

**Minutes  
BOARD OF ADJUSTMENT  
MARCH 24, 2010**

The study session of the Board of Adjustment began at 5:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

Dr. Wallis Stemm  
Slade Lawson  
Christopher Diba  
Chris Dodd  
Joe Arredondo  
Dave Maza  
Matt Taillon

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner  
Jeff Tamulevich, Code Compliance Administrator

**Absent:**

Jonathan Gillan  
John Puzauskas

There was 1 citizen(s) at the pre-session.

Board members elected Dave Maza to the position of Chairman and Slade Lawson to the position of Vice Chairman.

The Study Session adjourned at 5:58 p.m.

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Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

Dr. Wallis Stemm  
Slade Lawson  
Christopher Diba  
Chris Dodd  
Joe Arredondo  
Dave Maza  
Matt Taillon

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner  
Jeff Tamulevich, Code Compliance Administrator

Absent:

Jonathan Gillan  
John Puzauskas

Number of Interested Citizen(s) Present: 6

Hearing convened at 6:00 p.m. and was called to order by Chairman Maza.

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On a motion by Joe Arredondo, seconded by Dr. Wallis Stemm, the Board by a vote of 6-0 approved the Board of Adjustment Minutes for December 16, 2009.

(Matt Taillon, Christopher Diba & Chris Dodd abstained from this vote as they were not in attendance at the December 16, 2009 Board of Adjustment hearing.)

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Mr. Abrahamson explained to the Board that there were two cases before the Board for continuance:

- Appeal of the Appeal of the January 5, 2010 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **FRAWLEY RESIDENCE (PL090457/ABT09040/CE095022)** (Julie Scofield, Inspector; Robert Frawley, property owner) located at 1103 East Palmcroft Drive in the R1-6, Single Family Residential District for an open period of one hundred eighty days (180 days).

Mr. Abrahamson noted that Jeff Tamulevich, Code Compliance Administrator, informed staff that a site visit on Tuesday, 23 March 2010, show that significant improvements had been made on this property. Staff is asking that the Board continue this abatement request for an additional thirty (30) days (**until the April 28, 2010 Board of Adjustment**). If the property is brought into compliance, staff will close the pending violation and remove the case from the Board of Adjustment agenda.

**MOTION:** Joe Arredondo made a motion to continue this case to the April 28, 2010 Board of Adjustment hearing; Christopher Diba seconded the motion

**VOTE:** Approved the request to continue this case to the April 28, 2010 Board of Adjustment.  
Approved 7 – 0 (Unanimous)

- Appeal of the January 5, 2010 Hearing Officer's decision to deny the request by **VERIZON WIRELESS (PL090471/VRA10001)** Kellie Sweat/Willmeng Construction Inc., applicant; East Group Properties, property owner) located at 3207 South Wilson Street in the GID, General Industrial District for:

**VAR09015** Variance to waive mechanical equipment screening on three (3) sides of the building.

The applicant has requested a continuance to the April 28, 2010 Board of Adjustment hearing.

**MOTION:** Joe Arredondo made a motion to continue this case to the April 28, 2010 Board of Adjustment hearing; Matt Taillon seconded the motion

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**VOTE:** Approved the request to continue this case to the April 28, 2010 Board of Adjustment.  
Approved 7 – 0 (Unanimous)

**THE BOARD DISCUSSED THE FOLLOWING CASE(S):**

Appeal by Catherine Gorman and Phil Hedrick of the Zoning Administrator's opinion pertaining to the **RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET (PL090003/VRA10002)** (Charles Huellmantel, applicant) located at 16 East 15<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**DSA10001** Appeal of the opinion that single family zoned lots, located adjacent to an alley, may incorporate the area to midpoint of the alley in their minimum lot size to meet the requirements for the allowance of guest quarters as defined in the Zoning and Development Code, Part 3, Chapter 3, Section 4-202

Steve Abrahamson, Planning and Zoning Coordinator, gave a brief overview of this case noting that this appeal was generated by a use permit and variance request made by Charles Huellmantel for the residence located at 16 East 15<sup>th</sup> Street. The Hearing Officer approved both the use permit and variance requests on January 19, 2010. The use permit approval was appealed by Ms. Catherine Gorman and Mr. Phil Hedrick to the Development Review Commission. This appeal was heard by the Development Review Commission last night (April 23, 2010) and the appeal was denied, supporting the Hearing Officer's decision.

Mr. Abrahamson explained that Ms. Catherine Gorman and Mr. Phil Hedrick are out of the country and unable to attend tonight's Board of Adjustment hearing. They have requested a continuance to the next Board of Adjustment hearing. It is up to the Board as to whether this case is continued, or heard tonight.

Mr. Maza asked if the Board needed to do a formal vote as to whether this case should be continued or not. Mr. Abrahamson confirmed that this was the case.

Mr. Doug McQueen spoke for Ms. Gorman and Mr. Hedrick asking that this case be continued as they are currently in Costa Rica and were unable to be present this evening. The proposed structure is a two story building located approximately five feet (5') from the property line. He noted, in his opinion, guest quarters and accessory buildings have very different uses.

Mr. Charles Huellmantel spoke, stating that he had tried to get in touch with Ms. Gorman and Mr. Hedrick for months and had been unable to do so. He addressed the concept of guest quarters vs accessory buildings. He presented a depiction of the west elevation and the proposed roof line. The total square footage is within what is allowed, Mr. Huellmantel stated.

Mr. Cliff Jones, spoke, stating that he lived directly across the street from this property. He stated that Mr. Huellmantel had gone to extensive lengths to inform the neighborhood and do the project correctly. Mr. Jones stated that he is strongly in favor of this project and respectfully requested that it be allowed to move forward at this time.

Board members felt that sufficient documentation was available to make a motion to determine the outcome of this case.

**MOTION:** Joe Arredondo made a motion to continue this case to the April 28, 2010 Board of Adjustment hearing; Slade Lawson seconded the motion.

**VOTE:** Denied the request to continue this case to the April 28, 2010 Board of Adjustment.  
Approved 6 – 1 (Dr. Wallis Stemm dissented.)

**MOTION:** Joe Arredondo made a motion to deny the appeal and uphold the Zoning Administrator's opinion; Chris Dodd seconded the motion.

**VOTE:** Approved 7 – 0

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Appeal of the January 19, 2010 Hearing Officer's decision to approve the request by the **RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET (PL090003/VRA10002)** (Charles Huellmantel, applicant) located at 16 East 15<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**VAR09016** Variance to reduce the north rear yard setback from nine (9) feet to five (5) feet.

Mr. McQueen stated that the Mr. and would be willing to drop their appeal, if Mr. Huellmantel would go by the original setback of nine (9) feet instead of the proposed five (5) feet due to the location of the oleanders and visual barrier. Oleanders require more than five (5) feet due to their mass.

Mr. Huellmantel stated that the oleanders are mature and noted that by upgrading this property he is re-investing in the neighborhood.

Mr. Abrahamson gave background on this case, noting that Mr. Huellmantel requested a Zoning Administrator's Opinion as to whether he would be able to proceed with the use permit and variance. He then followed proper procedures and was approved by the Hearing Officer.

Ms. Catherine Hayes, architect, stated that she had reviewed Mr. Huellmantel's plans, and ascertained that they were in accordance with the Tempe City Code.

Mr. McQueen re-addressed the difference of four (4) feet that is in question and how it would affect the surrounding neighborhood lots. He noted that the tree branch that Mr. Huellmantel wants to preserve is not, in the opinion of Ms. Gorman and Mr. Hedrick, as important as preserving the privacy of the property owners.

Mr. Huellmantel offered a rebuttal, stating that this is not about 'not cutting a tree branch' but preserving existing landscaping and indicated related structural items on a drawing of the west elevation. The existing oleanders have been there for 35 to 40 years. He presented a letter from Mr. Vollmer, a landscape architect, which supported his plans.

**MOTION:** Matt Taillon made a motion to deny the appeal and uphold the Hearing Officer's decision of January 19, 2010 to approve this variance; Joe Arredondo seconded the motion

**VOTE:** Denied the appeal and upheld the Hearing Officer's decision to approve VAR09016.  
Approved 7 – 0 (Unanimous)

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**MOTION:** Matt Taillon made a motion to adjourn this hearing; Joe Arredondo seconded the motion.

**VOTE:** Approved 7 – 0  
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The next Board of Adjustment hearing is scheduled for April 28, 2010.  
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There being no further business the hearing adjourned at 7:20 p.m.  
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Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



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Steve Abrahamson  
Planning & Zoning Coordinator

SA:dm