

**TOWN OF CHINO VALLEY
BOARD OF ADJUSTMENT
TOWN HALL COUNCIL CHAMBERS
202 N State Route 89
June 11, 2012
6:00 p.m.**

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

Meeting was called to order at 6:30 p.m.

Members Present: Virginia Reid, Chairman
Matt Mintzmyer
Candy Blakeslee

Absent: Jack Carnes
Geoffrey Brown, Vice Chair

Staff Present: David Nicolella, Associate Planner
Mary Brasher, Administrative Clerk
Robert Smith, Interim Town Manager

3. ROLL CALL

4. APPROVAL OF MINUTES

- 4A.** For consideration, discussion, and possible action regarding the regular meeting minutes of May 21, 2012.

No action taken, Minutes of May 21, 2012 to be placed on next meeting agenda.

5. ACTION ITEM

- A.** Consideration, discussion, and possible action regarding an appeal of the Zoning Administrator's (ZA) decision relating to the Jehovah's Witness church service that occurred at the Windmill House on April 5, 2012. The ZA concluded that the church service was not in violation of the Windmill House Conditional Use Permit (Ordinance No. 11-754). The Windmill House is located at 1460 W. Road 4 North.

David Nicolella, Zoning Administrator stated the notification requirements for this hearing had been complied with and gave a brief history regarding the creation of the CUP for the Windmill House and the events that led up to this hearing. Mr. Nicolella proceeded to explain how he, as the Zoning Administrator, came to the determination

that the Jehovah's Witness church service that occurred at the Windmill House on April 5, 2012 was not in violation of the CUP. He also commented that it is a standard practice of this organization to go door to door inviting citizens to attend their services. Mr. Nicolella commented that the language included in the Ordinance No. 11-754 for the CUP is somewhat vague and does not specifically state whether or not an event such as this is allowed. The terms public and private event are not defined in the ordinance, this lack of information leaves gray areas and determining whether an event is public or private is difficult. There are other enforcement mechanisms that control the impact on the community when an event does occur and Mr. Nicolella read aloud those mechanisms for the Board Members. Mr. Nicolella stated there are other issues involving this CUP and the CUP will be going before the Planning & Zoning Commission, who will then forward their recommendations to the Council for final determination.

After a question and answer discussion between Board Members, and Town Staff, the meeting was opened to the complainant Ronald Maines who stated that the CUP goes with the land and the uses allowed at the Windmill House. The CUP lists particular public events that are allowed at that location, but also contains vague language in regards to "other private events," and he feels that vague language is the problem. Mr. Maines maintains that Jehovah's Witness Church Service was a public event and is specifically excluded under the definition of Recreational Facilities use as well. Among other reasons, Mr. Maines felt that because the event was advertised, made available to the public, and churches are for the public, it was clear to him that this was a public event. He believed the guidance in the CUP for determining private versus public should be corrected. He stated that if an event was private, then the public wouldn't have been aware of it.

The Board Members discussed the issue and then open the public portion of the meeting for citizen comments.

Michael Edmonds cited an Arizona Revised Statute that gave a definition of a public event and felt based on that definition, the event that was held at the Windmill House was a public event. He then cited a case law that provides for the removal of non-conforming uses within a community. He felt that some of the events held on this property have exceeded the scope of the CUP and morphed into public events.

Patricia Mckee stated she was visited by a member of the Jehovah's Witness who invited her to the service that was to be held at the Windmill House. When she told them she was not a member of the church she was told that was okay it was open to the public. Because she wasn't sure of the date for the event she called the church to get that information and again mentioned she wasn't a member of the church and was told again that the event was open to the public.

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The Board Members all agreed that the CUP was problematic and want to see some changes made to it. Two Board members commented that because church members went door to door inviting the public to attend, that made this a public event rather than a private event. After a brief comment session from Board Members and the Interim Town Manager the following motion was made.

Board Member Blakeslee MOVED, seconded by Board Member Mintzmyer to grant the appeal, which overturns the action of the Zoning Administrator.
MOTION CARRIED: 2-1

6. **PUBLIC COMMENTS:** No public comments were heard.

7. **ADJOURN:** 7:30 pm

Virginia Reid, Chairperson