

Minutes
HEARING OFFICER
FEBRUARY 2, 2010

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

Present:

David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Derek Partridge, Planner I

Number of Interested Citizens Present: 6

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 February 16, 2010 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for January 19, 2010.

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2. Request by the **NYSTROM RESIDENCE (PL100002)** (Bruce Davis/Bi-Star Construction, applicant; Charles Nystrom, property owner) located at 2520 South Cottonwood Drive in the R1-6, Single Family Residential District for:

ZUP10001 Use permit to allow required parking in the front yard setback.

Mr. Charles Nystrom was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that the applicant wishes to enclose the garage to allow livable space. She stated that staff had received one e-mail of inquiry, one e-mail of opposition and one phone call in opposition to this request. The phone call of opposition was under the impression that parking would be in the whole front yard, but she explained that parking would be in the driveway only. Staff supports this request but wishes to add a Condition regarding the storage of trash/recycle bins to the side of the residence.

Mr. Nystrom explained that he had recently purchased this property and was spending \$40,000 in improvements. The previous owner had enclosure the garage for livable space without obtaining a use permit, and this request is to bring the existing structure into compliance. He stated that he had no problem with any of the Conditions of Approval including the new condition regarding the placement of trash/recycle bins.

Mr. Gary Leff, Tempe resident, spoke in opposition to this request, stating that it violates the zoning laws and sets a precedent. He asked Mr. Williams if the enclosed garage was still in violation or if it had been brought up to code. Mr. Williams questioned staff as to whether there were existing violations. Ms. Lesser explained that Mr. Nystrom is in the process of correcting any violations and this use permit request is a result of that process. Mr. Leff explained his opposition to excessive parking in the front yard and sidewalk area, and it was determined by staff that this would not be the case.

Mr. Nystrom confirmed that some of the vehicles currently being parked at his residence belong to the construction crew and that he understood the parking requirements of his personal vehicles and 20 ft requirement and not blocking the sidewalk.

DECISION:

Mr. Williams approved PL100002/ZUP10001 subject to the following conditions:

1. The required parking on-site shall be used for single family residential use only.
2. Parking shall take place on impervious surfaces only.
3. Obtain all necessary clearances from the Building Safety Division.
4. All vehicles parked on the premises must be actively registered and in operable condition at all times.
5. The garage conversion shall match the main residence in color, form, texture and material.
6. 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 set to re-evaluate the appropriateness of the use permit.
7. **No storage allowed in front of garage enclosure including trash or recycle bins. Locate those items to the side of residence away from street view. ADDED BY STAFF**

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3. Request by **CLEARWIRE – AZ – PHX5534G – CROWN CASTLE (PL090456)** (Rulon Anderson/Clearwire, applicant; Crown Castle USA Inc., property owner) located at 1840 East Broadway Road in the GID, General Industrial District for:

ZUP10002 Use permit to allow expansion of an existing monopole including an increase in the overall height from fifty-eight feet (58') to seventy feet (70') and the addition of three (3) antenna arrays with microwave dishes and radio transmitters.

Mr. Rulon Anderson of Clearwire was present to represent this case and noted that this was a co-location.

Derek Partridge, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

DECISION:

Mr. Williams approved PL090456/ZUP10002 subject to the following conditions of approval:

1. Obtain all necessary clearances from the Building Safety Division.
2. The monopole shall be no greater than 70'-0" (seventy feet) in height.
3. Any intensification or expansion of use will require a new use permit.
4. The existing enclosure shall be re-painted to the existing color to mask prior graffiti and paintovers.
5. The existing gates to the enclosure shall be re-painted.
6. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to the public.
7. The wireless device shall be removed within thirty (30) days of discontinuance of use.

The next Hearing Officer public hearing will be held on **Tuesday, February 16, 2010.**

There being no further business the public hearing adjourned at 1:40 PM.

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



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

SA:dm