

Minutes
HEARING OFFICER
MAY 5, 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
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 4

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 May 19, 2009 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for April 21, 2009.

2. Request by the **TUNIS RESIDENCE (PL090117)** (Jay Bryant/Tuff Shed Inc., applicant; Shelly Tunis, property owner) located at 4710 South Fairfield Drive in the R1-6, Single Family Residential District for:

ZUP09053 Use permit to allow an accessory building (storage).

No one was present to represent this case.

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. The shed is 384 s.f. and approximately 10 feet 7 inches tall.

Mr. Williams asked if this shed meet all Zoning and Development Code requirements to setbacks and height; Ms. Lesser confirmed that it did.

DECISION:

Mr. Williams approved PL090117/ZUP09053 subject to the following conditions of approval:

1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Accessory building to complement the main residence in color, form and material.

3. Request by **CHRONIC TACOS (PL090124)** (Kay Price/Mill Avenue Tacos LLC, applicant; Herzel Nahom, property owner) located at 15 East 6th Street, Suite No. 409 in the CC, City Center District for:

ZUP09055 Use permit to allow live entertainment.

Mr. James Neal was present to represent this case. In response to a question from Mr. Williams, Mr. Neal stated that Chronic Taco had been operating at this location for 17 months now.

Shawn Daffara, 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.

DECISION:

Mr. Williams approved PL090124/ZUP09055 subject to the following conditions of approval:

1. The use permit is valid for Chronic Tacos 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. Noise generated from the use shall conform to the City of Tempe Noise Ordinance 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. No outdoors speakers permitted on the patio. Speakers to be placed behind the garage/roll up door in the interior of the business.
6. The use permit is valid for the plans as submitted within this application.
7. The applicant shall work with the Tempe Police Department to update the Security Plan for the business. Contract the Crime Prevention Department at 480.858.6027.

4. Request by the **LITZINGER RESIDENCE (PL090132)** (Bill Cantieri/Piazza, applicant; Daniel Litzinger, property owner) located at 12439 South 71st Street in the AG, Agricultural District for:

ZUP09056 Use permit to allow an accessory building (ramada/exercise room).

ZUP09057 Use permit standard to allow a reduction of the north side yard setback by twenty percent (20%) from twenty (20) feet to sixteen (16) feet.

Mr. Bill Cantieri of Piazza was present to represent this case.

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. City Ordinance requires that there be a continuous roof in order for an accessory building to be considered attached as opposed to stand alone.

DECISION:

Mr. Williams approved PL090132/ZUP09056/ZUP09057 subject to the following conditions of approval:

1. Accessory building shall not be used for sleeping or living purposes and shall have no cooking facilities.
2. Addition to compliment the existing residence in color, form or material.
3. Obtain all necessary clearances from the Building Safety Division.

5. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **DOEDE RESIDENCE (PL090123/ABT09007)** (Douglas Doede, property owner) Complaint 091340 located at 1028 West Cornell Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, City of Tempe – Neighborhood Enhancement Department, stated that abatement proceedings had been approved by the Hearing Officer in October 2008 and that this property has been a chronic problem. She requested an open abatement period of 180 days.

Mr. Williams asked if this property was vacant; Ms. Zedlar responded that there had been cars present at this address and that the property owner did live there.

Mr. Williams noted that the property located at 5744 North Parkside Drive also had Neighborhood Enhancement type issues.

DECISION:

Mr. Williams approved abatement proceedings for PL090123/ABT09007 for an open period of 180 days.

The next Hearing Officer public hearing will be held on **Tuesday, May 19, 2009**.

There being no further business the public hearing adjourned at **1:50 PM**.

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



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

SA:dm