



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Lee Lawrence, Chair
Robert F. Wideman, Vice Chair
Kristina Hill
Kim Toulouse
Vacant
William Whitney, Secretary

Thursday, October 2, 2014
1:30 p.m.

Washoe County Administrative Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, October 2, 2014, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

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

Members present: Lee Lawrence, Chair
Robert Wideman, Vice Chair
Kristina Hill

Members absent: Kim Toulouse

Staff present: William Whitney, Division Director, Planning and Development
Roger Pelham, Senior Planner, Planning and Development
Greg Salter, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary
Kathy Emerson, Office Support Specialist, Community Services

2. *Pledge of Allegiance

Member Wideman led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney 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

Chair Lawrence opened public comment. As there was no one wishing to speak, Chair Lawrence closed the public comment period.

6. Approval of Agenda

Chair Lawrence noted that the Board Members were listed incorrectly on the October 2, 2014 agenda. The following corrections were made; Lee Lawrence, Chair, Robert F. Wideman, Vice Chair. In accordance with the Open Meeting Law, Member Wideman moved to approve the agenda of October 2, 2014. Member Hill seconded the motion which carried unanimously.

7. Approval of June 5, 2014 and August 7, 2014 Draft Minutes

Deputy District Attorney Salter noted the June 5, 2014 draft minutes distributed in the "packet" had incorrect findings on page 5 and a cleaned up copy had been circulated to the Members. In fact, the cleaned up version had not been circulated to the Members. Approval of the June 5, 2014 draft minutes will be continued to later in the meeting.

Member Wideman moved to approve the August 7, 2014 draft minutes. Member Hill seconded the motion which carried unanimously.

8. Planning Items and Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a further agenda.

Agenda Item 8.A.

Amendment of Conditions Case Number AC14-005 (Reno Indoor Paintball) – To amend condition of approval #1b of approved Special Use Permit Case Number SB12-012 for Reno Indoor Paintball to allow three years for issuance of building permits (August 4, 2015), rather than two, from the date of the approval by the Board of Adjustment.

- Applicant: Reno Indoor Paintball
Attn: Lawrence Kagawa
1005 Standard Street
Reno, NV 89506
- Property Owner: Sun Valley General Improvement District
Attn: Darrin Price
5000 Sun Valley Boulevard
Sun Valley, NV 89433
- Location: 115 West 6th Avenue
Sun Valley, at the Sun Valley Community Park
- Assessor's Parcel Number: 085-211-03
- Parcel Size: ± 20 Acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Parks and Recreation (PR)
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley (inactive)
- Development Code: Authorized in Article 810, Special Use Permits
- Commission District: 3 – Commissioner Jung
- Section/Township/Range: Within Section 18, T20N, R20E, MDM,
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
Washoe County Community Services Department
Planning and Development Division
- Phone: 775-328-3622
- E-mail: rpelham@washoecounty.us

Chair Lawrence opened the public hearing; no disclosures were made by members of the Board, at this time. Roger Pelham reviewed his staff report dated September 22, 2014.

Chair Lawrence opened public comment. As there were no requests to speak, Chair Lawrence closed public comment.

Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve with conditions Amendment of Conditions Case Number AC14-005 for Special Use Permit Case Number SB12-012 for Reno Indoor Paintball, having made all five findings in accordance with Washoe County Development Code Section 110.810.30. Member Wideman seconded the motion which carried unanimously.

The motion was based on the ability to make all five of 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 Sun Valley 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 paintball fields of play, 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;
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.

Agenda Item 8.B.

Amendment of Conditions Case Number AC14-006 (South Truckee Meadows Water Reclamation Facility) – To amend Conditions of Approval of Special Use Permit, Case Number SB14-004, for the expansion of the South Truckee Meadows Water Reclamation Facility, a wastewater treatment facility, to include a modified site plan (to reconfigure the development area and to construct one larger building rather than two smaller buildings) and to reduce required screening of rooftop mechanical equipment for the project.

- Applicant: Washoe County Community Services Department, Water Resources
- Property Owner: Washoe County
- Location: South of Alexander Lake Road, approximately two miles southeast of its intersection with South McCarran Boulevard
- Assessor's Parcel Numbers: 165-012-01, 164-022-05, 165-011-05 and 165-011-06
- Parcel Size: ± 83.3 acres total
- Master Plan Category: Suburban Residential (SR) and Rural (R)
- Regulatory Zone: Public and Semi-Public Facilities (PSP) and General Rural (GR)
- Area Plan: Southeast Truckee Meadows

- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits; and Article 438, Grading Standards
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Section 4, Township 18 North, Range 20 East, MDM, Washoe County, NV
- Staff: Roger D. Pelham, MPA, Senior Planner
Washoe County Community Services Department
Division of Planning and Development
- Phone: 775.328.3622
- E-Mail: rpelham@washoecounty.us

Chair Lawrence opened the public hearing; no disclosures were made by members of the Board. Roger Pelham reviewed his staff report dated September 22, 2014.

Member Wideman asked to see what rooftop equipment would be screened and not screened. Mr. Pelham pointed out all five pieces of equipment would be about 2/3 screened and painted to match the building.

Chair Lawrence opened public comment.

Tim Simpson, the applicant's representative, indicated that the elevation of Alexander Lake Road made it difficult to completely screen the equipment. He said trying to screen the equipment would result in a larger amount of items being exposed. Mr. Simpson wanted to address condition 1r. He feels the description is a bit vague as to where the trees are to be planted. He said, in the approved Special Use Permit, the trees would be planted along the access driveway. Due to the topography of the area and the fact that people like to ride bikes and hike in the area. Mr. Simpson feels the trees may create an obstruction to the view scape. He asked the Board to remove condition 1r and stick to the approved landscaping plan in the Special Use Permit.

Member Wideman asked Mr. Simpson, "tell me in one sentence why you don't want those trees"? Mr. Simpson said he doesn't think it will improve the screening of the facility; it would impede the view scape.

Member Hill asked Mr. Simpson how many trees are being required to be planted. Mr. Simpson said one every 40 feet but the condition doesn't state what area is required to have the trees.

Mr. Pelham clarified the intent of the condition would be trees along the roadway adjacent to the new development. He thought maybe a couple hundred feet.

Member Wideman asked Mr. Pelham if he would be OK removing condition 1r. Mr. Pelham said it wouldn't be critical to an approval.

Chair Lawrence closed public comment.

Member Wideman moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve with conditions, except 1r, Amendment of Conditions Case Number AC14-006 for Special Use Permit, Case Number SB14-004 for Washoe County Community Services Department, Water Resources, having made all five findings in accordance with Washoe County Development Code Section 110.810.30. Member Hill seconded the motion which carried unanimously.

The motion was based on the ability to make all five of 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 Southeast 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 water reclamation facility, 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 8.C.

Variance Case Number VA14-005 (Dolan) – To reduce the required front yard setback from thirty (30) feet to five (5) feet two (2) inches to bring two (2) existing nonconforming structures into conformance with current Washoe County Code.

- Applicant/Property Owner: Christopher & Carolyn Dolan
- Location: 1800 River Oaks Dr., Reno, NV 89511
- Assessor's Parcel Number: 142-031-08
- Parcel Size: 3.75 acres
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Low Density Suburban (LDS)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 804, Variances
- Commission District: 2 – Commissioner Humke
- Section/Township/Range: Section 29, Township 18, Range 20, MDM, Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner
Washoe County Community Services
Department
Planning and Development Division
- Phone: 775.328.3626
- E-Mail: cgiesinger@washoecounty.us

Chair Lawrence opened the public hearing; no disclosures were made by members of the Board. Chad Giesinger reviewed his staff report dated September 12, 2014.

Member Lawrence opened public comment.

Mike Vicks, K2 Engineering and Structural Designs, the applicant's representative, indicated he'd not received the correspondence that Mr. Giesinger had referred to in his presentation. He apologized for not responding. Mr. Vicks asked for the Boards approval on the item as there has been general support from the surrounding neighbors.

Christopher Dolan, the applicant, indicated that before he purchased it, the property was originally one lot and subdivided to build more houses. The subdivided properties to the north and northwest use the easement as a driveway. The neighbors have been using the easement for many years and have no issue with the structures being updated. Mr. Dolan said the reason they bought the property was to allow for his ailing father to be close while his mother was traveling. He said it was recommended to him to build another building on the property but Mr. Dolan thinks it would be detrimental to his and the surrounding property as White's Creek runs through the property.

Chair Lawrence asked how long the Dolan's had owned the property and Mr. Dolan said, about a year. He also said that he believed the subdividing and easement took place in 2006. Mr. Dolan indicated that he thinks other surrounding property was supposed to become a subdivision and the easement was created so the properties would have their own access and not have to drive through the future subdivision.

Mr. Giesinger suggested that the former property owner created a self-imposed problem by creating an easement along the edge to create parcels to sell.

Member Wideman said he has sympathy for the land owner and what he wants to do seems reasonable but the rules seem ill considered for this circumstance. They are not quite applicable to a standard of common sense. At the same time the rules are the rules. The ability of the decisions of the Board to be upheld for further review at the Board of County Commissioners or, if appealed to the District Court, are predicated on the concept that everything we do is not arbitrary and capricious. If we ignore the rules, we cannot explain our decisions in the context of the rules as they are adopted, in this case, in the Development Code, as adopted by the Board of County Commissioners. If we can't be articulate and specific, then we are arbitrary and capricious. And, if we are arbitrary and capricious and we do not interpret the rules consistently across the entire County, not just for a neighborhood, then we have no basis in upholding the rules at all. And so for that reason, it leads us into a particular problem. Member Wideman said he is not able to support the request for the variance. Not because it seems unreasonable, but because he simply cannot articulate it in terms of the rules and then apply those rules consistently to other decisions in the past and other decisions going forward, specifically, special circumstances. Special circumstance as it relates to the parcel itself. And in this case, it's a nice large piece of land, it's relatively flat, has good access, plenty of room to do what the applicant wants, there's nothing about the land that stops an appropriate building from being built there. There is no detriment. In this case, the detriment is to the surrounding properties. The neighbors like the way it is and they have reason to do so. At the same time, if the Board grants a variance in an arbitrary and capricious manner, that has detriment on our ability to enforce the code in other circumstances in the future and can perhaps be applied in the past. If we can't articulate the issues about the land and the detriment within the existing code then granting this amounts to a special privilege. And, it is because we are treating it differently than we do everybody else in the code. For those reasons Mr. Wideman can't find a way to articulate that the requested variance would meet the findings that the Board is required to meet.

Member Hill said she thinks they can make those findings. She thinks there is an existing building that can be used for the purpose of what is intended. All the applicant has to do is put a kitchen in the existing building instead of having to build a new building on a property that already has a number of buildings on it. She thinks it's an undue hardship and an exception to the rule.

Chair Lawrence said that this was an interesting situation due to the history of the properties, ie: permission for subdividing and the easements. He empathized with the applicant and believes this is an exceptional case as the family is trying to accommodate an ailing family member by building a kitchen in an existing building that hasn't been an issue. He understands

Member Wideman's point but thinks that with no issues within the community as no one has requested to speak against the item; he can give favor to the application.

Member Hill moved to approve and grant Variance Case Number VA14-005 (Dolan) to reduce the side yard setback from thirty (30) feet to five (5) feet two (2) inches to bring two (2) existing nonconforming structures into conformance with current Washoe County Code, having made at least four of the five required findings of WCC 110.804.25, subject to conditions of approval "a" through "e" listed below. Chair Lawrence seconded the motion which carried with two in favor and Mr. Wideman opposed.

- a. The applicant shall demonstrate substantial conformance to the plans submitted as part of this variance. Modification to the site plan(s) may require amendment to and reprocessing of the variance.
- b. The applicant shall submit complete construction plans and building permits shall be issued within two years from the date of approval by Washoe County. The applicant shall complete construction within the time specified by the building permits.
- c. A copy of the Final Order stating conditional approval of this variance shall be attached to all applications for administrative permits, including building permits, issued by Washoe County.
- d. Approval of the variance shall not convey any rights or approval to construct any additional structures within the thirty (30) foot front yard setback. Approval of this variance only reduces the required front yard setback for the two (2) existing structures within the setback. Roof eaves, light fixtures or other structural or architectural elements shall not project over the reduced setback.
- e. Approval of the variance shall not convey any rights or approval to construct, or to convert an existing structure, to a Detached Accessory Dwelling. Approval to construct, or to convert an existing structure, to a Detached Accessory Dwelling shall require a separate application and review process per WCC 110.306.25.

The motion was based on the ability to make all five of the following findings:

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; 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.
5. Effect on a Military Installation. The variance will not have a detrimental effect on the location, purpose and mission of the military installation.

Reconsideration of the approval of the June 5, 2014 Draft Minutes

Deputy District Attorney Salter requested the Board to notice the cleaned up language on page 5 of the June 5, 2014 minutes which were passed out.

Member Wideman moved to approve the June 5, 2014 draft minutes as amended and provided by staff. Chair Lawrence seconded the motion which carried unanimously.

9. Chair and Board Items

A. *Report on Previous Board of Adjustment Items.

Mr. Whitney updated the Board on four items; their denial of the Verizon (SB14-002) item which went to the Board on June 5, 2014. The case is being appealed and is tentatively scheduled to be heard by the BCC on October 28, 2014. He also updated them on their denial of the Ronning (VA14-004) item which was heard by the Board on June 5, 2014. The case was appealed to the BCC, which approved the variance application. The Nature Conservancy (SB14-012) item approved by the Board on August 7, 2014 had the land transferred to Storey County due to a Legislative approval. And, the Crossbow Court (SB14-013) item denied by the Board on August 7, 2014 has been appealed to the BCC and is tentatively scheduled for the October 28, 2014 meeting.

B. Future Agenda Items and Reports

None

10. *Director's Items

A. *Legal Information and Updates

Mr. Whitney announced that an application for the vacant District 3 position on the Board had been received. The applicant, Mr. Clay Thomas, is from District 2 but will fill the District 3 seat as there has been trouble finding anyone from District 3, as it is so small. The appointment will tentatively be scheduled for approval at the October 28, 2014 BCC meeting. By the December 4, 2014 meeting all five Board positions should be filled. Training for the BOA and PC members will be scheduled in the next couple of months, as soon as the training material is updated.

11. Public Comment

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

12. Adjournment

The meeting adjourned at 2:50 p.m.

Respectfully submitted,

Donna Fagan, Recording Secretary

Approved by Board in session on _____, 2015

William H. Whitney
Secretary to the Board of Adjustment