candidate for Washoe County Commissioner District 4, proffered his opinion that the incumbent was not an effective representative of the citizens.

CHAIR AND BOARD ITEMS

- a. Report on Previous Board of Adjustment Actions

None

DIRECTOR'S ITEMS

Ms. Robinson announced that the Board of County Commissioners will fill the vacancy on this Board at its meeting of October 14, 2008.

Chair Cieri introduced Nathan Edwards from the District Attorney's office, who will replace Blaine Cartlidge as legal counsel for this Board. All members welcomed Deputy District Attorney Edwards.

Member Horan recognized Deputy District Attorney Cartlidge, and thanked him for his assistance and counsel of the past several years.

CONSENT ITEMS

None

PROJECT REVIEW ITEMS

AGENDA ITEM 1

PUBLIC HEARING: VARIANCE CASE NO. VA08-012 (BEAR BEACH PROPERTIES LLC)(Continued from September 4, 2008 meeting) - To vary the side yard setback from 8 feet to 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 as no special circumstances on the property or hardship could be found.

Elise Fett, Elise Fett & Associates, P.O. Box 5989, Incline Village, representing the applicant, explained that an existing nonconforming structure on the lower part of the slope is

about two feet from the property line, and it will remain in place. The structure proposed to be built will not extend the existing structure straight upwards but will increase the top floor (garage) distance from the property line by three feet. Many residences in the neighborhood enjoy a five-foot setback. No neighbors objected to the request, and the Incline Village-Crystal Bay Citizen Advisory Board (CAB) recommended approval by a vote of four to one.

Member Harcinske asked the size of the proposed new house. Ms. Fett replied the house was approximately 2,300 square feet.

Member Manor wanted to know the reason given for the dissenting vote at the CAB. Ms. Fett stated the individual felt the design should be made to fit within the parameters prescribed by the Codes.

In response to Member Horan, Ms. Fett explained that the existing footprint would remain but would not be extended upwards. The existing first-floor two-foot setback was, however, only a length of less than four feet, and the new garage was almost 22 feet long. It would not be possible to extend the length of the setback without this variance. The setback for the garage, a portion of the third floor, was requested to be five feet; and the setback for the first and second floors would remain at the prescribed eight feet. The garage would be cantilevered and would not require columns for support.

Chair Cieri closed the public hearing.

Member Harcinske noted her opinion that the design of the house was too large to fit on the allotted space and the hardship was self-created.

Member Manor felt that many other properties in the area were afforded this type of variance, and she recommended approval.

Member Horan indicated he would support the applicant's request.

Member Harcinske moved to deny the reduction of the side yard setback in Variance Case No. VA08-012. The motion was seconded by Chair Cieri and failed to pass by a vote of two to two (Members Manor and Horan opposed).

Discussion ensued regarding the finding of special circumstances.

Member Horan moved approve the reduction of the side yard setback in Variance Case No. VA08-012, noting there were special circumstances that would prohibit building under the existing Code. Member Manor seconded the motion.

Deputy District Attorney Cartlidge explained that, in the event of a tie vote on this motion, the result would be a basic denial on the project, meaning the applicant could not reapply for a year. He suggested that a motion for denial without prejudice be presented.

Member Horan withdrew his motion, and Member Manor agreed to withdraw her second.

Member Harcinske stated she would support a motion for denial without prejudice.

Chair Cieri was concerned about the reduction of defensible space between houses. He did note that the next-door property owners did receive notice and did not complain.

Member Harcinske asked if the proposed setback would meet the recommendations for defensible space of the Fire Department for new construction at Lake Tahoe. Ms. Krause stated it would. Member Harcinske was concerned that this new construction would not meet the new requirements of the Council of Fire Chiefs at Lake Tahoe even though it would meet the old requirements.

Chair Cieri asked Ms. Fett how she would defend the finding of no detriment, more specifically, defensible space.

[Due to technical difficulties, a recess was called at 2:21 p.m. The meeting reconvened at 2:30 p.m.]

Ms. Fett stated that, during her fifteen years of working in the Incline Village area, she observed very few properties that complied with the eight-foot setback requirements. The first two stories of this project would be set back eight feet, and this request was only for the third story to have a five-foot setback. The defensible space would be as good if not better than most areas of Incline Village.

Member Horan was not concerned about defensible space because the project was right at lake level, and there was not a preponderance of Manzanita brush, rather of rocks and boulders.

Chair Cieri stated his concern regarding fire safety was adequately addressed.

Member Harcinske felt this case could set a precedent that would be used to grant future cases.

Member Horan stated each case would be considered on its individual merits. It was his opinion that construction in the mountains created special circumstances that were not extant in other areas. He moved to approve Variance Case No. VA08-012.

The motion was seconded by Member Manor and passed by a vote of three to one (Member Harcinske opposed).

Deputy District Attorney Cartlidge observed that no conditions were placed upon the approval of this variance. He requested that the hearing be reopened and reconsidered.

Member Horan moved to reconsider Variance Case No. VA08-012. The motion was seconded by Member Manor and carried unanimously.

Ms. Krause described the proposed conditions of approval, which included time limits within which the project must be built, the requirement for substantial conformance with the plans submitted, that the final order must be submitted with the application for a building permit, the prohibition of straw bales, that no portion of the structure shall overhang the property line, the requirement for a temporary construction fence, and the Health Department's requirement for vector control with the construction of rockery walls.

Member Horan moved to approve with conditions Variance Case No. VA08-012. The motion was seconded by Member Manor and passed by a vote of three to one (Member Harcinske opposed). Member Harcinske clarified that she could not make the finding of special circumstances.

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, 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 2

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB08-010 (LYNNE A. GIMBLIN) – To develop a 1,200-square-foot detached accessory dwelling on a parcel containing an existing 2,920-square-foot main dwelling, as authorized in Section 110.306.25 of the Washoe County Development Code. The project is located at 14135 Saddlebow Drive, approximately 1,000 feet north of its intersection with Saddlehorn Drive. The ±1.01-acre parcel is designated Low Density Suburban (LDS) in the Southwest Truckee Meadows Area Plan, and is situated in a portion of Section 25, T18N, R19E, MDM, Washoe County, Nevada. The property is located in the Southwest Truckee Meadows Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN 150-122-09)

Chair Cieri opened the public hearing.

Kelly Mullin reviewed the staff report dated September 23, 2008. An additional condition of approval was suggested that would read: "Prior to the issuance of any building or grading permit for this project, the applicant shall provide evidence that they have received approval for this project from the South Truckee Meadows General Improvement District (STMGID). Compliance with this condition shall be determined by the Department of Community Development." This condition would be numbered 8, and the existing condition 8 would be renumbered 9. Staff recommended approval with conditions of this project.

At the instigation of Member Harcinske, discussion ensued regarding the provision of water service to an accessory dwelling by STMGID.

Michael Vicks, K2 Engineering, 3100 Mill Street, #107, representing the applicant, was available to answer questions.

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

Member Horan moved to approve with conditions, including the new Condition No. 8 as recommended by Ms. Mullin, Special Use Permit Case No. SB08-010. 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 Southwest 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 the detached accessory dwelling unit and for the low intensity use;
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 any military installation; and
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 3

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB08-011 (SID D. FERRIS) – To develop and operate a heavy equipment and truck rental/sales business as authorized in Article 302 of the Washoe County Development Code, and a free-standing sign structure greater than six feet in height as authorized in Section 110.504.15(d)(1) of the Washoe County Development Code. The project is located at 700 South US 395 North, at its intersection with Viola Way in Washoe Valley. The ±.55-acre parcel is designated General Commercial (GC) in the South Valleys Commercial Corridor of the South Valleys Area Plan, and is situated in a portion of Section 23, T17N, R19E, MDM, Washoe County, Nevada. The property is located in the West Washoe Valley Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN 050-231-24)

Chair Cieri opened the public hearing.

Grace Sannazzaro reviewed the staff report dated September 22, 2008. Staff did not recommend approval of the parking along U.S. Highway 395 as proposed by the applicant nor approval of the proposed 37.5-foot-high freestanding sign, but did recommend approval with conditions of the request to develop and operate a heavy equipment and truck rental/sales business.

Chair Cieri asked if the facility was authorized to repair equipment and, after removal of the existing fuel tank, if a new one was to be installed. Ms. Sannazzaro replied that the applicant would not be repairing equipment, only renting and selling equipment. The applicant advised that the fuel tank was removed, and verification would be received from the District Health Department. Fuel would be obtained off site. The hours of operation would be from 6 AM to 7 PM, Monday through Saturday. Sound mitigation would be provided through landscaping and a six-foot-high solid wall on the east side of the property adjacent to residential properties.

Member Horan asked if equipment needing repair would be taken off site or would repair trucks come onto the property. Ms. Sannazzaro deferred the question to the applicant.

Member Manor expressed concern about the safety of the ingress and egress. Ms. Sannazzaro stated the applicant would be working with the Nevada Department of Transportation (NDOT) regarding the access from U.S. Highway 395.

Member Manor asked about the lighting that would be allowed. Ms. Sannazzaro suggested a condition be added limiting the lighting of the sign to the hours of operation. Ms. Robinson advised that the sign and lighting would be presented to the Design Review Committee.

Member Harcinske noted that backlit signs were very visible during the night. She also noted that the proposed sconces were uplit. Ms. Sannazzaro stated all lighting would have to be downlit.

Chair Cieri asked if the existing pole could be cut off by seven and a half feet and then be within County code. Ms. Sannazzaro agreed it could be. The location of the pole did not appear to present a problem with ingress and egress, and the Building and Safety Department would make that final determination.

Sid D. Ferris, 1515 Eastlake Boulevard, the applicant, responded to Member Harcinske's concern about vehicles accessing U.S. Highway 395 via Viola Way. He noted his willingness to allow a deceleration lane if NDOT felt it was necessary. A pole owned by Sierra Pacific Power Company would have to be moved, and there was controversy about who would have to pay for that relocation. He explained that all trucks transporting his equipment were driven by holders of Class A driver's licenses, and safety was paramount.

Discussion ensued regarding the number of pieces of equipment could be loaded on a trailer and the length of those trailers.

In reply to Chair Cieri, Mr. Ferris advised that the equipment may be fueled from service trucks, but there would be no gas station or underground tank on the property.

The equipment would be transported on trucks or trailers and would not be driven on U.S. Highway 395. The only possibility that equipment would be driven would be if the project was two doors down on Viola Way.

The applicant indicated he would comply with the requirement that the existing pole be reduced to 30 feet in height. The anticipated sign would be five feet by ten feet and illuminated from the inside.

Member Harcinske asked about runoff on the property. Mr. Ferris noted the property was about eight to twelve feet higher than the residential properties to the rear. He intended to install a drain to direct all runoff onto Viola Way. The rear of the property was bermed to prohibit water from going into the neighboring back yards. Member Harcinske was concerned about fuel, hydraulic fluids and antifreeze spilling on the ground. Director Freund noted there was no condition for that type of containment was provided by the District Health Department.

Chair Cieri closed the public hearing.

Member Harcinske noted the highway safety was definitely a concern, and she was hopeful that NDOT would reach a satisfactory resolution. She did feel, however, this was an appropriate use for the property.

Member Harcinske moved to approve with conditions Special Use Case No. SB08-011, including no street parking and sign restrictions pursuant to the Washoe Count Development Code, and adding a condition that "Staff shall determine appropriate lighting times for sign." The motion was seconded by Member Manor 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 South Valleys 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 heavy equipment/truck sales and rental business and for the intensity of such a 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 4

PUBLIC HEARING: ADMINISTRATIVE PERMIT CASE NO. AP08-003 (JEFF BOWEN) - To allow the construction of a 9,600-square-foot covered arena, and expansion into commercial stables offering boarding, maintenance and training of no more than twenty (20) horses, including those of the property owner(s) [Washoe County Code Section 110.304.25(c)(2)]. The operation will offer daily riding lessons using the boarded horses and no more than three (3) people per lesson. There will be no horse shows, competitions, or other events. The project is located at 4955 Old US Highway 395, approximately 563 feet north of its intersection with William Brent Road in Washoe Valley. The ±5-acre parcel is designated General Rural (GR) in the South Valleys Area Plan, and is situated in a portion of Section 10, T16N, R19E, MDM, Washoe County, Nevada. The property is located in the West Washoe Valley Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN 055-051-09)

Chair Cieri advised that the applicant presented a letter requesting postponement of this application to the December 4, 2008 hearing. As there was a gentleman in the audience wishing to be heard on this item, he opened the public hearing.

George Gillemot, 4814 Old U.S. Highway 395, Washoe Valley, an adjacent property owner, spoke in opposition to the approval of this application based on the fact that CC&Rs were extant prohibiting commercial enterprises on property in the tract.

Chair Cieri closed the public hearing.

Member Harcinske moved to continue the hearing on Administrative Permit Case No. AP08-003 until 1:30 p.m., Thursday, December 4, 2008. The motion was seconded by Member Manor and passed unanimously.

OTHER ITEMS

Ms. Robinson reminded the Board members of the new every-other-month meeting schedule, and announced that the next meeting would be held on December 4, 2008.

ADJOURNMENT

There being no further business to come before the Board of Adjustment, the meeting adjourned at 3:36 p.m.

Respectfully submitted,

Cathi Moldenhauer, Recording Secretary

Approved by Board in session on December 4, 2008

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