



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
Robert F. Wideman

WASHOE COUNTY BOARD OF ADJUSTMENT

MINUTES

October 1, 2009

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, October 1, 2009 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 1:31 p.m. The following members and staff were present:

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

Members absent: None

Staff present: Kimberly H. Robinson, Planning Manager, Community Development
Roger Pelham, Senior Planner, Community Development
Sandra Monsalvè, AICP, Planner, Community Development
Don Morehouse, Planner, Community Development
Grace Sannazzaro, Planner, Community Development
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Dawn Spinola, Recording Secretary, Community Development

PLEDGE OF ALLEGIANCE

Chair Cieri led the pledge to the flag.

APPROVAL OF AGENDA

In accordance with the Open Meeting Law, Member Horan moved to approve the agenda of October 1, 2009. The motion, seconded by Member Harcinske, passed unanimously.

APPROVAL OF MINUTES

Member Harcinske moved to approve the minutes of August 6, 2009. The motion was seconded by Member Wideman and passed unanimously.

PUBLIC COMMENT

None

CHAIR AND BOARD ITEMS

Ms. Robinson reported two cases that had been heard by the Board had been appealed. Case Number AX09-005, Will Sauer Road Maintenance Association, is scheduled to be heard by the Board of County Commissioners (BCC) on October 13 and VA09-005, Shauna Olsen-Tone, will be heard by the BCC in November.

DIRECTOR'S ITEMS

Ms. Robinson informed the Board the item for a new member is scheduled before the BCC on October 13, 2009.

CONSENT ITEMS

None

PROJECT REVIEW ITEMS

AGENDA ITEM 1

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB09-010 (CHARLOTTE & TRAVIS KERMODE) - To convert an existing barn into a ±700 square foot detached accessory dwelling as authorized in Section 110.306.25 of the Washoe County Development Code. There is an existing 3,136 square foot main dwelling on the parcel. The project is located at 5485 Hazelwood Circle, situated on the northwest corner of Hazelwood Circle and Wintergreen Lane, and is about one third of a mile west of the intersection of Callahan Road and Goldenrod Drive. The +1-acre parcel is designated Low Density Suburban (LDS) in the Forest Area Plan, and is situated in a portion of Section 2, T17N, R19E, MDM, Washoe County, Nevada. The property is located in the Galena-Steamboat Citizen Advisory Board boundary and Washoe County Commission District No. 2. (APN: 045-533-12)

Chair Cieri opened the public hearing.

Ms. Sannazzaro reviewed the staff report dated September 14, 2009, emphasizing the Health Department conditions which require reviewing existing septic systems, adding a new system for the proposed detached accessory dwelling and plugging the well. She addressed concerns raised by the Citizen Advisory Board (CAB), including use of the dwelling as a rental, being sure the building met fire codes and water usage.

Member Horan asked Ms. Sannazzaro about garage requirements. She replied they were required to have one additional parking space. The main house has a three-car garage and the proposed dwelling has a circular driveway with a separate entrance so the applicant has met the requirement.

Applicant's Representative Michael Vicks proposed new language for Condition 2b which required a new septic system. He distributed a copy of the requested language to the

members, which reads as follows: "The proposed septic system shall be reviewed and approved by the Health Department prior to construction. The proposed system shall be in conformance with all applicable codes." He noted that prior to the application submittal, they had met with Richardo Cruz of the Health Department. A determination was made at that time that the dwellings could each have a septic tank and could share one leach field. He stated they had been unable to contact Doug Coulter to discuss the matter.

Chair Cieri asked Mr. Vicks about water rights. Mr. Vicks explained the well would be capped, the water rights dedicated to the County and the property would receive water service from the existing domestic line. He went on to explain a meter pit was already in place on the property.

Beth Honebein, 5450 Wintergreen Lane, and Cheryl LaFond, 5505 Goldenrod Drive, both spoke in opposition to the project, citing Covenants, Conditions and Restrictions (CC&Rs) attached to the property as well as concerns about the project possibly affecting the character of the neighborhood.

Chair Cieri closed the public hearing. He noted the board had no jurisdiction over CC&Rs, that they were a civil matter. Deputy District Attorney (DDA) Edwards expounded, stating CC&Rs were private covenants, enforceable by the Homeowners Association (HOA), and/or in some cases, by the homeowners. It was not within the scope of the Board or the proceedings to enforce different association's CC&Rs.

Member Harcinske and Ms. Sannazzaro discussed the condition proposed by the applicant's representative. Ms. Sannazzaro noted she would only feel comfortable making some type of change if the Health Department agreed to it.

Ms. Robinson informed Chair Cieri a staff member had been asked to locate Mr. Coulter to see if he was available to come to the meeting to discuss the proposal. She pointed out he had written the condition in question. She also noted Community Development staff had not learned of the proposed change until after the meeting had started.

Discussion ensued regarding the possibility of rewording the condition. DDA Edwards clarified that would be acceptable as long as the final decision rested in the hands of the Health Department.

Member Harcinske asked Ms. Sannazzaro to discuss the zoning of the property and detached accessory dwellings (DAD). Ms. Sannazzaro replied the parcel and the neighborhood are zoned Low Density Suburban (LDS), which is one dwelling unit per acre. She stated the parcel in question was not large enough to be subdivided unless a Comprehensive Plan Amendment was approved, which was unlikely considering the area was primarily zoned LDS. She went on to explain the requirements for a DAD included an approved special use permit and a parcel over one acre. Member Harcinske observed a condition in the staff report limiting the subdivision of the parcel based on the minimum lot size required for that zoning.

Doug Coulter arrived and stated the proposed condition was acceptable to the Health Department. Ms. Sannazzaro concurred.

Member Harcinske asked if the language needed to be more specific, to include mention of both the septic for the main dwelling and for the DAD. Ms. Robinson clarified Mr. Coulter had deemed the proposed language as acceptable.

Member Wideman moved to approve conditionally, as amended, Special Use Permit Case No. SB09-010. The motion was seconded by Member Harcinske and passed unanimously.

The motion was based on the following findings:

1. Consistency. That a detached accessory dwelling is consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the Forest Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities will be provided pursuant to the Conditions of Approval, 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 with the parcel consisting of just over an acre of land, and for the intensity of such a development subsequent to meeting the Conditions of Approval required by the Washoe County District Health Department;
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 upon meeting the Conditions of Approval;
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; 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.

[Ms. Robinson recited the process to appeal this decision.]

AGENDA ITEM 2

PUBLIC HEARING: SPECIAL USE PERMIT CASE NO. SB09-011 (NATALIE NEHRING) – For retroactive authorization of the previous grading of approximately 1.24 acres of land and the excavation of between 600 and 1000 cubic yards of earthen material, for development of a single-family residence and driveway as authorized in Section 110.438.35 of the Washoe County Development Code, and to allow the additional grading of a fire break on the subject site. The project is located approximately 2 miles southeast of the intersection of Wilcox Ranch Road and Pah Rah Springs Road, and is addressed as 1000 Pah Rah Springs Road. The ±84.86-acre parcel is designated General Rural Residential (GRR) in the Warm Springs Area Plan, and is situated in a portion of Section 15, T21N, R22E, MDM, Washoe County, Nevada.

The property is located in the Warm Springs Citizen Advisory Board boundary and Washoe County Commission District No. 4. (APN: 07-450-01)

Chair Cieri opened the public hearing.

Mr. Pelham reviewed the staff report dated September 15, 2009. He noted the applicant had constructed an agricultural building over the property line on the adjoining property. Although this presented a problem, the problem was not necessarily tied to the grading. A condition had been included that required the applicant to prove they had made the adjoining property owner aware of the building's existence.

Member Horan asked how the illegal grading had come to the attention of staff and Mr. Pelham replied the applicant had applied for a building permit and upon review, it was discovered there was no permit for the grading already completed.

Member Horan asked Mr. Pelham to expound on his implication there was some connection between the grading permit and the building being placed on the neighbor's property. Mr. Pelham explained there is a connection only insofar as an illegal use exists on a parcel of land for which a discretionary action is being sought. The question is whether or not the grading is tied to the agricultural building, which it is not. But because a discretionary action is being taken, this is an opportunity to address that problem. A resolution was not being required for the approval of the permit.

Member Harcinske asked if all the grading to be approved was located on the applicant's property. Mr. Pelham replied that, according to the drawings, it was all within the property lines.

Applicant's Representative Hugh Ezzell introduced himself and stated he was chair of the Warm Springs CAB. He reiterated the agricultural building was not tied to the grading permit. His understanding was Condition 3 requires the applicant to certify they had notified the neighbors about the agricultural building. The condition actually requires documentation from the neighbors they are aware of the building. He noted difficulties with contacting the neighbors, so he recommended to either strike Condition 3 or to change it, allowing the owner to certify they had contacted the neighbor.

Member Horan asked how it was all the grading had been done without a permit and Mr. Ezzell opined the owner was not aware a permit was required. In answer to a question posed by Member Horan, Mr. Ezzell stated the CAB had approved the project. He noted he had recused himself from the vote.

Robert H Broili, Esq. introduced himself as legal counsel for Patricia and Shayne Weir, the owners of the neighboring property. Dr. Weir authorized Mr. Broili to attend the meeting to observe and to bring forward the fact a building had been built on his property. Mr. Broili had asked Dr. Weir if he would be willing to write a letter acknowledging the encroachment, which would satisfy Condition 3, but had not yet received a response.

Chair Cieri asked Mr. Broili if it would be acceptable to alter the language of the condition as the applicant's representative had requested due to the challenge of contacting the owners. Mr. Broili replied that neither he nor his clients had directly been made aware of the hearing and surmised the address being used was incorrect, perhaps causing the problem with

contacting them. Chair Cieri verified with Mr. Broili that the Weirs were aware the building was on their property.

Mr. Ezzell opined that, in light of Mr. Broili's testimony, the condition had already been met. He requested the Board strike the condition. Ms. Robinson stated she had had a discussion with Counsel and it was acceptable to strike Condition 3 based on the testimony provided. DDA Edwards noted striking the condition did not end any potential dispute between the applicant and the neighboring property owner.

Mr. Broili suggested the condition be restated to indicate it has been satisfied, rather than being stricken, for the sake of having a record of it. DDA Edwards agreed.

Chair Cieri closed the public hearing.

Member Horan asked Mr. Pelham if the building constructed on the adjoining property had been permitted and Mr. Pelham stated he did not know.

Member Harcinske expressed concern that some of the grading being approved was actually located on the adjacent property. She noted she would feel comfortable approving it if the other Board members were satisfied all the grading was on the applicant's property. Mr. Pelham demonstrated the plans as submitted clearly showed all of the grading to be within the property lines.

DDA Edwards proposed a new condition which states: "Nothing in this approval shall be construed to include any unauthorized grading that may have occurred off of the applicant's own property." Chair Cieri added the language as Condition 12.

Chair Cieri noted Condition 3 needed to be rephrased or deleted. Mr. Pelham stated he would be satisfied with Counsel's decision. Member Wideman suggested the condition remain but a statement added the documentation now exists by virtue of the testimony in the public record.

Member Harcinske moved to approve conditionally, as amended, Special Use Permit Case No. SB09-011. The motion was seconded by Member Wideman.

DDA Edwards suggested a summarization clarifying Condition 3. Member Harcinske stated the discussion included that the condition remain, with a recognition noting it had been satisfied. Ms. Robinson noted she had crafted potential language to be added to Condition 3, stating "This condition was satisfied, see Board of Adjustment minutes for the October 1, 2009 meeting."

Members Harcinske and Wideman agreed to the revised motion and it 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;
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; 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. SB09-013 (LOUIS PARKER) – To convert a portion of an existing detached garage into a ±648-square-foot detached accessory dwelling as authorized in Section 110.306.25 of the Washoe County Development Code. There is an existing 1,814 square foot main dwelling on the parcel. The subject parcel is located at 8100 Osage Road, situated approximately 500 feet southwest of Red Rock Road. The ±11.54-acre parcel is designated Low Density Suburban (LDS) in the North Valleys Area Plan, and is situated in a portion of Section 25, T21N, R18E, MDM, Washoe County, Nevada. The property is located in the North Valleys Citizen Advisory Board boundary and Washoe County Commission District No. 5. (APN: 086-360-02)

Chair Cieri opened the public hearing.

Ms. Monsalvè reviewed the staff report dated September 16, 2009. She noted the District Health Department had no conditions related to the request, nor did the Department of Water Resources. She also pointed out the time given to the CAB to comment had been limited but adequate, and she had received no input.

Neither the applicant nor the agencies had comments or questions.

Chair Cieri closed the public hearing.

Member Harcinske moved to approve conditionally Special Use Permit Case No. SB09-013. 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 North 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 a detached accessory dwelling as part of an existing garage;
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 the 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 4

PUBLIC HEARING: VARIANCE CASE NO. VA09-006 (LUNI RESIDENCE) – To reduce the front yard setback along Tyner Way from 15 feet to 10 feet to facilitate the construction of a garage roof overhang over the existing parking deck and a roof cover over an existing entry stairway as authorized in Section 110.804 of the Washoe County Development Code. The project is located at 898 Tyner Way between Tracy Court and Dorcey Drive in Incline Village. The ±.371-acre parcel is designated High Density Suburban (HDS) in the Tahoe Area Plan, and is situated in a portion of Section 9, T16, R18, 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 125-152-01)

Chair Cieri opened the public hearing.

Mr. Morehouse reviewed the staff report dated September 21, 2009. He noted the item had not been heard at a CAB meeting due to the new scheduling and that the home was not being remodeled in any way other than adding the proposed overhang and roof cover.

Member Horan noted the absence of an exhibit showing the proposed elevations at completion. Applicant's Representative James Borelli presented copies of the drawings submitted with the application. Discussion ensued regarding the details of the project, the property lines and the setbacks. Member Horan asked Mr. Borelli if Tahoe Regional Planning Agency (TRPA) had approved the project and Mr. Borelli replied it would be premature to request that approval prior to the approval of the Board.

Mr. Morehouse noted that normally a Variance request was for an improvement which created an impediment to snow removal and that was not the case with this project.

Member Horan stated he intended to support the request and pointed out it was not an unusual circumstance. Having a covered drive and walkway is desirable in an area where ice and snow are prevalent.

Member Harcinske noted this approval could potentially lead to the area being enclosed as living space and another variance request being made to build out to the edge of the pavement for parking space. She stated she supported this project.

Chair Cieri closed the public hearing.

Member Wideman moved to approve conditionally Variance Case No. VA09-006. The motion was seconded by Member Horan 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 the location of the existing house as well as snow and ice 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. Effect on Military Installation. The variance will not have a detrimental effect on the location, purpose and 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.

OTHER ITEMS

Chair Cieri asked how the every other month Board of Adjustment (BOA) meetings were going to be synchronized with the every other month CAB meetings. Ms. Robinson replied that if there is no CAB meeting between time of application and the hearing date, each CAB member including the chair receives a copy of the application and is provided adequate time to comment. Chair Cieri pointed out this circumvents the public hearing process of the CAB meetings.

Member Harcinske requested information be tracked identifying the number of cases that are coming to both the BOA and PC without having been heard at a CAB meeting. Member Horan pointed out CAB participation was already limited and if it became clear more cases were being heard without going before the CAB it might be a discouragement to those who may otherwise participate.

Member Horan noted an earlier comment made that the staff member had not been at the CAB meeting when the item was discussed. He verified with Ms. Robinson that staff does not attend CAB meetings. Ms. Robinson informed the Board that two notices are mailed out to the affected members of the public informing them of the case and of the public hearing date.

ADJOURNMENT

There being no further business to come before the Board of Adjustment, the meeting adjourned at 3:01 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Board in session on December 3, 2009

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