



BOARD OF ADJUSTMENT MEETING MINUTES

Board of Adjustment Members

Philip J. Horan, Chair

Robert F. Wideman, Vice Chair

Mary S. Harcinske

Richard "R.J." Cieri

Kim Toulouse

William Whitney, Secretary

Thursday April 5, 2012

1:30 p.m.

Washoe County Health Department
1001 East Ninth Street
Reno, NV

WASHOE COUNTY BOARD OF ADJUSTMENT

Minutes

April 5, 2012

The regular meeting of the Washoe County Board of Adjustment was scheduled for Thursday, April 5, 2012 at 1:30 p.m., in the Washoe County District 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
Philip Horan
Richard "R.J." Cieri
Mary S. Harcinske
Kim Toulouse

Members absent: None

Staff present: William Whitney, Acting Director, Community Development
Roger Pelham, MPA, Senior Planner, Community Development
Sandra Monsalvè, AICP, Senior Planner, Community Development
Grace Sannazzaro, Planner, Community Development
Trevor Lloyd, Senior Planner, Community Development
Greg Salter, Deputy District Attorney, District Attorney's Office
Dawn Spinola, Recording Secretary, Community 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

Chair Wideman proposed Item 11B, AT&T Mobility at Incline Village High School, be heard first and the remaining items be heard in order.

In accordance with the Open Meeting Law, Member Horan moved to approve the agenda of April 5, 2012 as proposed by Chair Wideman. The motion, seconded by Member Harcinske, passed unanimously.

7. Approval of Minutes

Member Horan moved to approve the minutes of February 2, 2012. The motion was seconded by Member Harcinske and passed four in favor and none against, Member Toulouse abstaining as he had not been present at the meeting.

8. Chair and Board Items

None

9. Director's Items

Mr. Whitney initiated a discussion about moving Chair and Commission and Director's Items to the end of the agenda on a permanent basis for the convenience of the members of the public attending the meetings. Member Harcinske spoke in favor of the idea, noting occasionally topics arise during the meeting that would be good candidates for informational discussion after the public hearings had finished.

Member Toulouse moved to permanently change the order of the agenda as suggested by Mr. Whitney. The motion was seconded by Member Horan and passed unanimously.

Mr. Whitney explained to the Board the discussion regarding having 12 meetings per year instead of six would be postponed until the next fiscal year, after the budget situation became a bit clearer and to see if the case load increased.

10. Consent Items

None

11. Project Review Items

Agenda Item 11B

PUBLIC HEARING: Special Use Permit Case No. SB12-002 – AT&T Mobility, Incline Village High School, Wireless Communication Facility – To replace an existing stadium light pole with an 87-foot tall wireless telecommunications monopole, with up to 12 panel antennas, new light fixtures and all necessary ancillary equipment; and to construct an

equipment cabinet shelter within a 26' x 18' fenced area adjacent to the monopole; and, to vary the overall pole height from an allowable 80 feet up to 87 feet.

- Location: At the sports stadium at Incline Village High School, 499 Incline Village Boulevard, approximately 400 feet north of its intersection with Northwood Boulevard
- Assessor's Parcel No.(s): 124-071-52
- Parcel Size: 19.01 acres
- Current Regulatory Zone(s): Public and Semi-Public Facilities (PSP)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village / Crystal Bay
- Commission District: 1 – Commissioner Breternitz
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Section/Township/Range: Within Section 15, T16N, R18E, MDM Washoe County, NV

Ms. Monsalvè reviewed the staff report dated March 30, 2012. She explained the item had been publicly noticed, but the applicant had requested a continuance to June 7, 2012.

Chair Wideman opened the public hearing.

Applicant's Representative Randy Brown introduced himself and confirmed they were requesting the continuance.

Chair Wideman reiterated public comment was limited to three minutes per person.

Incline Resident Steven Dolan opined the case had been inappropriately advertised and noticed to the public. He explained his perception of the controversial nature of the towers in terms of public health and safety. He noted other locations had been proposed and may be more appropriate.

DDA Salter asked if Mr. Dolan lived within 500 feet of the tower. Mr. Dolan replied he believed the distance was 500 yards and said he did not. He opined the affected property owners did not necessarily live within that distance.

Resident John Eppolito asked when the application was submitted. Chair Wideman advised him not to use his time asking questions. Mr. Eppolito stated he felt the application should be denied, and pointed out the Incline Village/Crystal Bay Citizen Advisory Board (CAB) had voted to deny it. He opined there was no coverage gap in the area and noted that a petition being circulated against the tower had over 150 signatures, as the tower would be located close to three schools.

Mr. Eppolito asked if AT&T would pay for expert studies assuring the residents there was no danger. Chair Wideman reminded him it was a time for public comment, not questions and answers. Mr. Whitney suggested Mr. Eppolito contact staff regarding the best way to get in touch with AT&T representatives.

DDA Salter noted if the case were continued and Mr. Eppolito had questions then, he could address them to the Chair who could then direct them to the AT&T representative. Mr. Eppolito provided a copy of the petition to the Recording Secretary and confirmed with the members they had received an e-mail he had sent regarding towers catching fire.

Mark Stanton, representing Washoe County School District (WCSD) stated they supported the request to postpone.

Resident Margaret Martini opined WCSD did not need the income they would receive from AT&T for the use of the property. She stated the International Association of Fire Fighter's Union and other organizations do not allow cell towers on their properties as there was not enough science to support their safety. She opined another location would be more appropriate. She noted that occasionally the towers fall over or catch fire, and a fire would be detrimental to the community.

Chair Wideman closed the public hearing.

All members of the Board stated they had received numerous e-mails in opposition to the project, and Member Horan had received one phone call and one e-mail in support. DDA Salter recommended they be entered into the record.

Member Horan moved to continue Special Use Permit Case No. SB12-002 – AT&T Mobility, Incline Village High School, Wireless Communication Facility to be heard time certain at the June 7, 2012 Board of Adjustment meeting. The motion was seconded by Member Cieri and passed unanimously.

Agenda Item 11A

PUBLIC HEARING: Special Use Permit Case No. SB12-001 – AT&T Mobility, Spanish Springs High School, Wireless Communication Facility – To replace an existing stadium light pole and replace it with a wireless communication pole including 15 panel antennas and ancillary equipment, and construct an equipment shelter within a 30' x 23' fenced area.

- Location: At the sports stadium at Spanish Springs High School, 1065 Eagle Canyon Drive, adjacent to the intersection of Golden Eye and Eagle Canyon Drive
- Assessor's Parcel No.(s): 530-480-02
- Parcel Size: 53.482 acres
- Current Regulatory Zone(s): Public and Semi-Public Facilities (PSP)
- Area Plan: Spanish Springs
- Citizen Advisory Board: Spanish Springs
- Commission District: 4 – Commissioner Larkin
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Section/Township/Range: Within Sections 27 and 34, T21N, R20E, MDM Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated March 22, 2012.

Applicant's Representative Gary Mapa thanked the Board and briefly reviewed the request.

Member Cieri asked DDA Salter if the Board was involved in making decisions based on health-related issues. DDA Salter replied that both State and Federal law do not allow this Board to consider the environmental effects of the radio frequency emissions (RFEs). The Board was pre-empted and not allowed to consider that issue if the project complies with

Federal Communications Commission (FCC) regulations. He indicated it would be prudent for the Board to request confirmation from the applicant to ensure that it does.

Member Toulouse noted required Finding Number Four reads as follows: "Issuance of the permit will not be significantly detrimental to the public health, safety or welfare, injurious to adjacent properties or detrimental to the character of the surrounding area." He opined it was challenging to make a determination when two contradictory directives existed regarding the Board's power to make a decision based on public safety issues.

DDA Salter reiterated Federal and State statutes pre-empted the Board from considering RFEs as a part of the health concern. The Board could consider other health factors.

Chair Wideman asked Mr. Mapa if an FCC license was required to transmit at the intended frequency prior to operation and Mr. Mapa verified AT&T was properly licensed.

Member Horan read comments made by WCSD Representative Mark Stanton at the IVCB CAB meeting that included indications the school district was researching whether they could or could not refuse AT&T's application. Mr. Stanton explained they were researching as to whether or not the statute that does not allow the land authority to refuse telecommunications facilities applies to school property. The statute allows the facilities to be placed if it meets FCC regulations.

Chair Wideman asked if WCSD was in support or opposition of the application. Mr. Stanton stated they were researching effects of electromagnetic frequencies (EMF) on health. He noted the Board had approved eight leases for towers to date, but would not speak for the School District to directly state if the WCSD Board did or did not support the towers. He opined past practice would indicate they did.

Member Horan suggested it may be prudent for the WCSD Board to bear in mind the difference between communities as they made their decisions. Mr. Stanton explained WCSD was in the process of developing a more standardized process that seeks input from the schools and community.

Member Toulouse asked if WCSD had held an informational public meeting with all of the parents of each of the affected schools. Mr. Stanton replied they had not, but that would be part of the new procedural standard.

Mr. Eppolito noted discussions with the WCSD attorney regarding the fact the District is not the governing agency, only the landlord, but that they had an obligation to consider the health impacts. He noted he opposed the Incline tower as he lived near it and had children that attended the affected schools. Chair Wideman informed him this public comment period was about the Spanish Springs High School tower.

Mr. Dolan stated the issues went beyond just health concerns. He explained families had declared they would leave the area if it was approved, and the installation of the towers would negatively affect real estate values.

Ms. Martini reiterated the WCSD had not contacted the parents or the general public. She pointed out the IVCB CAB meeting had been well-attended by concerned citizens once it was known the item would be heard, and opined more public input should be sought.

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

Member Horan stated he felt the applicant had complied with the law regarding notification, to include open School Board meetings. He felt they had failed in their communication at the local level.

Member Cieri asked about the notification process and Mr. Pelham explained parcels within 500 feet with a minimum of 30 separate property owners must be notified. In this case 130 legal notices were sent out. He displayed a map of the parcels that had received notices. He had received no comments in response.

Member Harcinske expressed concern the Board was being asked to make a decision while the WCSD was still conducting legal research regarding the land use. She pointed out scientific research did not function as a method of determining lack of something, such as health impacts, in this case.

Member Toulouse echoed her concerns about the legal research and stated he was still struggling with the contradictory Finding issue.

Chair Wideman pointed out it was clear the FCC regulations did not allow them to consider the negative effects of RFEs. With that issue out of consideration, what they were left with was a land use issue. If they have health considerations that are broader, those can be considered, but he had not heard any, so he was satisfied they could make the finding of health with the exclusion of the RFEs.

Chair Wideman went on to note the School Board was governed by a duly-constituted and properly elected Board of Trustees, who are accountable to the public, not the Board of Adjustment. He was perfectly comfortable letting the school Board make the policy decision about what they thought was best for their students and facilities.

Member Toulouse acknowledged the Chair's points. He asked Mr. Pelham if it would be possible in the future to cooperate with the School District and notice all of the parents in the spirit of cooperation and getting the most public input possible. Mr. Pelham stated the County would be willing to coordinate with WCSD in any way that they might request. He pointed out that additional public notice would put this applicant into a different class than another applicant in a similar situation, risking a perception of discrimination. He deferred to Counsel for confirmation.

DDA Salter stated there may be Federal law implications as well as that which Mr. Pelham had stated, due to FCC prohibitions against unreasonably discriminating in favor of one provider over another. He would review the noticing requirements and get back to Member Toulouse.

Member Horan indicated that, based on the clarifying discussion, he would vote in favor of the project. He stated his hope that the School District would do a better job of communicating in the future.

Member Cieri felt it was important to reiterate that notices had been sent out and no comments received.

Member Horan moved to approve conditionally Special Use Permit Case No. SB12-001 – AT&T Mobility, Spanish Springs High School, Wireless Communication Facility. The motion was seconded by Member Harcinske and passed by a vote of four in favor and none against, Member Toulouse abstaining from voting as he could not make the finding of no detriment.

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 Spanish Springs 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 wireless communication 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.

Also:

- (a) That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Community Development and/or his/her authorized representative;
- (b) That public input was considered during the public hearing review process; and
- (c) That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

Agenda Item 11C

PUBLIC HEARING: Special Use Permit Case No. SB12-004 – NV Energy, South Reno Water Tank, Monopole Antenna – To allow the construction of a wireless communication monopole 45 feet in height and associated equipment.

- Location: At the existing water tank approximately 600 feet west (uphill) from the intersection of Timberline Drive and Timberline View Court
- Assessor's Parcel No.(s): 049-070-41
- Parcel Size: 1.78 acres
- Current Regulatory Zone(s): General Rural (GR)
- Area Plan: Forest
- Citizen Advisory Board: Southwest Truckee Meadows
- Commission District: 1 – Commissioner Breternitz
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits
- Section/Township/Range: Within Section 34, T18N, R19E, MDM Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Pelham reviewed the staff report dated March 22, 2012. He explained the Board would also be considering a variance, which could be issued as part of the Special Use Permit (SUP) process. The variance was being requested to reduce the 1,000-foot required distance from a public trail to 800 feet. He described the benefits of the proposed placement and the additional screening requirements for the monopole. The paint is designed to fade to a dull grey, concealing it further.

Applicant Mark Sullivan explained the comprehensive service upgrade to the area and that there would be many applications like this one to support it. He reiterated Mr. Pelham's statements regarding the benefit of the selected location.

Resident Randy Collins asked if there was a minimum height required for the additional landscape mitigation. Mr. Pelham explained there would need to be 50% each of seven- and eight-foot trees.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. Member Toulouse stated his brother worked for NV Energy. They had not discussed the issue and typically did not discuss issues that were to come before the Board that related to NV Energy.

Member Toulouse asked if there was a minimum required survival rate for the vegetation and if there was a monitoring plan. Mr. Pelham replied the success rate was required to be 100% over three years.

Member Horan moved to approve conditionally Special Use Permit Case No. SB12-004 – NV Energy, South Reno Water Tank, Monopole Antenna. The motion was seconded by Member Cieri.

Member Harcinske suggested the planning process include specifying areas designated for communications towers, similar to the manner in which utility corridors were handled.

Member Toulouse clarified his vote on this tower differed from his vote on the previous tower due to its distances from residences and more remote location.

The motion 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 monopole communication 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;

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

Also:

- (a) That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Community Development and/or his/her authorized representative;
 - (b) That public input was considered during the public hearing review process; and
 - (c) That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.
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.

Agenda Item 11D

PUBLIC HEARING: Special Use Permit Case No. SB12-003 for NV Energy – To construct a 70-foot tall monopole wireless communication facility with associated equipment to support NV Energy’s Smart Grid program known as “*NV Energize*”.

- Location: 2030 W 1st Avenue, Sun Valley (Red Peak)
- Assessor’s Parcel No: 502-250-07
- Parcel Size: ±10.27 acres
- Regulatory Zone: General Rural (GR)
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley
- Development Code: Authorized in Article 324, Communication Facilities & Article 810, Special Use Permits
- Commission District: 3-Commissioner Jung

- Section/Township/Range: Within Section 24 T20 R19 MDM
Washoe County, NV

Chair Wideman opened the public hearing.

Ms. Sannazzaro reviewed the staff report dated March 20, 2012. She pointed out it was proposed to be placed in a location already containing communication facilities, some of which were as much as twice as tall.

Mr. Sullivan thanked staff for their work on the two projects. He opined Member Harcinske's ideas about planning in advance for certain areas to be designated for communication facilities had merit but could be challenging due to changing technology.

Chair Wideman closed the public hearing and asked if any Board members wished to provide disclosures. Member Toulouse reiterated his earlier disclosure regarding his brother.

Member Harcinske moved to approve conditionally Special Use Permit Case No. SB12-003 for NV Energy. The motion was seconded by Member Toulouse and passed unanimously.

The motion was based on the following findings:

1. Consistency. That the wireless communications facility 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 a wireless communications facility and for the intensity of such development;
4. Issuance Not Detrimental. That approval of a special use permit for a wireless communications facility consisting of a monopole antenna and associated ground equipment 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. Granting approval of the special use permit for a wireless communications facility will not have a detrimental effect on the location, purpose, or mission of the military installation; and

Section 110.324.75 (Article 324 Communication Facilities)

6. Article 324 Standards. That the proposed wireless communications facility consisting of a monopole antenna and associated ground equipment meets the standards of Article 324 Communication Facilities;
7. Public Input. That public input was considered during the public hearing review process; and
8. Impacts. That the proposed wireless communications facility consisting of a monopole antenna and associated ground equipment will not unduly impact any adjacent neighborhoods or vistas and ridgelines within Washoe County.

Agenda Item 11E

PUBLIC HEARING: Variance Case No. VA12-001 for Arthur Hinckley – To vary the front yard setback from 20 feet to 12 feet to allow the placement of a ±1,494-square-foot manufactured home as authorized in Article 804 of the Washoe County Development Code.

- Location: 525 Polaris Street, approximately 1/3 mile northwest of Toll Road
- Assessor's Parcel No: 017-262-36
- Parcel Size: ±.205 acres
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: Galena-Steamboat
- Development Code: Authorized in Article 804, Variances
- Commission District: 2 - Commissioner Humke
- Section/Township/Range: Within Section 28 T18 R20 MDM
Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Lloyd reviewed the staff report dated March 19, 2012. He explained the home had been legally permitted but the front porch did not appear on the plans, so the completed structure extends into the front setback. The side and rear setbacks have been met. The applicant had looked at options relocating the unit on the lot in an effort to rectify the situation but had not found a successful solution.

Mr. Lloyd noted this was the second request by the applicant for this variance. The Board had denied it previously in 2007 when the problem first came to light. Nothing on the property had changed since then. The primary argument presented by the applicant is that the subdivision was created in the 1970s and the average size of manufactured homes is significantly larger than it was then, creating a difficulty in locating a home that will fit on the lot.

Mr. Lloyd explained staff was recommending denial. Approval would represent a special privilege and there were no special circumstances associated with the lot.

Applicant's Representative Derek Wilson stated they were sympathetic with the County's position, and it was possible the information about the unit was misrepresented at time of purchase. Neither the CAB nor the Homeowner's Association (HOA) had expressed any negative comments regarding changing the standards and legalizing the property. They would prefer the unit be occupied and maintained. He pointed out other properties had constructed various structures encroaching into the setbacks over the years so this approval would not set the property apart from others.

Mr. Wilson stated there had been some concern the structure was planned to house a business and that was not correct. He spoke of a petition in favor of the variance that had been signed by all of the neighbors but could not currently be located. He stated manufactured homes have increased in size by 42% since the neighborhood was originally created, thus making the lot unusable unless an older unit was brought in to replace the existing one.

Member Cieri asked what they had done regarding exploring making the house fit and Mr. Wilson replied the easiest way would be to take the porch off, which would leave an

unappealing building. Member Harcinske pointed out a new, smaller modular would fit on the property and Mr. Wilson acknowledged that was correct.

Lorna Hoff, representing Via Bianca HOA, expressed concern that the structure was to be used as a business or a halfway house. The association members preferred it be utilized as a single-family dwelling. Regarding the size, she opined it was a self-inflicted challenge.

Mike Railey stated he was a friend of the owner and could share some of the history. The owner's wife was an artist and intended to use part of the unit as a studio, but not commercially, which had caused the confusion. If it was necessary, the owner would be fine with a condition stating it would only be used as a dwelling. They hoped to sell it.

Mr. Railey went on to note they had researched making the structural changes necessary to cause it to fit the lot, but those would cost as much as a new manufactured home. They had also found it was difficult to find a new one that would fit, due to the lots being small as they were designed in the 1970s.

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

Member Harcinske pointed out nothing had changed since the case had been denied the first time and that it was not factually accurate to say that there were not new units that could fit on the property.

Member Toulouse concurred with Member Harcinske. He acknowledged it was a financial burden on the owner but pointed out it was a self-imposed hardship. He stated there may be other properties in the neighborhood that encroached into the setbacks, but the focus was on the property in question.

Member Horan remembered the case and saw no reason to change his opinion from the decision that was made in 2007, which was that there were no special or unusual circumstances and would create a special privilege.

Member Cieri noted he too was on the Board in 2007 and was disappointed there had been no attempt to change the circumstances.

Chair Wideman acknowledged this was an unfortunate circumstance and expressed he would liked to have found a way to make it work. He pointed out it was another case of asking the Board to ratify a circumstance after the fact, which was not optimal.

Chair Wideman reiterated approval of a variance required all five findings be made. The finding of Special Circumstance has to be related to the piece of property itself as if it were still vacant. This parcel is flat and rectangular, so granting the Variance would clearly lead to a special privilege.

Member Horan moved to deny VA12-001 for Arthur Hinckley based on the decision that the request does not meet all five findings in accordance with Washoe County Development Code Section 110.804.25, specifically that it was not a special circumstance and would create a special privilege. The motion was seconded by Member Toulouse and passed unanimously.

The motion was based on the following findings:

1. Special Circumstances. That the property is essentially square and flat and there is no hardship that requires a variance be granted in order to

develop the property. Because there are no special circumstances applicable to the property, the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property;

2. No Detriment. That the relief will impair the intent and purpose of the Development Code and applicable policies under which the variance is granted;
3. No Special Privileges. That the granting of the variance will 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. That 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 11F

PUBLIC HEARING: Administrative Permit Case No. AP12-001 – National Sierra, LLC - To allow the establishment of a classic car restoration/storage facility within a newly renovated building.

- Location: 1595 Geiger Grade
- Assessor's Parcel No.(s): 017-055-31
- Parcel Size: 1.8 acres
- Current Regulatory Zone: General Commercial (GC)
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: Galena-Steamboat CAB
- Commission District: 2 – Commissioner Humke
- Development Code: Authorized in Article 302
- Section/Township/Range: Within Section 27, T18N, R20E, MDM
Washoe County, NV

Chair Wideman opened the public hearing.

Mr. Lloyd reviewed the staff report dated March 22, 2012. He explained the site was going to be used primarily as a location for the owner to restore his own vehicles, but had requested the permit so that the business would have the option of commercial operation.

Member Harcinske asked how hazardous materials were being handled and Mr. Lloyd replied that was under the purview of the Health Department and had been addressed in the conditions.

Member Horan pointed out that if it was being used privately, not commercially, the owner would not be required to obtain a license. Mr. Lloyd stated that was correct. A business license would be required at the time commercial activity began. Member Horan noted the requirements for hazardous waste handling would not go into effect until that time and Mr. Lloyd again verified he was correct.

Member Marcinske asked if the hazardous material handling was regulated if the shop was only being used for private purposes. Mr. Lloyd replied he would need to consult with the health department but they would be regulated the same way as any private party working on their vehicles at home.

Applicant's Representative James Barnes told the Board the applicant was in complete agreement with the staff report and thanked Mr. Lloyd for his assistance.

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

Member Cieri moved to approve conditionally Administrative Permit Case No. AP12-001 – National Sierra, LLC. The motion was seconded by Member Toulouse 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 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 classic car restoration 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.

12. Other Items

13. Public Comment

Chair Wideman opened the public comment period.

Mr. Eppolito opined it appeared as though WCSD felt obligated to agree to the placement of communication towers on their properties and hoped events had caused them to realize that was not the case.

Mr. Dolan supported Mr. Eppolito's statement regarding the WCSD having options. He opined it was unfortunate property values had not been considered as a decision factor.

Ms. Martini pointed out any home sales in the area would require a disclosure regarding the existence of the tower and stated that would diminish values in what is a family-oriented subdivision.

Chair Wideman closed the public comment period.

14. Adjournment

There being no further business to come before the Board of Adjustment, the meeting adjourned at 3:53 p.m.

Respectfully submitted,

Dawn Spinola, Recording Secretary

Approved by Board in session on June 7, 2012

William Whitney
Secretary to the Board of Adjustment