

**Minutes  
BOARD OF ADJUSTMENT  
APRIL 28, 2010**

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:**

Dr. Wallis Stemm  
Matt Taillon  
Chris Dodd  
Joe Arredondo  
Jonathan Gillan  
John Puzauskas

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner

**Absent:**

Slade Lawson  
Christopher Diba  
Dave Maza

**There were no citizen(s) at the pre-session.**

The Board was advised by Decima Server, Development Services Liaison, that Development Services was seeking two (2) Board of Adjustment members to serve as volunteers on the Selection Committee for the 2010 Beautification Awards.

**The Study Session adjourned at 5:58 p.m.**

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**Present:**

Dr. Wallis Stemm  
Matt Taillon  
Chris Dodd  
Joe Arredondo  
Jonathan Gillan  
John Puzauskas

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner

**Absent:**

Slade Lawson

Christopher Diba  
Dave Maza

**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.**

**Number of Interested Citizen(s) Present: 2**

**Hearing convened at 6:00 p.m. and was called to order by Acting Chairman Joe Arredondo.**  
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On a motion by Matt Taillon, seconded by Dr. Wallis Stemm, the Board by a vote of 4-0 approved the Board of Adjustment Minutes for March 24, 2010.

(Jonathan Gillan and John Puzauskas abstained from this vote as they were not in attendance at the March 24, 2010 Board of Adjustment hearing.)  
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The Board was advised that the following case had been withdrawn:

- Appeal of the Appeal of the January 5, 2010 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **FRAWLEY RESIDENCE (PL090457/ABT09040/CE095022)** (Julie Scofield, Inspector; Robert Frawley, property owner) located at 1103 East Palmcroft Drive in the R1-6, Single Family Residential District for an open period of one hundred eighty days (180 days).

Sherri Lesser, Senior Planner, noted that staff has administratively withdrawn the request for abatement as this property is now in compliance.  
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**THE BOARD DISCUSSED THE FOLLOWING CASE(S):**

- Appeal of the January 5, 2010 Hearing Officer's decision to deny the request by **VERIZON WIRELESS (PL090471/VRA10001)** Kellie Sweat/Willmeng Construction Inc., applicant; East Group Properties, property owner) located at 3207 South Wilson Street in the GID, General Industrial District for:

**VAR09015** Variance to waive mechanical equipment screening on three (3) sides of the building.

Mr. Mike Sacco of East Group Properties was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

Acting Chairman Arredondo advised Mr. Sacco that as there was not a full Board in attendance this evening he had the option to continue this case to the next Board of Adjustment date. Mr. Sacco responded that he wanted to resolve this issue one way or another and chose to go forward with the Board members in attendance.

Mr. Sacco explained that in 10 yrs in business he had applied for only one other variance so he was not trying to 'bend the rules' all the time. He stated that he felt they had a good reason to ask for this variance. He asked for consideration of this variance for the following reasons:

Mr. Sacco indicated that the variance request was to waive the required screening of roof top equipment for three sides of the building . . . the north, east and west sides of the building. He explained that old inefficient previously evaporative coolers located on this building which were 61 inches tall were replaced with fifteen (15) more efficient A/C units which were 47 inches tall . . . a height difference of 14 inches. He further stated that there is no visibility of these units on the north east or west sides' line of sight and provided pictures that depicted the physical situation. He indicated that they were actually willing to screen the roof top units on the south side where they are slightly visible. Mr. Sacco stated that the cost of screening all four (4) sides of the building would be \$25,000. Mr. Sacco stated that he did not feel these units were readily visible from the line of site.

In response to a question from Acting Chairman Arredondo, Mr. Sacco confirmed that the units had already been replaced, and that these pictures depicting the site were evidence of the current situation.

Mr. Sacco stated that the required screening on the west side had already been waived due to the previously existing coolers. He explained that a new roof had just been installed at a cost of \$145,000 and that this was a condition of Verizon due to the expensive electronic equipment that the building would be housing. He stated in using heavy metal walls for screening the potential existed for water backup during rain storms which would damage equipment. In addition he felt that installation of the screening would compromise the integrity of the new roof.

Mr. Sacco stated that the \$25,000 would be better spent on lighting the property if this variance was granted. Spending such a large sum of money on something that nobody would benefit, such as screening, did not make sense, he stated.

Ms. Kellie Sweat of Willmeng Construction Inc. described the design particulars of the screening that had been approved when the building permit was issued. However, she stated that the A/C units that had been installed were a higher grade than what was typically installed for residential units and should be quieter, in addition to being shorter in height.

Acting Chairman Arredondo asked Mr. Sacco if a sound comparison study had been made between the old and new units. Mr. Sacco stated that although a study had not been done, it was his opinion that since the new units were considerably more efficient, they would also be quieter.

The Board questioned the screening requirement of the units on the west side. Ms. Sweat stated that when on-site review of the building was conducted by the City, it was her understanding that it had been determined that no screening would be required at the west side as it had been 'grandfathered' in. Ms. Sweat indicated on construction drawings the location of the units as they were currently installed.

Mr. Sacco, in response to questions from the Board, indicated that the old units were probably 15 yrs old and that the new units had been installed in November 2009. He based his age estimation on the fact that he had been there for 10 yrs and the units had been installed before his arrival.

Ms. Lesser requested that the code requirements for granting of a variance be read into the record stating that special circumstances need to be present and that special circumstances cannot be imposed by the property owner.

Dr. Wallis Stemm asked Mr. Sacco if he had checked with the City before the installation of the new roof and coolers or regarding screening requirements. Mr. Sacco responded that although he personally did not, there was a property manager, as well as a risk consultant and licensed contractor, all of whom worked directly with City personnel. Ms. Sweat explained that all of the new units, curbing, etc. were part of the new roofing package and that there was no anticipation that the screening would be required.

**MOTION:** Jonathan Gillan made a motion to overturn the Hearing Officer's decision of January 5, 2010 and approve the appeal and grant this variance; Chris Dodd seconded the motion.

**VOTE:** Approved the appeal and granted VAR09015  
Approved 6 – 0 (Unanimous)

**DECISION:**

The Board approved PL090471/VAR09015 based on the following conditions:

1. Modify the approved building permit to reflect the elimination of the mechanical screening.
2. Paint the mechanical units to complement the building color.

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**MOTION:** Matt Taillon made a motion to adjourn this hearing; Chris Dodd seconded the motion.

**VOTE:** Approved 6 – 0  
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The next Board of Adjustment hearing is scheduled for May 26, 2010.  
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**There being no further business the hearing adjourned at 6:42 p.m.**  
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Prepared by: Diane McGuire, Administrative Assistant II

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Reviewed by:



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Steve Abrahamson  
Planning & Zoning Coordinator  
SA:dm

APPROVED