

**Minutes
HEARING OFFICER
SEPTEMBER 18, 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: 15

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

1. Mr. Williams approved the Hearing Officer Minutes for September 4, 2007.

2. Mr. Williams noted that the following case(s) had been withdrawn by Development Services:
 - Hold a public hearing for a request by the **FLOYD RESIDENCE (PL070374)** (Susan Floyd, applicant/property owner) located at 8421 South Kenwood Lane in the R1-7, Single Family Residential District for:
ZUP07129 Use permit for a second story addition.
3. Mr. Williams noted that the following case(s) had been continued:
 - Hold a public hearing for a request by the **FOX RESIDENCE (PL070306)** (Darwin Fox, applicant/property owner) located at 520 East Manhattan Drive in the R1-6, Single Family Residential District for:
VAR07021 Variance to raise the height of the fence/wall in the front yard setback from four feet (4') to five feet eight inches (5' 8").
CONTINUED TO THE OCTOBER 16, 2007 HEARING OFFICER

4. Hold a public hearing for a request by the **VULLO RESIDENCE (PL060722)** (Curt Wilt/Architect, applicant; Rick Vullo, property owner) located at 2034 South College Avenue in the R1-6, Single Family Residential District for:

VAR07019 Variance to reduce the rear yard setback from the required fifteen (15) feet to two (2) feet.

Curt Wilt was present to represent this case.

Shawn Daffara explained zoning and development code for attached/detached structures.

Mr. Wilt indicated that a detached structure is more expensive in construction costs.

There was a brief discussion of Building Safety issues. No public input on this case.

Mr. Williams indicated that ARS is very specific regarding variances for setbacks, and that to be fair and consistent, he was denying this request.

DECISION:

Mr. Williams denied PL060722/VAR07019.

5. Hold a public hearing for a request by **BILL'S GHOST AND SPIRITS (PL070261)** (Scott Nye/GBMA Architecture LLC, applicant; Rosemead and Longden LLC, property owner) located at 1344 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP07127 Use permit to allow a convenience store with gas/fuel sales.

Scott Nye was present to represent this case.

Mr. Williams noted that there was no rear exit for this building, and therefore Mr. Williams deleted condition #8.

No public input on this case.

DECISION:

Mr. Williams approved PL070261/ZUP07127 subject to the following conditions:

1. A security plan must be approved and implemented by the Tempe Police Department prior to operation of the convenience store.
2. All business signs shall have required sign permits obtained prior to installation.
3. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
4. 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.
5. 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.
6. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
7. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.

- ~~8. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.). (Deleted by the Hearing Officer)~~
9. This project, including site plan, elevations and landscape plan shall be reviewed and approved for Development Plan Review prior to the use permit becoming effective.
10. All dead and missing plant material shall be replaced and required landscaping shall be installed prior to operation of the convenience store.

6. Hold a public hearing for a request by **AA BUDGET MINI-STORAGE – U-HAUL (PL070307)** (Dilbert Martin, applicant; Dondel Inc. property owner) located at 1964 East University Drive in the GID, General Industrial District for:

ZUP07097 Use permit to allow vehicle rentals (trucks, vans, trailers).

James Martin was present to represent this case.

There was a brief discussion of where the vehicles will be located. Additional vehicle(s) are parked in Fort Knox Plaza.

No public input on this case.

DECISION:

Mr. Williams approved PL070307/ZUP07097 subject to the following conditions:

1. The use permit is valid for AA Budget Mini-Storage and may be transferred to successors in interest, subject to a review by the Development Services staff.
2. Any significant verifiable complaints as determined by the City Attorney and/or Commercial Enforcement Division shall require the applicant to return to the Hearing Officer for re-evaluation of the use permit.
3. All U-Haul vehicles shall be parked inside the A Budget Mini-Storage property.
4. All U-Haul vehicles shall not block any portion of the Fire Lane. A Fire Lane requires a twenty (20) foot wide drive aisle for emergency vehicles to maneuver on site. If you have any questions on the Fire Lane, please contact the Fire Department Representative, Jim Walker (480) 350-8858.
5. No truck repair shall be conducted on site.

7. Hold a public hearing for a request by the **GARZA RESIDENCE (PL070320)** (Terry Williams/Williams Development Company, applicant; Joan Garza, property owner) located at 1014 East Knox Road in the AG, Agricultural District for:

ZUP07119 Use permit standard to reduce the west side yard setback by twenty percent (20%) from twenty feet (20') to sixteen feet (16').

Terry Williams of Williams Development Company was present to represent this case.

No public input on this case.

DECISION:

Mr. Williams approved PL070320/ZUP07119 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.

2. ~~Detached structure to~~ **The addition shall be compatible in materials and design with main dwelling; colors to match existing dwelling. (Modified by the Hearing Officer.)**

APPROVED

8. Hold a public hearing for a request by the **MILLER RESIDENCE (PL070333)** (Jason Miller, applicant/property owner) located at 1324 West 11th Street in the R1-6, Single Family Residential District for:

ZUP07104 Use permit to allow the required parking in the front yard setback.

Greg Coughlin (present owner) was present to represent this case.

The work on this project has already been completed. There is a new owner of the property. There was a discussion regarding the adequacy of the driveway length.

Dan Starwalt, Phoenix AZ, spoke in support of this case.

DECISION:

Mr. Williams approved PL070333/ZUP07104 subject to the following conditions:

1. Obtain all the necessary clearances from the Building Safety Division.
2. The enclosed carport shall match the existing residence in design, color and material.
3. The applicant shall maintain his landscape as required per City Code of Tempe (Art. 1 Nuisances, §§ 21-1—21-20).
4. 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.

9. Hold a public hearing for a request by **STORAGE TODAY – U-HAUL (PL070368)** (Donald Murney, applicant/property owner) located at 810 South McClintock Drive in the GID, General Industrial District for:

ZUP07128 Use permit to allow vehicle rentals (trucks).

Donald Murney was present to represent this case.

Discussion regarding the vehicles being stored on far western and northern edges of the property. Northern edge is the primary location, with 8 to 9 trucks maximum.

No public input on this case.

DECISION:

Mr. Williams approved PL070368/ZUP07128 subject to the following conditions:

1. The use permit is valid for Storage Today and may be transferred to successors in interest subject to a review by Development Services staff.
2. Any significant verifiable complaints as determined by the City Attorney and/or Code Enforcement Division shall require the applicant to return to the Hearing Officer for re-evaluation of the use permit.
3. The applicant must complete a Lot Tie application, to be reviewed and approved by the City of Tempe Building Safety Division and then recorded with the Maricopa County Recorders Office, prior to any joint parking approvals for Lot 2.
4. The use permit is approved for U-Haul parking for Lot 1 only. If the applicant receives Development Plan Review approval for parking on Lot 2, we can administratively process a use permit modification to include Lot 2.
5. The U-Haul truck display area on Lot 2 is not allowed. If you wish to pursue future parking rights for Lot 2, the property would have to be brought into conformance with the Zoning and Development Code. Any type of site modification shall require a Development Plan Review approval.

6. All U-Haul vehicles shall not block any portion of the fire lane. A fire lane requires a twenty (20) foot wide drive aisle for emergency vehicles to maneuver on site. Any questions regarding the fire lane should be addressed to the Fire Department representative, Jim Walker (480) 530-8858.
7. No truck repair shall be conducted on site.

10. Hold a public hearing for a request by **BODY ALTER PLLC (PL070381)** (Caryn Braunstein, applicant; ABA Office Corporation, property owner) located at 1445 East Guadalupe Road, Suite No. 201 in the R/O, Residential/Office District for:

ZUP07130 Use permit for a massage therapist.

Caryn Braunstein was present to represent this case.

Michael Bertola, 1029 E. Carmen St., Tempe, nearby property/building owner, spoke in opposition of this case.

DECISION:

Mr. Williams approved PL070381/ZUP07130 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
4. Any expansion or intensification of use shall require a new use permit to be approved.
5. 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.
6. All required State, County and Municipal permits shall be obtained or the use permit is void.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective.
8. All business signs shall be Development Review approved and permits obtained.

11. Hold a public hearing for a request by **MCCLINTOCK FOUNTAINS - HARBOR FREIGHT TOOLS (PL070382)** (Brian O'Neil/Harbor Freight Tools, applicant; CB Richard Ellis, Inc., property owner) located at 1860 East Warner Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP07131 Use permit to allow an outdoor display.

Mr. Brian O'Brien was present to represent this case.

There was a discussion regarding clear space for pedestrians.

Shannon Jallow, 1840 E. Warner Rd., Ste. 137, Tempe, a representative of the shopping center owners, spoke in support of the tenant and ownership group.

DECISION:

Mr. Williams approved PL070382/ZUP07131 subject to the following conditions:

1. The outdoor display shall not conflict with pedestrian or vehicular traffic. If any display items are moved into the sidewalk and blocks A.D.A. clearance, the business may be cited and/or returned to the Hearing Officer for review, and potential revocation of the use permits.
2. The use permit is valid for the plans as submitted to and approved by the Hearing Officer, any expansion of the outdoor display would require a new use permit.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the Development Services office, the use permit may be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any outdoor signage associated with the vehicle display shall be reviewed by the Development Services Department – Planning Division and are limited to three (3) square feet.

APPROVED

5. No sound amplification shall be used for the outdoor display.
6. The outdoor display shall be removed when the business is closed. No products shall be allowed to remain outdoors when the business is closed.
7. **A minimum 6' 0" wide pedestrian aisle shall be maintained in the display area. (Added by the Hearing Officer.)**

12. Hold a public hearing for a request by the **CARTEL COFFEE LAB LLC (PL070384)** (Jason Silberschlag, applicant; Friedman Investments LLC, property owner) located at 225 West University Drive, Suite No. 101, in the GID, General Industrial and CC, City Center Districts for:

ZUP07132 Use permit to allow coffee roasting/retail.

ZUP07133 Use permit to allow portable outdoor retail coffee (coffee cart).

The applicant was not present to represent this case.

DECISION:

Mr. Williams continued PL070384/ZUP07132/ZUP07133 to the October 2, 2007 Hearing Officer hearing.

13. Hold a public hearing for a request by the **TICE RESIDENCE (PL070390)** (Jeff Tice, applicant/property owner) located at 43 East 14th Street in the R1-6, Single Family Residential District for:

ZUP07134 Use permit to allow a detached accessory building (trellis shade structure over pool).

ZUP07135 Use permit standard to increase the maximum allowable lot coverage by ten percent (10%) from 45% to 49.5%.

Jeff Tice was present to represent this case.

No public input on this case.

DECISION:

Mr. Williams approved PL070390/ZUP07134/ZUP07135 subject to the following condition:

1. Obtain all necessary clearances from the Building Safety Department.

14. 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 **FAGAN RESIDENCE (PL070356/ABT07023)** (Shane Fagan, property owner) Complaint CE071535 located at 4433 South Poplar Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Brandy Reyer, City of Tempe, Neighborhood Enhancement Department, presented this case to the Hearing Officer.

DECISION:

Mr. Williams approved abatement proceedings for PL070356/ABT07023.

APPROVED

15. 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 **VOGTLI PROPERTY (PL070369/ABT07024)** (Danielle Vogtli, property owner) Complaint CE071978 located at 1212 South Mill Avenue in the R-2, Multi-Family Residential District.

No one was present to represent the property owner.

Julie Scofield, City of Tempe, Neighborhood Enhancement Department, presented this case to the Hearing Officer.

DECISION:

Mr. Williams approved abatement proceedings for PL070369/ABT07024.

The next Hearing Officer public hearing will be held on **Tuesday, October 4, 2007**.

There being no further business the public hearing adjourned at 2:50 PM.

Prepared by: Diane McGuire, Administrative Assistant II/Dianne Garrett, Administrative Assistant II
Reviewed by:



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

SA:dm:dg