AGENDA ITEM 13

DATE 12-11-08

Tempe

Minutes
BOARD OF ADJUSTMENT
OCTOBER 22, 2008

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:

Jeff Winter
Slade Lawson
Dr. Adhikari
Matt Taillon
Todd Green

Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Sherri Lesser, Senior Planner

Absent:

Wallis Stemm
Dave Maza
Joe Arredondo
Jonathan Gillan

There were 3 citizens at the pre-session.

The Study Session adjourned at 6:00 p.m.

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:

Jeff Winter
Slade Lawson
Dr. Adhikari
Matt Taillon
Todd Green
Jonathan Gillan

Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Sherri Lesser, Senior Planner

Absent:

Wallis Stemm
Dave Maza
Joe Arredondo

Number of Interested Citizens Present: 3

Hearing convened at 6:00 p.m. and was called to order by Vice Chairman Winter. He noted that a short Board was present tonight although there was a quorum present to approve or disapprove any request. It was the applicant's right to proceed or to ask for a continuance, Mr. Winter stated.

On a motion by Dr. Adhikari, seconded by Matt Taillon, the Board by a vote of 4-0 approved the Board of Adjustment minutes for March 26, 2008.

(Todd Green and Jonathan Gillan abstained from this vote as they were not in attendance at the March 26, 2008 Board of Adjustment hearing.)

MR. ABRAHAMSON, PLANNING AND ZONING COORDINATOR, NOTED THAT THE FOLLOWING AGENDA ITEM HAD BEEN CONTINUED AT THE REQUEST OF THE PROPERTY OWNER DUE TO THE PRESENCE OF A SHORT BOARD THIS EVENING:

Appeal of the September 16, 2008 Hearing Officer's decision to approve the request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **BROWN RESIDENCE (PL080244/ABT08015/ABA08003)** (Kenton Brown, appeal applicant/property owner) Complaint CE080124 located at 1208 West Malibu Drive in the R1-6, Single Family Residential District for an open period of 180 days.

THE BOARD DISCUSSED THE FOLLOWING CASE(S):

Appeal of the September 16, 2008 Hearing Officer's decision to deny the request by the **COLEMAN RESIDENCE (PL080305/VRA08004)** (Steven Coleman, applicant/property owner) located at 5426 South College Avenue in the R1-6, Single Family Residential District for:

VAR08020 Variance to reduce the south street side yard setback from ten (10) feet to one (1) foot.

Mr. Steve Coleman was present to represent this case. He stated that he would like to proceed with the case this evening rather than continue it due to the short Board.

Sherri Lesser, staff planner, gave a brief overview of the case. The structure was built in 2004 without benefit of a permit. Four (4) letters of neighborhood support have been submitted by this applicant in addition to a petition of fourteen (14) signatures of support for this request.

Mr. Coleman noted that he used the building for storage only, that there was no electricity or water in the building or do any work in it.

In response to a question from Dr. Adhikari, Mr. Coleman explained that the height of the building was due to the fact that there was an upstairs inside. Should this request for a variance not be approved, he would remove the top half of the storage building (i.e. upstairs area) and place it next to the existing building as a secondary/additional storage unit. He has too much invested in the building to just destroy the top half in order to decrease the height of the existing building. He stated that he could not understand that rather than have an over-height building, the City would rather that there be more structures on his property. All of his immediate as well as the surrounding neighbors were in support of this request.

Mr. Coleman responded to questions by Mr. Gillan that he was unaware that there were height/size restrictions as the building was considered a portable building. The upstairs of this storage area is used to house Christmas lights/decorations and camping equipment.

Mr. Bill Barone, Tempe resident, spoke in support of this request stating that this is a beautiful shed and the property is well maintained by the owner. He did not see any reason why this request should not be granted.

Mr. Winter complimented Mr. Coleman on the condition of his property and his obvious pride in the neighborhood.

Ms. Lesser stated, in response from a question from Mr. Green, that there is only support, no opposition from the neighborhood.

Possible alternatives, such as shifting the front wall, were discussed. Mr. Coleman noted that moving the wall would adversely affect his front yard landscaping. This is a solidly constructed building, and, other than the height, there is no problem with the building.

Ms. Lesser noted that staff was not opposed to Mr. Coleman having this building, it was more the location of it.

Board members addressed the issue that Board had to consider that approval of this case may set a precedent for other property owners in this neighborhood. It was noted that this storage shed has existed for four year without any complaint or negative comment from the surrounding neighbors.

MOTION: Dr. Adhikari made a motion to approve the appeal and allow the variance thereby overturning Hearing Office decision of September 16, 2008 subject to four (4) conditions of approval; Jonathan Gillan seconded the motion.

VOTE: Approved 6-0

Approval subject to the following conditions of approval:

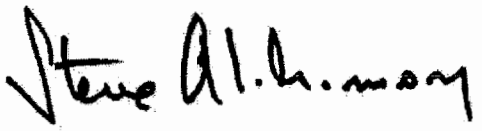
1. All required permits and clearances shall be obtained from the Building Safety Division.
2. Accessory building shall be painted to match main residence.
3. Development Review Commission approval of the use permit for an accessory building is required.
4. **One (1) 24" box tree shall be planted in the front yard east of the existing accessory building to screen the view from College Avenue. ADDED BY BOARD OF ADJUSTMENT**

The next Board of Adjustment hearing is scheduled for November 19, 2008.

There being no further business the hearing adjourned at 6:42 p.m.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson
Planning & Zoning Coordinator

SA:dm