Minutes
HEARING OFFICER
MAY 21, 2013

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:
Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Diana Kaminski, Senior Planner
Jack Scofield, Code Inspector
Julie Stennerson, Executive Assistant

Number of Interested Citizens Present: 7

Meeting convened at 1:34 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by June 4, 2013 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for May 7, 2013 had been reviewed and approved.

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2. Request approval to abate public nuisance items at the STEFANIAK PROPERTY (PL130128) located at 1849 East Harvard Drive. The applicant is the City of Tempe.

   There was no one present to represent the property owner.

   Jack Scofield requested a 180 day open abatement for the property located at 1849 East Harvard Drive. The property is in violation of deteriorated landscape in the front and rear yards. Notification has been sent to the property owner with no response from the property owner. Due to the history of code violations at this property, a 180 day open abatement is being requested.

   Ms. MacDonald stated this property has been abated continuously throughout the past decade. The property is in a state of disrepair. The 180 day open abatement is appropriate for this property.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL130128/ABT13008 for an open period of 180 days.

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3. Request approval for a Use Permit to reduce the rear yard setback for MARIGOLD (PL130121) located at 1217 East Marigold Lane. The applicant is William W. Predebon, Creative Solutions Investments, LLC.

Clyde Hoffman, Hofco Construction was present to represent this case.

Diana Kaminski introduced the case. The property is located west of Miller Road on the south side of Marigold Lane. The property is a single family residence. An accessory building was built with permits in 1973. The requirements for an accessory building allow it to be built closer to the property line than would be allowed for livable space. The new property owner is requesting to create livable space out of the accessory building. The applicant would like to connect the main livable space with a new bedroom, walk-in closet and bathroom that would also serve for the new family room and bedroom in the back. The structure would become one contiguous residence. In the past the garage or carport had been removed. As a requirement for this application, the applicant is required to put the garage back in to allow for two cars to be parked on site. The current garage enclosure does not meet the parking requirements. The Use Permit Standard the applicant is requesting would reduce the rear yard setback from 15 feet to 12 feet. The existing structure would be converted into livable space. The existing architecture would match the new roof line. Staff has received two calls of inquiry about the project. The calls were not in favor or opposition of the project, both calls were for additional information. Staff is requesting a signed and recorded Covenant and Declaration of Restrictions from the property owner acknowledging the City of Tempe Zoning and Development Code restrictions for single family residences.

Ms. MacDonald stated this application expands some of the livable space on site, and corrects the additions that were built not according to code. She stated the zoning of the property is strictly for a single-family residence.

Mr. Hoffman agreed to the conditions of approval. Mr. Hoffman stated Mr. Predebon would be signing the Covenant and Declaration of Restrictions Agreement.

Ms. Kaminski stated the document is tied to the property owner and referenced by the Building Permit number. Referencing the Building Permit number ties the document to the construction plans.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL130121/ZUP13036 subject to the following conditions:
1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. 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, which may result in termination of the Use Permit.

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4. Request approval for a Variance to reduce the street side yard setback for an addition for the LAFAVE RESIDENCE (PL130138) located at 7841 South Terrace Road. The applicant is Julie LaFave.

Julie LaFave was present to represent this case.

Sheri Lesser introduced the case. This is a Variance to reduce the street side yard setback for an addition to a

single-family residence. The Variance would reduce the street side yard setback from 10 feet to 6 feet. This property is not adjacent to a key lot so they did not have the additional 10 foot requirement. Staff has evaluated the application. Similar Variances have been granted in the neighborhood. Most of the buildable area is located in the street side yard. The applicant has limited area in the street side yard due to an existing easement. Staff finds the challenge a reason to support the Variance. Staff recommends approval of the Variance.

Ms. MacDonald noted the petition of support for this project. She commended Ms. LaFave on the neighborhood outreach. Ms. MacDonald stated the application is for a Variance, but it is not a Building Permit. The applicant would still need to go through the Building Permit process.

Ms. LaFave agreed to the conditions of approval.

Ralph Holland lives next door to the LaFave Residence. He spoke in support of the project. He stated it is a wonderful project. He appreciated the applicant contacting the neighbors and reviewing the project.

Ms. MacDonald noted that this request meets the criteria for a Variance and found as follows:
1. She believes special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings.
2. She believes the strict application of this Code will deprive this property of privileges enjoyed by other property of the same classification in the same zoning district.
3. She does not believe the adjustment authorized constitutes a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
4. She does not believe that special circumstances are self-imposed by the property owner.

DECISION:
Ms. MacDonald approved PL130138//VAR13009 subject to the following conditions:
1. The variance is valid for the plans as submitted within this application.
2. The applicant shall obtain all necessary permits and clearances from the Public Works Department-Engineering and Building Safety Division for on-site retention and construction documents.

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5. Request approval for a Use Permit to allow a new Monopalm and equipment shelter for HOHOKAM REALTY CONDOMINIUMS - VERIZON PHO HOLDMAN (PL130139) located at 1425 West 12th Place. The applicant is Steve Ciolek, Coal Creek Consulting.

Steve Ciolek was present to represent this case.

Sherri Lesser introduced this case. This is a Use Permit to allow a monopalm located on the west side of Priest Drive, between University Drive and Broadway Road. The site is located in an industrial complex where there are existing palm trees. The monopalm will tie in with the existing palm trees. Ms. Lesser requested the deletion of conditions of approval number 2 and number 4. The conditions do not apply to this project. Staff has not received public input regarding this request. Staff recommends approval of the Use Permit.

Mr. Ciolek stated Verizon Wireless is experiencing some technical issues. The issues include dropped calls and slow data speeds. This site would help alleviate an existing monopole which is due west. This is a growing area and there are more people with iPads, iPhones and Smartphones. Verizon has tried to utilize some of the existing wireless facilities in the area, but were not able to do so. A monopalm was chosen which would be consistent with the area. The monopalm is set back at least 400 feet from the residents to the east.

Mr. Ciolek agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL130139/ZUP13047 subject to the following conditions:
1. The Use Permit is valid for the plans as submitted within this application.
2. ~~The applicant shall provide updated tenant and parking data during planning plan check process~~.
   (REMOVED BY STAFF)
3. Obtain all clearance from Building Safety prior to use permit becoming effective.
4. ~~Provide a landscape island, designed per ZDC requirements, at the west end of scope of work area~~.
   (REMOVED BY STAFF)
5. All equipment to be removed within 30 days of termination of use.

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6. Request approval for a Use Permit to allow a drive-thru for a RESTAURANT (PL130084) located at 1420 North Scottsdale Road. The applicant is Fred Stern, Stern & Associates.

   THIS CASE WILL BE CONTINUED TO JUNE 4, 2013 BY THE REQUEST OF COMMUNITY DEVELOPMENT STAFF.

The next Hearing Officer public hearing will be held on June 4, 2013.

There being no further business the public hearing adjourned at 2:00 PM.

Prepared by: Julie Stennerson, Executive Assistant
Reviewed by:

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:js