

**Minutes
HEARING OFFICER
JUNE 27, 2007**

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 and Zoning Coordinator
Shawn Daffara, Planner II
Jon Christopher, Planner II

Number of Interested Citizens Present: 21

Meeting convened at 1:30 PM and was called to order by Mr. Williams.

1. Mr. Williams approved the Hearing Officer Minutes for June 5, 2007.

2. Mr. Williams noted that the following case(s) had been continued:

Hold a public hearing for a request by the **ROWLEY RESIDENCE (PL070041)** (Steve Briggs/TEBO LLC, applicant; Chris Rowley, property owner) located at 948 South Ash Avenue in the R-3, Multi-Family Residential Limited District for:

ZUP07016 Use permit to allow tandem parking for a multi-family project.

VAR07006 Variance to reduce the north side yard setback from 10 feet to 3 feet.

VAR07007 Variance to reduce the west rear yard setback from 15 feet to 4 feet.

CONTINUED TO THE JULY 17, 2007 HEARING OFFICER

Hold a public hearing for a request by the **ABER RESIDENCE (PL070230)** (Stephan Aber, applicant/property owner) located at 2011 North Van Ness Avenue in the R1-6, Single Family Residential District for:

ZUP07069 Use permit standard to reduce the front yard setback for an open structure (carport) by twenty percent (20%) from fifteen (15) feet to twelve (12) feet.

CONTINUED TO JULY 17, 2007 HEARING OFFICER

3. Hold a public hearing for a request by the **NGO RESIDENCE (PL070200)** (Albert Ngo, applicant/property owner) located at 1933 East Palmcroft Drive in the R1-6, Single Family Residential District for:

ZUP07066 Use permit to allow parking in the front and street side yard setbacks.

Mr. Albert Ngo was present to represent this case. He noted that he had purchased the home with the existing conditions.

Mr. Williams asked for a history of this property, which Shawn Daffara, staff planner, provided. Mr. Daffara provided one (1) letter of opposition to this request.

Susan Bishop, of 1929 East Palmcroft Drive, spoke in opposition to this request stating that the work had been done without permits and that the additional cars being parked are an issue.

Bill Pape, of 1912 East Palmcroft Drive, spoke in opposition to this request and stated that neighborhood complaints are not handled in a timely manner.

DECISION:

Mr. Williams approved PL070200/ZUP07066 subject to the following conditions:

1. Obtain all the necessary clearances from the Building Safety Division.
2. The existing carport structure to be removed; if replaced with a detached structure it must comply with ZDC accessory structure standards 3-401 (D) and all building code separation requirements.
3. The improved parking areas located in the front and street side yard setbacks shall not be paved beyond 35% of the areas visible from the street per Tempe City Code.

4. Hold a public hearing for a request by **UNION PLAZA – BODY ACCENTS TATTOO AND PIERCING STUDIO (PL070211)** Elizabeth Preston, applicant; Colliers International, property owner) located at 1524 North Scottsdale Road in the CSS, Commercial Shopping and Services District for:

ZUP07067 Use permit for a tattoo and body piercing studio.

Ms. Elizabeth Preston and Mr. Tom Preston were present to represent this case.

Shawn Daffara, staff planner, stated that two (2) e-mails of opposition had been received.

Mr. Williams noted that there were similar establishments in the general area and questioned if there had been any issues with the Police Department. Mr. Daffara stated that there had not been any complaints on file with the Police Department.

OPPOSITION:

Nancy Hickman, of Hickman Plumbing, 2606 North Papago Drive, stated that her business is located next door to this proposed establishment and that she had concerns about music, smoking and loitering.

Donald Hickman, of Hickman Plumbing, 2606 North Papago Drive, stated that he would not hire anyone with a tattoo and that the music, people and smoking are issues that concern him.

Darlene Justus, of 315 East Garfield, delivered two (2) additional letters of opposition. She discussed the secondary effect that this establishment would have on nearby business (i.e. clustering issues) and mentioned that Smokin Lingerie was in this general area.

Frank Duby, of 304 East McKinley Street, stated that he was in opposition to this request due to health issues and that the tattoo/body piercing is an unregulated industry. He also mentioned Smokin Lingerie and the hours of operation as well as the clustering effects these businesses have on the area.

SUPPORT:

Gary Olney, of 408 East Julie Drive, spoke in support of this business and stated that each business should be considered on its own merits.

Mr. Williams discussed music, blood borne pathogens and sterilization procedures, noting that this is a self-governing organization.

DECISION:

Mr. Williams approved PL070211/ZUP07067 subject to the following modified conditions:

1. Prior to the use permit becoming effective, the establishment must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the use permit becoming effective, all practitioners must have training in blood-borne pathogens and cross-contamination.
3. Prior to the use permit becoming effective, the establishment must post and provide to customers, upon request, written instructions on tattoo care.
4. All business signs shall have required sign permits obtained prior to installation.
5. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.
6. This use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
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 to re-evaluate the appropriateness of the use permit.
8. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
9. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
10. A 'No Loitering' sign(s) meeting Crime Prevention Unit specification shall be installed in plan view at the business by ~~July 11, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**
11. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.) by ~~July 27, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**
12. The non-compliant light fixture at the rear of the suite shall be removed and replaced with a compliant light fixture that complies with the Zoning and Development Code, Part 4, Chapter 8. Staff to review, approve and inspect the light fixture within thirty (30) days, by ~~July 27, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**

5. Hold a public hearing for a request by the **OLNEY RESIDENCE (PL070225)** (Gary Olney, applicant/property owner) located at 408 East Julie Drive in the R1-6, Single Family Residential District for:

ZUP07068 Use permit to allow parking in the front yard setback .

Mr. Gary Olney was present to represent this case. He stated that trees already exist and asked that Condition of Approval No. 3 be modified accordingly.

DECISION:

Mr. Williams approved PL070225/ZUP07068 subject to the following modified 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.
3. ~~Provide a landscape plan of the front yard showing additional landscape material to screen cars on driveway. Plan to include at least one (1) 24" box tree; details to be approved by staff. Provide plan for use permit file.~~ **Applicant to meet with staff and provide a plan showing additional landscape materials.**

MODIFIED BY HEARING OFFICER

6. Hold a public hearing for a request by the **GRIFFIN RESIDENCE (PL070228)** (Leo Griffin, applicant/property owner) located at 325 West Manhattan Drive in the R1-6, Single Family Residential District for:

VAR07018 Variance to increase the wall height in the front yard setback from four (4) feet to five (5) feet.

Mrs. Karen Griffin was present to represent this case.

Shawn Daffara, staff planner, presented a letter of opposition.

Mr. Williams noted that the intent of the ordinance is to keep an open view from the street for public safety purposes. The additional eleven (11) inches is wrought iron which accomplishes the view into the front yard, therefore the variance is approved.

DECISION:

Mr. Williams approved PL070228/VAR07018 subject to the following conditions:

1. The variance is granted at five (5) foot. The wall can't exceed five (5) foot without authorizing of a new variance application.
2. Obtain all necessary clearances from the Building Safety Division.
3. The wall shall be painted to match the existing residence.

7. Hold a public hearing for a request by the **TURLEY RESIDENCE (PL070232)** (Tom Turley, applicant/property owner) located at 947 East Carver Road in the AG, Agricultural District for:

VAR07017 Variance to reduce the east side yard setback from twenty (20) feet to **sixteen (16) feet** ~~fourteen (14) feet eight (8) inches.~~ **MODIFIED BY HEARING OFFICER**

Mr. Tom Turley was present to represent this case.

Suzanne Barnett-Scott, of 8301 South Jentilly Lane, spoke in opposition. She stated that she was against the variance that the owners should build within their setbacks on this large lot.

Mr. Williams noted that this request was similar to the use permit standard which allows a twenty percent (20%) reduction in the east side yard setback – he modified the request to read ‘from twenty (20) feet to sixteen (16) feet’.

DECISION:

Mr. Williams approved PL070232/VAR07017, as modified, subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Department.
2. The game room portion to have no bathing or cooking facilities and must have access to main residence through garage to be considered attached. If the future use is other than game room (as shown on Building Safety plan) and will be alternatively a bedroom, then the floor plan must be redesigned to provide direct access from the livable area to the main residence.
3. The proposed structure shall match the existing residence in materials, color and design.

8. Hold a public hearing for a request by **BROADWAY FESTIVAL PLAZA – ITS ALL ABOUT ME SPA (PL070235)** (Anthony Moncrief, applicant; Crux Development LLC, property owner) located at 930 West Broadway Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP07071 Use permit to allow massage therapy.

ZUP07072 Use permit to allow a permanent cosmetics tattoo process.

Ms. Rita MacDonald was present to represent this case.

DECISION:

Mr. Williams approved PL070235/ZUP07071/ZUP07072 subject to the following conditions:

1. Prior to the use permit becoming effective, the establishment must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the use permit becoming effective, all practitioners must have training in blood-borne pathogens and cross-contamination.
3. All business signs shall be Development Review approved and permits obtained prior to installation.
4. The use permit is valid for the plans and the business operation as submitted to and approved by the Hearing Officer.
5. The use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
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 to re-evaluate the appropriateness of the use permit.
7. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
8. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
9. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.) by **July 27, 2007**.

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9. Hold a public hearing for a request by **CHRIST LIFE CHURCH (PL070237)** (Brian Bazay/Modspace, applicant; Christ Life Church, property owner) located at 1137 East Warner Road in the AG, Agricultural District for:

ZUP07073 Use permit to allow for two (2) accessory (modular) buildings.

Mr. Brian Bazay of Modspace was present to represent this case.

DECISION:

Mr. Williams approved PL070237/ZUP07073 subject to the following modified conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. This use permit is limited to 24 months (**June 27, 2009**). Continuation of this use beyond 24 months will require a new use permit.
3. **The existing non-compliant accessory (modular) buildings (Buildings C & D) shall be removed by October 1, 2007. ADDED BY HEARING OFFICER**

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10. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ZOLNIERCZYK RESIDENCE (PL070180/ABT07014)** (Glenn Zolnierczyk, property owner) Complaint No. CE065780 located at 2144 South Los Feliz Drive in the R1-6, Single Family Residential District.

Mr. Adam Mathews Zolnierczyk was present to represent this property.

Mr. Brett Barnes, City of Tempe – Neighborhood Enhancement Department, summarized the case.

DECISION:

Mr. Williams approved abatement proceedings for PL070180/ABT07014.

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11. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **WESTLUND PROPERTY (PL070227/ABT07017)** (Phillip Westlund, property owner) Complaint No. CE063555 located at 105 South Hardy Drive in the R-3, Multi-Family Residential Limited District.
WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT
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12. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **WENZEL RESIDENCE (PL070229/ABT07018)** (William Wenzel, property owner) Complaint No. CE072113 located at 1006 South Una Avenue in the R1-6, Single Family Residential District.

No one was present to represent this property.

Ms. Michelle Arnieri, City of Tempe – Neighborhood Enhancement Department, summarized the case.

DECISION:

Mr. Williams approved abatement proceedings for PL070229/ABT07018.

The next Hearing Officer public hearing will be held on **Tuesday, July 17, 2007**.

There being no further business the public hearing adjourned at 3:30 PM.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



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

SA:dm