



BOARD OF ADJUSTMENT MEETING MINUTES

Board of Adjustment Members

Robert F. Wideman, Chair
Kim Toulouse, Vice Chair
Richard "R.J." Cieri
Philip J. Horan
William Whitney, Secretary

Thursday, December 6, 2012

1:30 p.m.

Washoe County Health Department
1001 East Ninth Street
Reno, NV

WASHOE COUNTY BOARD OF ADJUSTMENT

Minutes

December 6, 2012

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, December 6, 2012 at 1:30 p.m., in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. Determination of Quorum

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

Members present: Robert Wideman, Chair
Kim Toulouse
Philip Horan
Richard "R.J." Cieri

Members absent: None

Staff present: William Whitney, Director, Planning and Development
Roger Pelham, Senior Planner, Planning and Development
Trevor Lloyd, Senior Planner, Planning and Development
Grace Sannazzaro, Planner, Planning and Development
Eva Krause, Senior Planner, Planning and Development
Greg Salter, Deputy District Attorney, District Attorney's Office
Dawn Spinola, Recording Secretary, Planning and Development

2. Pledge of Allegiance

Member Horan led the pledge to the flag.

3. Ethics Law Announcement

Deputy District Attorney (DDA) Salter recited the Ethics Law standards.

4. Appeal Procedure

Mr. Whitney recited the appeal procedure for items heard before the Board of Adjustment.

5. Public Comment

As there was no response to the call for public comment, Chair Wideman closed the public comment period.

6. Approval of Agenda

Mr. Whitney informed the Board that Special Use Permit SB12-016 for NV Energy had been pulled from the agenda. Chair Wideman announced Item 8D had been withdrawn and would not be heard.

In accordance with the Open Meeting Law, Member Toulouse moved to approve the agenda of December 6, 2012 as amended. The motion, seconded by Member Horan, passed unanimously.

7. Approval of Minutes

Member Cieri moved to approve the minutes of October 4, 2012. The motion was seconded by Member Toulouse and passed unanimously.

8. Planning Items and Public Hearings

Agenda Item 8A

PUBLIC HEARING: Special Use Permit SB11-001: Southwind Communications Facility – To allow for the construction of an unmanned wireless communications facility involving the installation of four wireless telephone carriers and/or broadband internet providers (each carrier/provider has the capability of holding three to four antennas concealed inside and secured within the prescribed elevation within a new 75 vertical foot monopole). The monopole will be camouflaged to appear to look like a pine tree which is identified in the industry as a “monopine”. The monopine and equipment cabinets would be installed within a 30'x40' chain link fence with privacy slats, pursuant to Article 324 of the Development Code (Washoe County Code Chapter 110).

- Applicant: Tallac Tower Group
- Property Owner: Thomas Danzinger Family Trust
- Location: 17 Southwind Drive in Washoe Valley
- Assessor's Parcel No.: 046-060-18
- Parcel Size: +5 acres
- Current Regulatory Zone(s): General Rural (GR)
- Area Plan: South Valleys
- Citizen Advisory Board: West Washoe Valley
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Within Section 23, T17N, R19E, MDM Washoe County, NV

Chair Wideman recited the case description and opened the public hearing.

Mr. Lloyd reviewed the staff report dated November 26, 2012. He noted the neighbors most closely impacted were located 270 feet, ¼ mile and 1/3 mile away, respectively, and that the closest had submitted a letter of support. Mr. Lloyd pointed out the facility was commercial but was more accurately described as a utility, and due to its nature, it was necessary to place it

in a near residences so that it best served its purpose, that of serving the public in the area. He opined the facility would be adequately camouflaged.

Applicant's Representative Mitch LeGarza stated he supported Mr. Lloyd's opinion.

Catherine Rotes, Kai Wallis, Jeff Frankovich and Craig Cunningham spoke against the project, primarily citing visual impact, lack of a gap coverage study and opining the tower was better located elsewhere. Ms. Rotes stated she had a petition requesting the Board deny the project, signed by 69 people. Mr. Frankovich suggested the tower should be reduced to 50 feet in height and disguised as a green pine tree, as there are no Blue Spruce in the area. He stated he was the closest neighbor, and therefore he was the person Mr. Lloyd had stated was supporting the project. He emphasized that was incorrect.

Member Horan asked Mr. Lloyd to discuss Mr. Frankovich's claim that he was the closest neighbor and did not support the project. Mr. Lloyd explained Mr. Frankovich's parcel was the one he had described as being 1/3 mile away. The neighbor that had shown support was the closest, at 270 feet.

Member Toulouse noted extensive claims from adjoining property owners stating the towers would reduce their property values. He asked Mr. Lloyd if he was aware of any studies confirming or denying this claim. Mr. Lloyd said he was not, but opined there were many other factors involved that would make it difficult to prove the tower was directly to blame for any diminished values.

Member Toulouse asked if it could be conditioned that the tower could be disguised as a pine tree rather than a Blue Spruce. Mr. Whitney opined there were different types of camouflage for the towers and asked Mr. Lloyd if he knew if the applicant had explored different options. Mr. Lloyd replied he had not heard of any. Mr. LeGarza stated they could find something that blended further with the surroundings.

Member Cieri asked if it needed to be 75 feet high and Mr. LeGarza replied it was critical for good transmission in the area.

Member Toulouse asked if they had contracts in place and Mr. LeGarza explained they were in negotiations with two companies. Chair Wideman asked how they had determined that there was a coverage gap. Mr. LeGarza conceded there were a number of towers in the area, but pointed out companies do not typically share facilities. This left two major carriers with gaps in the area.

DDA Salter asked if any of the existing towers had facilities for those two carriers and Mr. LeGarza replied they did not. DDA Salter asked if a denial of the case would result in a denial of adequate coverage for the carrier. Mr. LeGarza said it would. Studies had been conducted to select another location and the only other real option was to build a huge tower in the middle of the valley. He reiterated the companies were in competition and it suited one company's interest if the other did not have coverage.

Member Horan expounded on the topic, asking if the public were being underserved if the tower was not approved. Mr. LeGarza opined it was.

Member Cieri asked if Mr. Lloyd had known of the petition with the 69 signatures and Mr. Lloyd replied he had not.

Chair Wideman closed the public hearing and asked if any of the Members had anything to disclose. None did.

Member Toulouse noted more of the towers were being constructed and he was concerned about the fact there were few reports about their impacts. He felt there would be significant negative impacts to the vistas and the community.

Member Cieri agreed and opined disguising it as a pine tree as opposed to a Blue Spruce was preferable.

Chair Wideman pointed out rules governing communication were state and federal. He noted there were in excess of 300,000 towers in the United States and they continue to be built due to demand, and are part of the greater good for the greater number. He opined the tower would not stand out unnecessarily and it complies with land use rules, so he would support it.

Member Horan moved to approve conditionally Special Use Permit SB11-001: Southwind Communications Facility. Mr. Whitney asked if the maker of the motion wished to include the condition the pole be disguised as a pine tree. Member Horan had no objection, and it was added as Condition 1k. The motion was seconded by Chair Wideman.

Member Horan opined the findings had been made and they were potentially limiting the property owner's rights to use their land as allowed by Code.

Member Cieri reiterated there were other location options, and a neighborhood was not the place for it. Chair Wideman stated that placing them elsewhere was a significant engineering challenge.

Member Toulouse felt the project could be detrimental and indicated he was struggling because there had been no studies done to effectively demonstrate there were coverage gaps. He opined there were significant impacts on the view shed and stated he could not support the project.

Member Horan noted that everything is detrimental to someone. Member Toulouse agreed but still could not make the finding.

Members Horan and Wideman voted in support of the motion and members Toulouse and Cieri voted against the motion. In the absence of a majority, the motion did not carry.

Chair Wideman asked that the appeal procedure be clarified and Mr. Whitney explained it for the applicant.

Agenda Item 8B

PUBLIC HEARING: Administrative Permit Case No AP12-008 – Gary Owens - To allow the construction of a detached accessory structure that is larger than the dwelling on the parcel.

- Applicant/Owner Gary Owens, 3983 S. McCarran #258, Reno, NV 89502
- Location: 8895 Lakeside Drive, at the southwest corner of its intersection with Holcomb Ranch Road
- Assessor's Parcel No: 041-130-57
- Parcel Size: 5.73 acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: Southwest Truckee Meadows

- Development Code: Article 306, Accessory Uses and Structures
Article 808, Administrative Permits
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Section 11, Township 18 North, Range 19 East,
MDB&M, Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated November 21, 2012. He explained it would be constructed as a portion of a previously approved Detached Accessory Dwelling. The structure would not match the existing main dwelling, but that one is to be torn down and a new one built that it will match. He requested the Board let him know if they would like an additional condition added regarding the color of the structure.

Member Cieri requested and received further clarification of what the structure would look like when completed. He asked if it was visually compatible with the community and Mr. Pelham replied it complied with conditions of approval but he would leave the judgment regarding visual compatibility to the Board.

Applicant's Representative James Molder explained to Member Cieri the area was quite diverse in terms of architectural styles, and plans for shielding the visual impact of the building included a greenhouse and extensive vegetation.

Chair Wideman reiterated the Administrative Permit was required because the proposed building was larger than the current main dwelling. He opined it would help the Board to make a decision if they understood whether or not the new structure was intended to replace the current main dwelling unit.

Mr. Molder stated it was not meant to replace it; the owner would reside in an approved smaller unit while the larger main dwelling was being constructed. The building under consideration is designed for storage and to contain support facilities for the main dwelling. Mr. Pelham further explained the smaller, existing dwelling would be removed when the new main dwelling was completed.

As there was no response to the call for public testimony, Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan moved to approve Administrative Permit Case No AP12-008 – Gary Owens. The motion was seconded by Member Cieri 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 Master 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 a Detached Accessory Structure, 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. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Chair Wideman declared a five-minute recess at 2:40 p.m. The meeting reconvened at 2:45 p.m.

Agenda Item 8C

PUBLIC HEARING: Administrative Permit Case No. AP12-009 – David Wood - To allow the construction of an accessory structure (garage and indoor play area) that will be larger in square footage than the proposed main dwelling.

- Applicant/Property Owner David Wood
- Project Location: 14085 Bihler Road, Reno, NV 89511
- Assessor's Parcel No: 142-241-19
- Parcel Size: ± 2.5 Acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: Southwest Truckee Meadows
- Development Code: Article 306, Accessory Uses and Structures
Article 808, Administrative Permits
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Section 30, T18N, R20E, MDM, Washoe County

Chair Wideman opened the public hearing

Ms. Sannazzaro reviewed the staff report dated November 19, 2012. She explained neighbors had contacted her regarding concerns that the facility could be used for commercial purposes and it was not in character with the surrounding area.

Applicant's Representative Joseph Snider stated they accepted all of the conditions with the exception of the requirement for a sprinkler system as conditioned by Fire. Applicant David Wood declared he would not install a sprinkler system.

DDA Salter asked Mr. Wood if he would like to withdraw his application. If the Board approved his application as conditioned, he would be required to install the system. Mr. Wood explained he had attempted to contact Fire to discuss the condition and had been unsuccessful. DDA Salter suggested he may want to ask for a continuance so that he would have more time to work with Fire and perhaps come to a solution. Mr. Wood requested the continuance.

Chair Wideman suggested the additional time may also provide him with the opportunity to work with his neighbors to alleviate some of their concerns, if he was so inclined. Mr. Wood stated he had no intention to use the facility for commercial purposes.

DDA Salter opined the Board should hear public comment prior to making the decision and motion whether or not they approved the continuance.

Neighbors Larry Sliter, Jan Sluchak, Edward Yenick, Todd Tresidder, Kurt Spencer, Allen Mundt, Nora Boiselle and Cyndi Yenick all spoke against the project. They reiterated concerns about the appearance of the structure not matching the area and the opportunity for it to be used commercially. They explained they maintained the roads themselves, and additional traffic would cause unnecessary deterioration and be a further burden.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Cieri moved to continue Administrative Permit Case No. AP12-009 – David Wood to the February 7, 2013 meeting, time certain at 1:30 p.m. The motion was seconded by Member Toulouse and passed unanimously.

DDA Salter announced the case would not be re-noticed due to the fact it had been continued time certain.

Agenda Item 8E

PUBLIC HEARING: Administrative Permit Case No AP12-010 – Robert and Joan Newman - To permit the temporary use of a recreational vehicle as a residence for the care of the infirm at 3935 White Pine Drive, in conjunction with the existing single family residence.

- Applicant/ Property Owner Robert and Joan Newman
- Location: 3935 White Pine Drive
- Assessor's Parcel No: 050-482-20
- Parcel Size: 1.25 acres
- Master Plan Category: SR
- Regulatory Zone: LDS (Trailer overlay)
- Area Plan: South Valleys
- Citizen Advisory Board: East Washoe Valley
- Development Code: 110.310.35(g)
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Section 6, T16N, R20E, MDB&M, Washoe County, NV

Chair Wideman opened the public hearing.

Ms. Krause reviewed the staff report dated November 13, 2012. She explained the permit would expire at the time the infirm person vacated the recreational vehicle. A letter from the physician verifying the need for care was required annually.

Member Horan asked if screening was typically required and Ms. Krause replied it was for this type of application. It would not be required if it were a storage unit. Member Horan asked if that would be a burden to the applicants and Ms. Krause indicated they were in the audience, if he wanted to ask them.

As there was no response to the call for public testimony, Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. None did.

Member Horan suggested the requirement for the screening should be removed. Chair Wideman indicated he had no objection. Member Toulouse identified it as Condition 1c.

Member Toulouse moved to approve conditionally as amended Administrative Permit Case No AP12-010 – Robert and Joan Newman. 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 Master 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 the temporary use of a recreational vehicle as living quarters for the care of infirm, 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. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

AGENDA ITEM 8F

Draft Ordinance Amending Articles 912 and 914 - Review proposed text of an ordinance establishing general rules governing appeals to the Board of Adjustment and provide direction to staff and recommendations to the Planning Commission for drafting and proposing the ordinance. Proposed ordinance generally covers what matters can be appealed to the Board of Adjustment, the timelines and procedures for such appeals (including what evidence may be reviewed and who has the burden of persuasion), and the right to either seek judicial review of the decisions of the Board of Adjustment or appeal them to the Board of County Commissioners.

DDA Salter explained review of the Boards Rules, Policies and Procedures had uncovered some inconsistencies with Washoe County Code and Nevada Revised Statutes. The draft ordinance provides necessary clarification and direction. He asked the Board if they would grant him the permission to make minor modifications that did not alter content, and they agreed to that.

Member Cieri felt portions of the document caused the powers of the Board to be retracted and vested to only the Chair, and was not in favor of that. DDA Salter explained they had set it up that way so the proceedings would not need to be public. He did see where it could raise Open Meeting Law challenges. Member Toulouse opined the public process with a full Board was more transparent.

Chair Wideman pointed out that civil court allowed the opportunity for aggrieved parties to come to an agreement, which the court ratifies. The appeals process as proposed was similar. Member Toulouse stated he did not have a problem with the evidentiary and pre-hearing process being handled by the Chair, but the final decision should be made by the Board as a whole.

Discussion ensued regarding the value of transparency and public input, driving the necessity of an open meeting forum for the final decision.

DDA Salter stated he would add that language to the draft ordinance.

Member Horan moved that the changes discussed by the Board of Adjustment concerning this matter be included within the draft ordinance and, further, moved to recommend to the Planning Commission that the draft ordinance, as amended, be submitted to the Board of County Commissioners for adoption. The motion was seconded by Member Toulouse and passed unanimously.

Member Cieri asked for clarification of what amendment was being proposed, and Member Horan stated it was "amended as discussed."

Member Horan withdrew his motion.

Member Cieri moved that the changes discussed by the Board of Adjustment concerning this matter be included within the draft ordinance and, further, moved to recommend to the Planning Commission that the draft ordinance, as amended and revised by discussion Bullet Nos. 3-5, be presented to the Board of Adjustment for review before final adoption.

DDA Salter clarified the changes and additions, and offered to send the revised version to the Board members for review.

Member Cieri withdrew his motion.

9. Chair and Board Items

Mr. Whitney noted the announcement regarding the removal of Item 8D from the agenda had included the word "withdrawn." He clarified the applicant did not wish to withdraw, the item had been continued indefinitely.

Mr. Whitney explained to the Board staff would be bringing the draft of the revised Rules, Policies and Procedures to them for approval as soon as possible.

10. Director's Items

None.

11. Public Comment

As there was no response to the call for public comment, Chair Wideman closed the public comment period.

Member Horan complimented staff in their presentation of material, particularly the upgrade which made the Motions easily accessible. Chair Wideman concurred.

12. Adjournment

There being no further business to come before the Board of Adjustment, the meeting adjourned at 4:09 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Board in session on February 7, 2013

William Whitney
Secretary to the Board of Adjustment