Tempe

Minutes
HEARING OFFICER
MARCH 3, 2009

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Police Auditorium, 120 East Fifth Street, Tempe, Arizona.

Present:
David Williams, Hearing Officer
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Nick Graves, Planning Intern
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 8

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by March 17, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for February 17, 2009.

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2. Mr. Williams noted that the following case(s) would not be heard today:

   - Request by the CALIENDO RESIDENCE (PL090053) (Tim Nickels/Restoration Plus, applicant; Frank Caliendo, property owner) located at 1101 East Warner Road, Estate 145, in the R1-15, Single Family Residential District for:

     ZUP09031 Use permit to allow a second story addition.
     REQUEST WITHDRAWN BY APPLICANT

   - Request by WALMART - TEMPE MARKETSIDE (PL090062) (Dan Sheehan/Kimley-Horn & Associates Inc., applicant; Mancebo LLC, property owner) located at 910 East Elliot Road in the PCC-1,Planned Commercial Center Neighborhood District for:

     ZUP09030 Use permit to allow outdoor retailing consisting of BBQ/grill area.
     CASE CONTINUED BY THE DEVELOPMENT SERVICES DEPARTMENT

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3. Request by THE LIBRARY BAR AND GRILL (PL090046) (Jake Guzman, applicant; Hit the Bricks, property owner) located at 501 South Mill Avenue, Suite 101, in the CC, City Center District for:

   ZUP09032 Use permit to allow live entertainment.

   Mr. Jake Guzman was present to represent this case.

   Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. One phone call of concern had been received to date.

   Discussion regarding noise, outside speakers and hours for live entertainment was held.

   DECISION:
   Mr. Williams approved PL090046/ZUP09032 subject to the following conditions of approval:
   1. The use permit is valid for The Library Bar and Grill and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
   2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
   3. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
   4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
   5. The use permit is valid for the plans as submitted within this application.
   6. The applicant shall work with the Tempe Police Department to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.
   7. Permitted hours for live entertainment are from 11 AM to 2 AM and during football season (September 1 through Super Bowl Sunday) 9 AM to 2 AM. ADDED BY HEARING OFFICER

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4. Request for the JOHNSON RESIDENCE (PL090055) (Kenneth & Terri Johnson, applicants/property owners) located at 2136 East Carson Drive in the R1-6, Single Family Residential District for:

   VAR09001 Variance to reduce the west side yard setback from five (5) feet to three (3) feet.

   Mr. Kenneth Johnson was present to represent this case.

   Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input information had been received since the staff report had been issued. She noted that the shape of the lot presents challenges for buildable space.

   DECISION:
   Mr. Williams approved PL090055/VAR09001 subject to the following conditions:
   1. The variance valid for the plans as approved by the Hearing Officer.
   2. The addition to match the existing residence in form, color and material.
   3. Obtain all necessary clearances and permits from the Building Safety Division.

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5. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the HAZELTON PROPERTY (PL090056/ABT09001) (Patrick Hazelton,

property owner) Complaint CE085921 located at 1219 South Maple Avenue in the R-2, Multi-Family Residential District.

No one was present to represent the property owner for this case.

Chantz Tieman, City of Tempe – Neighborhood Enhancement Inspector, stated that this property remains in non-compliance with graffiti and overgrown grass and weeds. He asked for an open 180 day abatement period.

Several neighbors (David Lucier, Douglas Dellinger and Karen Gitlis) spoke regarding their concern of the problems associated with the property which has been abated in the past, and it's negative effect on the surrounding community. The expressed their hope for a permanent solution.

The last abatement on this property was 4/15/08 – the City Attorney does not allow fencing, chains, bollards, etc. to be used at this property to discourage vandals.

Mr. Williams asked staff for a report by April 7, 2009 on potential options to abate the nuisances associated with the property, with consideration to legal limitations, and to share appropriate information with those neighboring property owners who provide their contact information.

DECISION:
Mr. Williams approved abatement proceedings for PL090056/ABT09001 for an open period of 180 days.

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6. A request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the WESTLUND PROPERTY (PL090058/ABT09002) (Phil Westlund, property owner) Complaint CE086421 located at 105 South Hardy Drive in the R-3, Multi-Family Residential Limited District.

No one was present to represent the property owner for this case.

Chantz Tieman, City of Tempe – Neighborhood Enhancement Inspector, stated that property remains in non-compliance with overgrown grass and weeds and dead landscaping. He asked for an open abatement period of 180 days.

DECISION:
Mr. Williams approved abatement proceedings for PL090058/ABT09002 for an open period of 180 days.

The next Hearing Officer public hearing will be held on Tuesday, March 17, 2009.

There being no further business the public hearing adjourned at 2:14 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:

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Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm