

**Minutes
BOARD OF ADJUSTMENT
DECEMBER 16, 2009**

The study session of the Board of Adjustment began at 5:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Jeff Winter
Slade Lawson
Todd Green
Dave Maza
Joe Arredondo
Dr. Adhikari
Dr. Wallis Stemm

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Jeff Tamulevich, Code Compliance Administrator
Decima Server, Development Services Liaison

Absent:

Matt Taillon
Jonathan Gillan

There were no citizen(s) at the pre-session.
The Study Session adjourned at 5:30 p.m.

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Jeff Winter
Slade Lawson
Todd Green
Dave Maza
Joe Arredondo
Dr. Adhikari
Dr. Wallis Stemm
Todd Green

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Jeff Tamulevich, Code Compliance Administrator
Decima Server, Development Services Liaison

Absent:

Matt Taillon
Jonathan Gillan

Number of Interested Citizen(s) Present: 6

Hearing convened at 6:00 p.m. and was called to order by Chairman Arredondo.

On a motion by Dr. Adhikari, seconded by Dr. Wallis Stemm, the Board by a vote of 6-0 approved the Board of Adjustment Minutes for August 26, 2009.

(Dr. Wallis Stemm & Mr. Todd Green abstained from this vote as they were not in attendance at the August 26, 2009 Board of Adjustment hearing.)

THE BOARD DISCUSSED THE FOLLOWING CASE(S):

Appeal of the October 20, 2009 Hearing Officer's decision to approve the request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ANDERSON RESIDENCE (PL090275/ABT09017)** (Don Anderson, property owner) Complaint 092084 located at 1123 East Palmcroft Drive in the R1-6, Single Family Residential District.

Mr. Don Anderson was present to represent the property owner. He gave a brief history of his interactions with the Code Compliance staff and his efforts to bring the property into compliance.

Mr. Matt Penkert spoke stating that he has been Mr. Anderson's next door neighbor for the past 10 yrs. He stated in the past 6 months there has been a drastic improvement and it is probably the best it has ever been. He supported an extension of time for Mr. Anderson to bring the property into compliance.

Mr. Tom Penkert spoke, stating that he had received a proposal from Mr. Anderson to purchase this property. He stated that he had accepted this proposal and would be purchasing this property from Mr. Anderson. He asked that Mr. Anderson be given an extension of time to bring the property into compliance within the next 60 to 90 days. The extension would allow a time period for a title search to be done, transfer of property into his name and cleanup operations to be completed.

Jeff Tamulevich, Code Compliance Administor, gave a brief overview of the case and noted that the details of the case represented several months of non-compliance. There have been 28 separate violations dating back to 2003. Several extensions have been granted to Mr. Anderson to assist his efforts to bring his property into compliance. No abatements have been conducted previously. This case was initiated on March 24, 2009 following the receipt of a compliant. Because of the history of this property, assistance was offered to him under the City of Tempe hardship program to help him bring the property into compliance. This offer was declined by Mr. Anderson. On July 30, 2009 the abatement process was initiated. He submitted photographs that were taken today to the Board for review.

Chairman Arredondo asked if the pool was empty. Mr. Tamulevich confirmed that it was empty.

Mr. Tom Penkert spoke again to the Board asking for consideration of Mr. Anderson's health and family and personal issues which affected his efforts to complete the work on the property.

Mr. Tamulevich answered questions from Board members regarding health, fire and safety issues related to these compliance violations. He explained that should the Board decide to deny the appeal, Code Compliance would not begin abatement proceedings for the next 30 days as Mr. Anderson would have 30 days from the date of tonight's Board of Adjustment to appeal that decision to Superior Court.

Mr. Arredondo asked if change of ownership on the property would change the abatement proceedings once it takes place. Mr. Tamulevich confirmed that it would.

MOTION: Dr. Adhikari made a motion to approve Mr. Anderson's appeal of the Hearing Officer's decision to approve the City of Tempe's abatement request with a condition of approval requiring that the property be brought into compliance within a period of forty-five (45) days. If the property is failed to be brought into compliance by January 31, 2010, the code violations addressed at the public hearing on October 20th will be abated.; Todd Green seconded the motion

VOTE: Denied the Appeal and upheld the Hearing Officer's decision of October 20, 2009 with the Board recommendation that the property owner be given a period of forty-five days by January 31, 2010 to bring the property into compliance.

0 – 7 (Unanimous)

Appeal of the October 20, 2009 Hearing Officer's decision to approve the request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MILES RESIDENCE (PL090322/ABT09022)** (Cris Miles, property owner) Complaint 072012 located at 702 East Taylor Street in the R1-6, Single Family Residential District.

Ms. Miles was present to represent the property owner. She acknowledged previous problems with compliance issues with the property. She stated that her son had been helping her and improvements had been made. She questioned whether cars could be stored in the back of her property. She explained that she and her husband had health issues but have been working on the property on a daily basis. She asked for an extension to January to allow for a City bulk trash pickup.

Jeff Tamulevich gave a brief overview of the case, stating that he had made a site visit yesterday and had photographs of the property taken today. Although the front yard appears to be in compliance, the back yard issues remain. This property has a history of violations; Mr. Miles has had one pre-trial hearing and been found guilty on a criminal charge and assessed a \$300 fine at that time. Mr. Tamulevich presented the photographs taken today to the Board. He addressed Ms. Miles question regarding the vehicles in the back yard and explained that by code two (2) inoperable unregistered vehicles are allowed in the rear yard as long as they are screened by a perimeter wall or fence. Ms. Miles currently has three (3) such vehicles located in the back yard.

Mr. Lawson questioned Ms. Miles if she thought she would have the back yard issues resolved and one (1) of the cars removed within the next thirty (30) days. Chairman Arredondo noted that the trash pick up would be the first week of January so that would be less than thirty (30) days. Ms. Miles said that this would not be a problem.

Mr. Tamulevich noted that one (1) of those inoperable vehicles could not be moved to the front yard as that was one of the original violations for this case. Ms. Miles stated that she was aware of that and that the vehicle would be moved off the property.

MOTION: Dave Maza made a motion to approve Mr. Miles' appeal of the Hearing Officer's decision to approve the City of Tempe's abatement request; Dr. Adhikari seconded the motion.

VOTE: Denied the Appeal and upheld the Hearing Officer's decision of October 20, 2009.
0 – 7 (Unanimous)

Steve Abrahamson noted that the selection of the new Chair and Vice Chair is being tabled to the next Board of Adjustment hearing as three members have completed six (6) year terms and their position(s) terminate as of December 31, 2009. He noted the City's appreciation of their service to departing members: Jeff Winter, Dr. Adhikari and Todd Green.

MOTION: Dr. Adhikari made a motion to adjourn this hearing; Todd Green seconded the motion.

VOTE: Approved 7 – 0

The next Board of Adjustment hearing is scheduled for January 27, 2010.

There being no further business the hearing adjourned at 2:45 p.m.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson
Planning & Zoning Coordinator

SA:dm