

WEST VALLEY BOARD OF ADJUSTMENT

August 1, 2007

This meeting was called to order at 6:05 p.m. by Chairperson, Necia Christensen, at 3600 Constitution Boulevard.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Sioeli Uluakiola, Russell Moore, Scott Spendlove, Mark Farnsworth and Necia Christensen

Those Absent: Sandy Naegle

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman and Karon Jensen

WEST VALLEY CITY LEGAL DEPARTMENT

Nicole Cottle

B-5-2007

Moreno Variance

3903 South 3200 West

Mr. Higinio Moreno, has filed a request with the West Valley City Board of Adjustment seeking a variance from Section 7-6-305 of the West Valley City Land Use Development and Management Act. This section requires that the minimum rear yard setback in the R-1-8 zone be 20 feet. The applicant is requesting a variance of 14 feet in order to keep a covered deck.

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- The subject property is known as lot 2 of the Bennion Subdivision. This subdivision was recorded with the Salt Lake County Recorder's Office in February 2006. A building permit for a single family dwelling was issued in December 2006.

- Prior to the issuance of the building permit, a plot plan was reviewed by the Planning and Zoning Division. The plot plan did not indicate that a deck would be built as part of the building permit.
- During a building inspection in June 2007, the applicant was made aware that the covered deck exceeded the minimum rear yard setback of 20 feet. Mr. Moreno was informed that he needed to discuss this matter with the Planning and Zoning Division.
- The applicant met with staff to discuss options for the covered deck. Staff visited the site to gain a better understanding of the property configuration and expressed to the applicant that the deck would either need to be removed, or a variance granted by the Board of Adjustment. Staff noted a number of property issues that the applicant could use in his petition and discussed those at length with Mr. Moreno. Based on those discussions, and as the covered deck already exists, the applicant has decided to pursue a 14-foot rear yard variance.
- The property in question has two unique characteristics which do not apply to other properties in the area.
 1. The property is a flag lot situated behind and in front of existing single family dwellings on a private driveway.
 2. The property is uniquely configured due to its relationship with the North Jordan Canal.

In addition to the characteristics noted above, the building setback was required to be measured from the edge of asphalt which placed the dwelling further into the lot.

- The applicant believes that the deck addition will not negatively affect adjacent residents because of the North Jordan Canal. Mr. Moreno calculates that the separation between the deck in question and the closest residence is approximately 70 feet. In preparation for the Board hearing, Mr. Moreno visited two properties on the north side of the canal and the adjacent property to the west. The attached letters have been provided in support of the variance request.

Higinio Moreno
3903 South 3200 West

Mr. Moreno explained that he is requesting a variance due to the fact that the existing covered deck on the back of his home is required by ordinance to be 20 feet from the property line and his deck is only 6 feet from the property line. He felt that the deck addition would not affect adjacent residents because of the North Jordan Canal and the separation between the deck. Also, his closest neighbor is approximately 70 feet away. He noted that he had visited the property on the north side of the canal and the adjacent property to the west and they have submitted letters stating that they did not have any issues or concerns with the deck.

Mrs. Christensen explained that the Board has five criteria that they need to establish in order to grant a variance. The Board helped Mr. Moreno address the hardship criteria as follows:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. **The unreasonable hardship is due to the shape of the lot and the home had to be moved so that it would fit on the lot. It is also an unreasonable hardship to require you to move your home so that you could have a deck.**
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district. **The special circumstances related to your property are the driveway, the shape of the property, and the canal which combined make it so that you can not have a deck or be able to place your home on the lot the way you wanted to due to the unusual shape of the lot and the canal.**
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district. **There are several other properties in the neighborhood who have constructed decks on the back of their homes.**
4. The variance will not substantially affect the general plan and will not be contrary to the public interest. **Letters have been submitted from neighbors stating that they do not object to your having the deck and thus it is not against the public interest.**
5. The spirit of the zoning ordinance is observed and substantial justice done. **The spirit of the zoning ordinance is observed by allowing you to enjoy your substantial property right by having a deck as many of your neighbors have and substantial justice is done.**

Mr. Farnsworth questioned Mr. Lehman regarding the setbacks on each side of the canal.

Mr. Lehman responded, there is a 33 ft. r.o.w. that the canal has and the north property line of this lot is actually the south property line of the canal. The canal doesn't necessarily have any easements that you can't build into... they just have the r.o.w. so there is no encroachment into the canal.

Mrs. Christensen commented, due to the way the property is angled, I don't know where else they could have placed the deck.

Mr. Lehman indicated that when Mr. Moreno first submitted his plot plan, you will see a handwritten note in the driveway area. This is a flag lot which is essentially his property. There is also a driveway that is used by four other residents on this lane. The two homes

that front 3200, a home that sits in the back and there is another home that sits on the south and so this driveway is used by additional residents. When the City issued the permit for the home, Mr. Moreno was told that setback needed to be measured from the edge of the asphalt on the north side which was essentially his driveway and that is why the house needed to be moved back on the lot. The drawing that he has was the original plot plan. There is a 34 ft. distance from the back of the house to the edge of the canal, but notice how close the house is to his driveway. So, the City required that he push the house back.

Mr. Moore questioned, this plot plan does not show the covered deck in the back. Is that something that was on the plans originally or something that they have added?

Mr. Lehman responded, the deck is something that they have added and I believe that Mr. Moreno didn't know that he needed a permit for the addition of the deck. One of the unfortunate things about the building inspection is that a resident could have his entire house framed before the inspectors go out to do a four way inspection. By the time the building inspector visited the site, the deck was already constructed. So, the City didn't inform Mr. Moreno prior to that because they didn't know about it as it wasn't on the plot plan at that time.

Mr. Spendlove questioned staff, from my perspective it seems like a clear cut case that is similar to others we have had in the past. My concern is that it is not uncommon for the Board to help the applicant through the five step criteria with a written document that they have provided. However, would this be a situation where it might be in the City's interest if we take a little more time and have something submitted in writing or do you believe that the City has helped the applicant through the process and it would be okay?

Mrs. Cottle responded, I believe that we should and per our conversations throughout the meeting the Board has done a fine job in addressing all of the hardship criteria.

Mr. Moore stated, I think that this is an appropriate time for me to disclose that I live in this neighborhood and my house is within 200 feet of this property and so I am going to refrain from input from this point on.

Mrs. Christensen commented that she is in favor of this application and did not see any issues.

Mr. Farnsworth indicated that he could see two sides of the issue, however expressed concern that residents need to obtain a building permit before building.

Mrs. Christensen agreed and noted that is a constant issue as the Board labors with these cases. The reason these cases come to the Board is usually because the City has caught something....especially variance cases that need to be addressed either before or after construction based on what has already happened. The reason I feel this application

meets the criteria is because the circumstances are significant and he has already been through the process with the City on several issues.

Motion

Mark Farnsworth stated, I move to approve application B-5-2007. Mr. Moreno has requested a variance on the rear yard setback for his covered deck and based on the five criteria that the Board of Adjustment has discussed I would move for approval of this application.

Mr. Uluakiola seconded the motion.

A roll call was taken.

Mr. Uluakiola	yes
Mr. Moore	no
Mr. Spendlove	yes
Mr. Farnsworth	yes
Ms. Naegle	AB
Mrs. Christensen	yes

Motion carries – majority vote

Mr. Moore commented, now that the Board has approved this application, I believe the City has a fire safety issue with this deck and the adjacent canal. There are substantial amounts of trees and shrubbery that run along that fence that are out of Mr. Moreno's control and I think that there may be a liability issue there for the City.

Nicole Cottle, City Attorney, stated for the record that the City is not responsible for weeds and other fire issues. The City will come and fight the fires if they occur, but there would be no liability associated with that for the City.

**B-12-2007
Rushton Variance
3878 South 5200 West**

Mr. Joe Colosimo, representing Alan Rushton has filed a request with the West Valley City Board of Adjustment seeking two variances from Section 7-6-305 of the West Valley City Land Use Development and Management Act. This section requires that the minimum lot width in the R-1-8 zone be 80 feet. The applicant is requesting two frontage variances of 5.17 feet for a future subdivision.

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- ❑ In June 2006, the applicant approached staff about the possibility of creating a new single family subdivision at approximately 3878 South 5200 West. The property is approximately 2.5 acres in size and is zoned R-1-8.
- ❑ The applicant would like to take property owned by Mr. Rushton and subdivide it into 8 individual lots. Three existing dwellings would remain, but the entire property would be reconfigured in order to comply with subdivision design standards.
- ❑ While the R-1-8 zone requires a minimum frontage of 80 feet, the City's ordinances also contain a provision that allows up to 25% of the total lot yield to have a reduction in the frontage of up to 15% which would allow a frontage of 68 feet. This provision was added to the City's ordinances to help better develop infill and other challenging properties. If the developer opted to apply this standard, the dwelling would need to be 100% masonry and would need to be 200 square feet larger than the ordinance presently requires.
- ❑ The subject property does have some special considerations regarding its width and depth. The property is 169.67 feet in width and 660 feet in depth. The narrow width does create problems for subdividing. As staff reviewed various subdivision designs with the applicant, it became apparent that even with a 15% reduction on two of the lots, a variance would still be needed for the other two.
- ❑ Mr. Colosimo has prepared a conceptual plan with 8 lots. Although the Board is not responsible to review the plat, it will help you understand the property configuration and the challenges that face developing this property. Lots 6 and 7 on the attached drawing will be lots that the applicant applies the 15% reduction in frontage. Lots 4 and 5 as illustrated on this drawing show a frontage of 74.83 feet. The difference between 80 feet and 74.83 feet is 5.17 feet. It is this distance that the applicant is requesting a variance.
- ❑ The applicant has attached a letter outlining his request. In this letter, Mr. Colosimo provides information regarding two frontage scenarios. Staff believes that it is a better subdivision design to have lots with equal frontage rather than lots with smaller frontages. It is for this reason that staff supports the equal frontage proposal.

Mrs. Christensen indicated that Mrs. Rushton grew up three doors down from her and said that they have known each other for a very long time and added that Mr. Rushton has become a good friend by virtue of other impacts in our lives. However, I have absolutely nothing to gain and have not made any kind of a decision regarding this application.

Mr. Lehman remarked that Joe Colosimo is representing Mr. Alan Rushton this evening and has filed a request for the two variances.

Mrs. Christensen stated, so I understand that staff's recommendation is the equal frontage lots. Does the road have an impact or is that just part of the subdivision development?

Mr. Lehman responded, I believe in this case the road is part of the subdivision development. I believe that the hardship is the width of Mr. Rushton's property which is only 161 feet wide. The flag lot, lot #3, has a 20 foot stem which is the minimum width. Mr. Rushton's property to the west is required to have a 24' width because Mr. Rushton's home is on lot #8. There is another home directly north of Mr. Rushton's and because more than one lot that accesses the flag lot, we require that to be 24' in width. The frontage on lot #6 and #7 are 72' and a little bit smaller than the frontages across the street.

Mr. Spendlove said if they went with the equal frontage lots the criteria of the 25% and 100% masonry would not be applicable.

Mr. Lehman responded, it is still applicable and Mr. Colosimo is suggesting that he would apply that standard on lot #6 and lot #7 so, he would be fine there with the frontages, but on lots #4 and #5 he still lacks the frontage by 5.17' which is why the applicant is requesting a variance.

Mrs. Christensen questioned, the variance then is for lots #4 and lot #5?

Mr. Lehman clarified, you could actually apply the variance to any of those lots. The reason that staff suggested lots #4 and #5 is that it is simply a lesser number. It is 5.17 feet instead of 7.17 feet. We made that determination when we wrote the report.

Joe Colosimo
11795 S. Taten Rose Lane

Mr. Colosimo, indicated that he is representing Alan Rushton, and said that he would like to subdivide the property into 8 individual lots. Three existing dwellings would remain, but the entire property would be reconfigured to comply with the City's subdivision design standards. He explained that there are several hardships with this property in regards to width and depth as the property is 169.67 feet in width and 660 feet in depth. He said that the narrow width creates problems with subdividing the property and that even with a 15% reduction on two of the lots, a variance would be required for the other two.

Mr. Colosimo stated that he has prepared a conceptual plan with the 8 lots for the Board to review in order to help understand the property configuration and the challenges that face developing this lot. Lots #6 and #7 are the lots that show the 15% reduction in frontage. Lots #4 and #5 show a frontage of 74.83 feet. He indicated that the difference

between 80 feet and 74.83 feet is 5.17 which is the distance that is being requested for the variance. He has also provided a letter for the Board to review which provides information regarding two frontage scenarios and believes it is more aesthetically pleasing to have equal frontage lots. Staff has also indicated that they prefer the subdivision design to have lots with equal frontage rather than lots with smaller frontages.

Mr. Colosimo distributed information addressing the five variance criteria and reviewed this with the Board of Adjustment.

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

Literal enforcement of the zoning ordinance would mean that proposed lot widths on each side of the dedicated street would be 145 feet. The ordinance requires that two things take place in order to determine whether or not enforcement of the ordinance would cause an unreasonable hardship.

1. **The request is on property which is owned by the applicant.**
 2. **The property does have special circumstances due to the narrow width and access requirements for existing homes.**
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
The special circumstances are that existing homes are located in the front and rear of the property. In addition, the property is very deep and difficult to plat given these circumstances. As a result of the property configuration, two special circumstances exist:
 1. **Access to the existing properties require 24 feet of asphalt. Taking this distance out of the overall width does not allow the property to have the required 80 feet of frontage.**
 2. **The property to the east is large and deep enough to support three homes, but the required access width of 20 feet would limit the frontage here as well.**
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.

The substantial property right is that the owner should be able to develop his property as others have done in this area. Single family dwellings on 8,000 square foot lots.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

The general plan will not be affected because all of the lots will meet the 8,000 square foot minimum requirement of the R-1-8 zone. The frontage reduction is minimal and will not be noticeable from the general public.

5. The spirit of the zoning ordinance is observed and substantial justice done.

The spirit of the zoning ordinance is observed because the property owner is requesting a variance that will essentially allow him to develop his property as an R-1-8 subdivision having lots with smaller frontages.

Mrs. Christensen asked if there were anyone present who would like to speak either in favor or in opposition of this application.

**Roy Peterson
5243 Amberview Cove**

Mr. Peterson commented that he is neutral regarding the variance request and lives immediately north and his property adjoins Mr. Rushton's property. He said that he has heard two proposals and has questions. There is an unimproved road to the south of the homes and would the access easement be abandoned as it was proposed under the second proposal?

Mr. Colosimo replied, yes, both proposals give the 12 ½ feet back.

Mr. Peterson questioned, would the homes be smaller or would they be inexpensive houses that are being proposed?

Mrs. Christensen replied, my understanding is that an 8,000 square foot lot would accommodate a good sized home and that is the City's standard for homes.

Mr. Peterson questioned, there currently exists on the southern edge of the property many Siberian elm trees which offer a great deal of consternation to the homeowners. Would those trees be removed as part of the construction or is there a City ordinance that prohibits that?

Mr. Lehman responded, that is not an issue for the Board to address on this application. If approved, and Mr. Colosimo proceeds with the subdivision, the Planning Commission may deal with that issue. However, if the property owner wishes to keep trees, I don't believe we have the right to make them cut them down.

Mr. Colosimo replied, with the design of this subdivision and the road that will go into the flag lot, those trees will be removed because they are in the way. So, yes they will be gone.

Dixie Dankers
3030 Justice Street

Ms. Dankers explained that she was here tonight in behalf of her son, Brian, and his wife, Trina. He has just had cancer surgery and was unable to come tonight. Brian lives directly north of Mr. Rushton's home. To the west of him is the home that you spoke about and to the south of Brian is Mr. Rushton's home. There has to be an access back to that other home and I understand that, but does he get his 12 ½ feet back and will you be taking some of Mr. Rushton's property to make that wider? Will my son be getting that back?

Alan Rushton
3878 South 5200 West

Mr. Rushton responded, this subdivision is entirely on my property and has nothing to do with that driveway. Mrs. McBride has a r.o.w. down the existing lane and nothing we can do to develop my property will have anything to do with that r.o.w. Your son will have to deal with Mrs. McBride, as she owns it. I am willing to give Mr. Colosimo a quit claim deed to the r.o.w. that I own south of the homes. The warranty deed r.o.w. that Mrs. McBride owns is another issue and is completely separate from our subdivision and I can't do anything about that. I don't want anyone to interpret what we're doing here is giving up her rights. I would be willing to give up the r.o.w. south of the homes that there that there has been an issue with, but as far as giving her access that is something that you will have to talk to her about.

Joe Colosimo

Mr. Colosimo stated that first he would like to make a point as far as home values and size. Part of the variance is that I have to build the homes 200 square feet bigger and have a higher percentage of brick so I think that will make the values greater. The elm trees will be coming down. As far as the two houses to the west...Mr. Rushton and Mrs. McBride's, in my subdivision plan we have accommodated the 24' r.o.w. all on Mr. Rushton's property that meets the ordinance to have a 24' access to two homes. I think she has a warranty deed and as long as we can give her an access that is back to her house, I don't know why she would oppose giving back the 12 ½ feet back to the neighbors that are directly east of her. I can't speak for her, but I think if I met with her and explained that her access wouldn't be compromised and that she would probably have a better access...I think she would probably be okay with it, but that is my optimistic side.

Ann Gunderson
5620 West 3869 South

Mrs. Gunderson said that she was concerned about the easement. When I bought this house in 2002, I was told that we could take paved driveway all of the way to the end of

our property line. Can I develop this and put something on it if the variance is approved? Will we be able to take all of our land back that we purchased in 2002?

Mr. Lehman responded, I believe that the subdivision is going to be located entirely on Mr. Rushton's property. Because of that 12 ½ foot easement that exists on the north side of the property line, you can reclaim the property and fence it and develop it however you want to.

Discussion

Mr. Spendlove commented that this case is pretty straight forward as far as meeting the five variance criteria. If this case is approved, I would agree that the 5.17 would be less of an impact and still optimize the spirit of the zoning ordinance.

Mr. Moore said that he believes that the proposal is excellent and will be an enhancement to this part of the City. I do believe that they have a little bit of work to do with the deeded r.o.w. that is owned by Mrs. McBride, but I believe the Board should approve the variance.

Motion

Scott Spendlove stated, I move that in the case of B-12-2007, concerning the Rushton variance, that we approve the variance request based on the five criteria submitted by Mr. Colosimo. Also, with the understanding that some of the peripheral issues that have been brought up during discussion that Mr. Colosimo in good faith will pursue those and work with the adjoining neighbors.

Mr. Moore seconded the motion.

A roll call was taken.

Mr. Uluakiola	yes
Mr. Moore	yes
Mr. Spendlove	yes
Ms. Naegle	AB
Mr. Farnsworth	yes
Mrs. Christensen	yes

Motion carries – all in favor

B-6-2007
Clearwire, U.S.
1580 W. 3860 S.
M Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 1580 West and 3860 South in a manufacturing (M) zone. The existing monopole is non-conforming due to height and type of antenna arrays currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42" high, 6.1" wide and 3" deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 7' by 7'. All equipment on the monopole will be installed at a height of 62'. The other three carriers currently on the monopole are at 98', 88' and 78'.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations or Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

Mrs. Christensen stated, if no one objects and in the interests of brevity, and since everything is essentially the same except for the locations, with the Board's permission, can we treat these cases as one application?

Mr. Lehman responded, yes, I believe that the Board has done that in the past and that would be fine.

Jerry Hanson
Clearwire U.S.
6364 S. Highland Dr.

Mr. Hanson explained that the Clearwire system, which is a dedicated wireless internet system, is part of 130 sites present in the Salt Lake Valley. The existing monopole is non-conforming due to height and the type of antenna arrays currently on the pole. The advantage of this service is they are able to process significantly more digital data and video feeds through this type of network than they can through what you see now as telecommunications sites. This is a higher capacity and a higher speed and it is a large project for the Salt Lake Valley.

Ron Weibel
West Valley City

Mr. Weibel indicated that all of the six poles that the applicant is requesting to co-locate are non-conforming for one or more reasons. Five of the six are higher than 60 feet and the ordinance requires all antennas to be flush mounted on the pole. All of these poles have existing antennas and they are not flush mounted. They are tri-arrays or top hat arrays and one of the poles is in a residential zone which is not allowed by our ordinance.

Typically, they would need to go before the Planning Commission for a conditional use or come to staff for a permitted use to locate telecommunications or wireless internet equipment, however because all six of these poles are non-conforming, they need to go through the Board process to request an expansion or modification of a non-conforming use.

Discussion

Mrs. Christensen said I don't have any problems with this request. They exist and it is part of the culture with so many cell phones and wireless internet users. Frankly, this is the least invasive of the telecommunication applications that we have approved so far.

Mr. Moore commented that the general public probably will not notice even the slightest change and only the people that use the service will know that it is there.

Mr. Farnsworth felt that by approving this it would enhance the private and business interests in the City.

Motion

Mark Farnsworth stated, I would like to make a motion to approve the non-conforming use for all of the following: B-6-2007, B-7-2007, B-8-2007, B-9-2007, B-10-2007, and B-11-2007 to grant the non-conforming use request for Clearwire U.S.

Mr. Moore seconded the motion.

A roll call was taken.

Mr. Uluakiola	yes
Mr. Moore	yes
Mr. Spendlove	yes
Ms. Naegle	AB
Mr. Farnsworth	yes
Mrs. Christensen	yes

Motion carries – all in favor

B-7-2007
Clearwire, U.S.
3818 W. 4700 S.
R-1-8 Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 3818 West and 4700 South in a single family residential (R-1-8) zone. The existing monopole is non-conforming due to zone, height and type of antenna arrays currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42” high, 6.1” wide and three inches deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 4’ by 7’. All equipment on the monopole will be installed at a height of 57’. The other three carriers currently on the monopole are at 98’, 85’ and 67’.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations of Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

B-8-2007
Clearwire, U.S.
1331 W. 3300 S.
M Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 1331 West and 3300 South in a manufacturing (M) zone. The existing monopole is non-conforming due to the type of antenna array currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42" high, 6.1" wide and three inches deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 7' by 7'. All equipment on the monopole will be installed at a height of 50'. The other carrier currently on the monopole is at approximately 56'.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations of Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

B-9-2007
Clearwire, U.S.
4575 S. 5600 W.
M Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 4575 South and 5600 West in a manufacturing (M) zone. The existing monopole is non-conforming due to height and type of antenna arrays currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42" high, 6.1" wide and 3" deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 7' by 7'. All equipment on the monopole will be installed at a height of 72'. The other carriers currently on the monopole are at 95' and 80'.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations of Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

B-10-2007
Clearwire, U.S.
3037 S. 3600 W.
M Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 3037 South and 3600 West in a

manufacturing (M) zone. The existing monopole is non-conforming due to height and type of antenna arrays currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42" high, 6.1" wide and 3" deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 4' by 4'. All equipment on the monopole will be installed at a height of 80'. The other carriers currently on the monopole are at 95' and 82'.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations of Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

B-11-2007
Clearwire, U.S.
1105 W. 2400 S.
B/RP Zone

The applicant is requesting an expansion of a non-conforming use to locate equipment on an existing telecommunications monopole located at 1105 West and 2400 South in a business/research park (B/RP) zone. The existing monopole is non-conforming due to height and type of antenna arrays currently on the pole.

The equipment the applicant is proposing to mount on the monopole is to provide wireless broadband internet service. It consists of three panel antennas measuring 42" high, 6.1" wide and 3" deep, and three microwave dishes measuring two feet in diameter. There will also be an area for ground equipment measuring 7' by 7'. All equipment on

the monopole will be installed at a height of 72'. The other carrier currently on the monopole is at 95'.

Chapter 7-18-106, relating to nonconforming uses, reads:

(4) Nonconforming Use of Buildings and Structures. The nonconforming use of a building or structure lawfully existing on the effective date of this Chapter may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provision of the zone in which it is located.

(6) Alterations of Modifications to Nonconforming Use. A use which has been declared nonconforming shall not be enlarged or moved except as provided in this Section. The Board, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

OTHER

The minutes for **June 6, 2007 were approved.**

There being no further business the meeting adjourned at 7:30 p.m.

Karon Jensen, Executive Secretary