

Minutes
HEARING OFFICER
FEBRUARY 17, 2009

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

Number of Interested Citizens Present: 10

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 3, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for February 3, 2009.

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2. Request by the **CHURCH OF CHRIST (PL080474)** (Abed Danganan, applicant; Church of Christ, property owner) located at 1967 East Palmcroft Drive in the R1-6, Single Family Residential District for:

ZUP09001 Use permit to increase the allowable maximum fence height in the front yard setback from four (4) feet to six (6) feet.

Mr. Abed Danganan 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. The applicant submitted this request after the fact of the fence installation. The major area of concern is that the fence be modified so that emergency personnel can access they area when needed when no one was present at the church. This concern has been addressed with the Condition of Approval No. 2.

Mr. Williams noted that his review of this property revealed that there are no visibility issues due to this wrought iron fence.

Bruce Bishop, City of Tempe resident, stated that he was opposed to the fence along Palmcroft Drive as he was concerned about fire access. He stated that he had resided at his present address since 1974 and found that it was blatant that the fence was erected without approval from the City. The fence is located right up against the sidewalk and, in order for church personnel to open the gate, they have to park in the street. There is no sidewalk along Palmcroft Drive. The church is using a large part of the unpaved dirt lot for parking and he feels that this issue should be addressed as part of this process. Mr. Bishop noted that there are school children who travel this area to a nearby school where there is no existing sidewalk and that this is a safety hazard. He asked if a sidewalk could be required.

Ms. Lesser stated that if they are parking in the unpaved area, a condition of approval should be added that DRP approval is required for parking lot modification.

Mr. Williams questioned whether this fence meets all other City requirements other than the height restrictions. Ms. Lesser confirmed that it does.

Mr. Donovan Rhodes spoke and noted that he had been a member of the church when the fence was originally erected in 1999. The fence contractor had informed church personnel at that time that all necessary permits had been obtained.

Regarding the lack of sidewalk, Ms. Lesser stated that she would have to confirm with Public Works if that portion of land is in the City right-of-way. During the Development Plan approval process, staff will work with the applicant to resolve the sidewalk issue and some sort of determination will be made at that time.

It was requested by the Head Deacon (Leo Jussica) that they be allowed to use the unpaved parking lot until the Development Plan approval is obtained as the regular parking lot is not large enough for everyone. If they do not park on the unpaved parking area, the overflow will then be required to park in the street.

Mr. Williams responded that he could not agree with this request, as what the parking in the unpaved area amounts to is a nuisance situation. He suggested that the overflow parking utilize the school parking lot to the south as the school is closed on the weekends until such time that Development Plan approval is obtained and improvements made.

DECISION:

Mr. Williams approved PL080474/ZUP09001 subject to the following conditions:

1. Approval is valid for the plans as submitted within this application.
 2. Install a lock on the gate that allows for fire personnel access during non-business hours; contact Jim Walker, Tempe Fire Inspector at (480) 350-8341.
 3. **Obtain Development Plan approval for expansion of the parking area with paving, striping, lighting and landscape. All approvals and installations to be completed within one year (February 17, 2010).**
- ADDED BY STAFF**

3. Request by the **SINGH RESIDENCE (PL080475)** (Aish Singh, applicant/property owner) located at 820 West Tulane Drive in the R1-6, Single Family Residential District for:

ZUP09004 Use permit to allow parking in the front yard setback.

Mr. Aish Singh was present to represent this case.

Derek Partridge, 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. He stated that the site had been cleaned up to the City's satisfaction since the February 3, 2008 Hearing Officer hearing.

Mr. Williams commended Mr. Singh on the good job on the site cleanup; he stated that if this property is used as a church or place of worship that City code requires that other modification will be necessary for a church/assembly use. Mr. Singh acknowledged that he understood.

DECISION:

Mr. Williams approved PL080475/ZUP09004 subject to the following conditions of approval:

1. The required parking on-site shall be used for single family residence use only.
2. Parking shall take place on impervious surfaces only.
3. All vehicles parked on the premises must be actively registered and in operable condition at all times.
4. Existing operable vehicle (ice cream truck) with Arizona license plate number 617-ZKP must be removed within thirty (30) days (March 3, 2009).
5. Weeds in visible yard area shall be removed within thirty (30) days (March 3, 2009).
6. Landscaping in yard shall be properly maintained and dead landscaping shall be removed and replaced.
7. 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.

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4. Request for the **WIESE RESIDENCE (PL090011)** (Howard Li, Paramount Design, applicant; Michael Wiese, property owner) located at 1603 East Hudson Drive in the R1-6, Single Family Residential District for:

ZUP09012 Use permit to allow a second story addition.

Mr. Michael Wiese was present to represent this case. He presented photographs of the existing condition of the home. This is a rental property for him; he lives at 1609 East Hudson Drive.

Shawn Daffara, 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.

Mr. Williams noted that this house appears to have porches/overhangs and asked how those comply with the setbacks. Mr. Daffara responded that they were in compliance.

Mr. Michael Ternyik spoke in support of this case, stating that he lived directly east of this property, and that he felt that this project was an improvement of the neighborhood.

Mr. Williams addressed the privacy issues due to the location of the windows on the second floor in this design. Mr. Ternyik explained that there is a garage located on the back of the house so that there would be very little view into the property at this point. He did not see the windows as presenting any negative privacy effect.

Mr. Warren Van Egman spoke regarding what the City requires to increase the depth for retention of the yard.

Mr. Williams noted that this second story addition was being built on top of an existing footprint so that they would not be expanding the lot coverage area and questioned about the landscape that would remain. Mr. Wiese responded that the existing landscape would remain.

Mr. Daffara explained that if the expansion of an existing footprint is in excess of twenty-five percent (25%) then the issue of retention would kick in. This is not required by Engineering in this case as the expansion is on top of the existing footprint.

DECISION:

Mr. Williams approved PL090011/ZUP09012 subject to the following conditions:

1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Second story addition to complement the main residence in color, form and material.
3. **The two (2) large trees located in the front yard are to remain in place. ADDED BY HEARING OFFICER**

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5. Request by the **STENSON RESIDENCE (PL090012)** (Robert Bliss/R C Bliss, applicant; Susan Stenson, property owner) located at 8130 South Ash Avenue in the R1-15, Single Family Residential District for:

ZUP09013 Use permit standard to reduce the north side yard setback by twenty percent (20%) from fifteen (15) feet to twelve (12) feet.

Mr. Robert Bliss of R. C. Bliss was present to represent this case.

Derek Partridge, 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.

DECISION:

Mr. Williams approved PL090012/ZUP09013 subject to the following conditions:

1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.

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6. A request by the **ROTH RESIDENCE (PL090016)** (Jack DeBartolo/DeBartolo Architects, applicant; Justin & Keri Roth, property owners) located at 1731 South Sierra Vista Drive in the R1-6, Single Family Residential District for:

ZUP09014 Use permit to allow a second story addition.

Mr. Jack DeBartolo of DeBartolo Architects was present to represent this case. He presented letters of support for this project and a location map indicating neighborhood support.

Sherri Lesser, 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. She explained that this is a rebuild of a house that was a single story to a double story and that the lot is presently vacant as Mr. Williams indicated.

Ms. Mary Ann Kisiel, City of Tempe resident, expressed concern about the two story addition, the window locations and the possibility of setting a precedent of two story homes for this neighborhood which presently has only one two-story home in the area.

Mr. Williams indicated that privacy concerns are always a pertinent issue for review, however this design does a pretty good job of alleviating these concerns and minimizing privacy invasions. Regarding setting a precedent, all future cases stand on their own merits.

Mr. DeBartolo explained the window treatments and locations. Site plan depictions were reviewed for the north and south sides and that the idea was not to create any type of privacy invasion for the neighborhood. This parcel has extremely large trees and existing vegetation that also add to the screening.

DECISION:

Mr. Williams approved PL090016/ZUP09014 subject to the following conditions:

1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.

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7. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **KOEN RESIDENCE (PL080465/ABT08042)** (Adrienne Koen, property owner) Complaint CE086895 located at 132 West Balboa Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jody Benson, City of Tempe – Neighborhood Enhancement Inspector, stated that the property remains in non-compliance although some maintenance and landscape work has been performed and that they are requesting an open abatement period of 180 days. The property owner has declined to take advantage of assistance programs to bring this property into compliance.

DECISION:

Mr. Williams approved abatement proceedings for PL080465/ABT08042 for an open period of 180 days (6 months).

The next Hearing Officer public hearing will be held on **Tuesday, March 3, 2009.**

There being no further business the public hearing adjourned at 2:40 PM.

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



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

SA:dm

APPROVED