Tempe

Minutes
HEARING OFFICER
JUNE 4, 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
Diana Kaminski, Senior Planner
Brandy Zedlar, Code Inspector
Julie Stennerson, Executive Assistant

Number of Interested Citizens Present: 4

Meeting convened at 1:30 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 18, 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 21, 2013 had been reviewed and approved.

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2. Request approval to abate public nuisance items at the ORRAS PROPERTY (PL130118) located at 26 West Erie Drive. The applicant is the City of Tempe.

   Continued from May 7, 2013

   Mr. Orras was present to represent this case.

   Brandy Zedlar requested a 180 day open abatement for the property located at 26 West Erie Drive. This request was continued from the May 7, 2013 Hearing Officer meeting. The applicant requested additional time to take care of the outstanding issues. The issues included three unregistered vehicles, repairing the fence and deteriorated landscape. It appears the property owner is working on the fence. There was no indication of the vehicles being registered at this time. The vehicles are still the outstanding issues.

   Mr. Orras stated there have been more repairs than expected on the RV. The RV is now running and will be removed from the property and transported to another location today. The Four Runner is under construction, a mechanic will be out tomorrow to look at it. The fence has been fully repaired; new supports have been put up over the weekend. The property owner has been working a lot of hours and has not had as much time as he has expected. The work will be fully completed within 14 days. All of the weeds have been removed from the landscape today.

   Ms. MacDonald stated she went by the property at 12:35 this afternoon. She noticed the fence had been repaired and saw a gentleman burning off the weeds. The RV was still located at the property.

Mr. Orras indicated the RV is fully running and would be removed from the property this afternoon.

Ms. MacDonald thanked Mr. Orras for the efforts he made to correct the code violations. She would like to go ahead and approve the abatement. The property owner will have an additional 14 days to correct any outstanding violations before the property is abated by the City.

Mr. Orras stated he disagrees with the 180 day open abatement. The Code Compliance Inspector has requested a 180 day open abatement. Mr. Orras does not see that fit for his property. The items he has been cited for in the past include: a storage container while he was remodeling his house that he was not aware he needed a permit for, and palm trees that have been removed.

Ms. MacDonald asked Mr. Orras about the vehicles at the property.

Mr. Orras stated the vehicles are being registered or removed from the property within the next week.

Ms. MacDonald asked Ms. Zedlar about the 180 day open abatement.

Ms. Zedlar stated she requested the 180 day open abatement due to the history of the property. This particular complaint has been open since October 2012. It has taken several months to have the violations corrected. If Mr. Orras is willing to maintain the property she does not have a problem removing the 180 day open abatement request.

Ms. MacDonald stated if the violations are not corrected within the next two weeks the City has been given the authority to remove the vehicles.

DECISION:
Ms. MacDonald approved abatement proceedings for PL130118/ABT13007 with the removal of the 180 day request.

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3. Request approval to abate public nuisance items at the BANK OF AMERICA PROPERTY (PL130154) located at 1263 East Sunburst Lane. The applicant is the City of Tempe.

   THE PROPERTY WAS REMOVED FROM THE AGENDA AS IT HAS BEEN BROUGHT INTO COMPLIANCE BY THE PROPERTY OWNER.

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4. Request approval for a Use Permit to allow parking in the front yard setback for the MICHELENA RESIDENCE (PL130158) located at 32 West Erie Drive. The applicant is Tessa Jones-Dailey, The Phactory.

   Tessa Jones-Dailey was present to represent this case.

   Diana Kaminski introduced the case. The property is located on the north side Erie Drive, which is located west of Mill Avenue, south of Alameda Drive in the Nu-Vista Five subdivision. The applicant is not proposing any physical changes to the house. The Use Permit is to allow parking in the existing driveway. The former owner enclosed the garage into additional living space without building permits or providing an alternative location on-site for parking. The owner is requesting to address these inherited issues from her parents' property and bring the residence into compliance with required codes. Staff has received one call of inquiry. The applicant did provide a letter of intent with signatures of support from the neighborhood. Staff has gone over the conditions of approval with the applicant. Staff recommends approval of the Use Permit to allow parking in the front yard setback.

Ms. Jones-Dailey stated the owner grew up in the house and her parents enclosed the garage years ago. Recently there has been a flood in the house so there has been some renovation. The recent renovation has brought up this issue. The property owner is trying to get the square footage counted as part of the property. She would like to use the existing parking condition which is the same as many neighbors in the area.

Ms. Michelena agreed to the conditions of approval.

Ms. MacDonald stated this request is remedying a situation that was inherited. There are other properties in the area with the same circumstance. Ms. MacDonald noted the petition of support for the Use Permit. The driveway at this property is wide and can accommodate three cars for on-site parking.

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 PL130158/ZUP13052 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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5. Request approval for a Use Permit to allow tobacco retail (electronic cigarettes) for WALGREENS CENTER - EVAPORZONE (PL130153) located at 925 West Baseline Road, Suite 104. The applicant is Chau Ha.

THIS CASE WAS WITHDRAWN BY THE APPLICANT.

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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.

Continued from May 21, 2013

THIS CASE WILL BE CONTINUED TO JULY 2, 2013 BY THE REQUEST OF COMMUNITY DEVELOPMENT STAFF.

The next Hearing Officer public hearing will be held on June 18, 2013.

There being no further business the public hearing adjourned at 1:42 PM.

Prepared by: Julie Stennerson, Executive Assistant
Reviewed by:

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

SA:js