

**Minutes
HEARING OFFICER
SEPTEMBER 16, 2008**

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 & Zoning Coordinator
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Nick Graves, Planning Intern
Derek Partridge, Planner I
Alan Como, Planner II

Number of Interested Citizens Present: 25

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by September 30, 2008 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for September 2, 2008.

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 Williams noted that the following case(s) had been withdrawn:

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 **HUMMEL RESIDENCE (PL080276/ABT08018)** (Michael & Patricia Hummel, property owners) Complaint CE083906 located at 438 East Pierce Street in the R1-6, Single Family Residential District.

WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT

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 **COX RESIDENCE (PL080294/ABT08024)** (Amos Cox, property owner) Complaint CE075550 located at 1107 West 10th Street in the R1-6, Single Family Residential District.

WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT

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 **THOMPSON PROPERTY (PL080297/ABT08025)** (Kyle Lee Thompson, property owner) Complaint CE084533 located at 1121 East Weber Drive in the R-2, Multi-Family Residential District.

WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT

3. Hold a public hearing for a request by **ALPHA GRAPHICS CENTER - VERIZON WIRELESS – PHO GILILLAND (PL080246)** (Steven Sung/Wireless Resources Inc., applicant; D & M Development LLC, property owner) located at 815 West University Drive in the CSS, Commercial Shopping and Services District for:

ZUP08131 Use permit to allow a ~~sixty-five (65)~~ **fifty-five (55)** foot wireless communications tower (monopalm).
MODIFIED BY STAFF

Mr. George Francis of Wireless Resources Inc. was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He noted that a T-Mobile monopalm had been approved in 2006 for the site adjacent to this location.

DECISION:

Mr. Williams approved PL080246/ZUP08131 subject to the following conditions:

1. The mono-palm will be restricted to fifty-five (55) feet to center of antennas.
2. The mono-palm shall be no greater than sixty (60) feet in total height.
3. The proposed mono-palm shall match the existing T-Mobile mono-palm located to the west of this proposal.
4. A minimum of two (2) twenty foot (20') brown trunk Mexican Faux Palm trees shall be planted to complement the proposed mono-palm on site. Details to be resolved through the Building Permit Plan Review process.
5. Obtain all necessary clearances from the Building Safety Division.
6. The wireless device shall be removed within 30 days of discontinuance of use.

4. Hold a public hearing for a request by the **ROTH RESIDENCE (PL080292)** (Jack DeBartolo/DeBartolo Architects Ltd., applicant; Justin & Keri Roth, property owners) located at 1730 South El Camino Drive in the R1-6, Single Family Residential District for:

ZUP08127 Use permit to allow the rebuild of a single story to a two story building

Mr. Jack DeBartolo was present to represent this case.

Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. There has been no neighborhood opposition to this request. Three (3) letters of support from nearby neighbors have been submitted.

Mr. Williams reviewed renderings presented by the applicant who noted that there was strong support in the neighborhood for this project. Mr. DeBartolo confirmed that construction of a deck has been shelved at this time due to cost; however should they go forward with the part of the project, it would have limited use and would not affect any loss of privacy for the surrounding homes.

DECISION:

Mr. Williams approved PL080292/ZUP08127 subject to the following conditions of approval:

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. No more than 35% of the front yard shall be of a drive surface.

5. Hold a public hearing for a request by the **COLEMAN RESIDENCE (PL080305)** (Steven Coleman, applicant/property owner) located at 5426 South College Avenue in the R1-6, Single Family Residential District for:

ZUP08132 Use permit to allow an accessory building.

VAR08020 Variance to reduce the south street side yard setback from ten (10) feet to one (1) foot.

Mr. Steve Coleman was present to represent this case. He stated that he had built the building four (4) years ago and has had no complaints regarding the structure, which is 13 feet 7 inches high. It is just storage – there are no windows and no electricity or water to the building. He cannot obtain the use permit to allow the storage building without also getting a variance. The carport had been enclosed to become a room and a two car garage is also located on the property. He has lived in this residence since 2000.

Derek Partridge, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He noted that 14 signatures of support had been received at the neighborhood meeting as well as letters and e-mails in support of this project.

Mr. John Arthurs, resident of Tempe, Arizona spoke in support of this request. He owns the residence to the north of the Coleman Residence.

Mr. Abrahamson noted that the original home was constructed in 1971 and a building permit was issued for the garage in 1975.

Mr. Partridge explained in response to a question from Mr. Williams that according to the Zoning and Development Code, if this structure was less than 200 s.f. and under 8 feet in height it would not require a variance.

Ms. Lesser stated that if a storage building meets the above criteria it can be located in the rear yard setback; the resident cannot exceed 45% total lot coverage per the ZDC. Any structure would be required to meet Building Code regulations such as distance of separation between structures.

It was noted that the wall could be moved to allow a larger rear yard as long as the wall did not exceed six (6) feet in height. Applicant was instructed to meet with staff with sketches and information on any proposed changes.

Mr. Williams noted that this structure was quite visible from the street due to the height, and did not meet the tests to allow for a variance as defined by the Zoning and Development Code rules and requirements.

DECISION:

Mr. Williams denied PL080305/ZUP08132/VAR08020.

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6. Hold a public hearing for a request by the **BURCHFIELD RESIDENCE (PL080307)** (David Hamblen/Synectic Design Inc., applicant; Brian & Nancy Burchfield, property owners) located at 1539 East El Parque Drive in the R-2, Multi-Family Residential District for:

VAR08021 Variance to reduce the street (east) side yard setback from twenty-five (25) feet to ten (10) feet (25' setback based on the existing Planned Area Development for the subdivision).

Mr. David Hamblen of Synectic Design Inc. was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. It is an attached expansion of the existing residence.

Mr. Williams noted for the record that the additional setback does not appear to apply equitably to other properties in the subdivision.

DECISION:

Mr. Williams approved PL080307/VAR08021 subject to the following conditions:

1. Building addition to match existing dwelling in color, design and material.
 2. Obtain all necessary clearances from the Building Safety Division.
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7. Hold a public hearing for a request by the **WASKOSKY RESIDENCE (PL080312)** (Tessa Jones/The Phactory, applicant; Brian Waskosky, property owner) located at 519 West 12th Street in the R-2, Multi-Family Residential District for:

ZUP08133 Use permit to allow the expansion of a second story from storage to office space.

Ms. Tessa Jones of The Phactory was present to represent this case.

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

DECISION:

Mr. Williams approved PL080312/ZUP08133 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
 2. Additions to be compatible in design, materials and color with existing dwelling.
 3. Second story not to be converted to livable space.
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8. Hold a public hearing for a request by **TEMPE WOMANS CLUB - T-MOBILE (PL080310)** (Rulon Anderson/T-Mobile, applicant; Tempe Womans Club, property owner) located at 1290 South Mill Avenue in the R-2, Multi-Family Residential District for:

ZUP08134 Use permit to allow a fifty (50) foot wireless communication tower (monopalm).

Mr. Rulon Anderson of T-Mobile was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. Any work to be done on this site has to have prior approval from the Historic Preservation Commission which did so last Thursday for this applicant with conditions. The HPC stipulated that the new enclosure should be constructed of split block and not match the existing building so there would be contrast between the historic structure and the new one.

The following Tempe residents spoke in opposition to this request citing health, safety and property value concerns: Virginia Sandstedt, Karyn Gitlis, Eric Johnson and Mike Deskin. All felt it was an inappropriate use of this property and nearby significant historical buildings.

Mr. Anderson asked, in response to the opposition concerns, that it be entered in the record that cell towers are located on many fire stations in the valley.

DECISION:

Mr. Williams denied PL080310/ZUP08134 stating that this use is not compatible with a historic property which has higher standards. He stated that Brichett Park is a better location and perhaps a memo should be sent to the City Manager and Parks Manager.

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9. 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 **BROWN RESIDENCE (PL080244/ABT08015)** (Kenton Brown, property owner) Complaint CE080124 located at 1208 West Malibu Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jody Benson, City of Tempe – Neighborhood Enhancement Department, stated that this abatement request had been continued from the August 5th HO hearing and since that time the landscape violations have been corrected. He inspected the property this morning and there were remaining violations involving vehicle(s) and debris.

DECISION:

Mr. Williams approved abatement proceedings for PL080244/ABT08015 for an open 180 day period.

The next Hearing Officer public hearing will be held on **Tuesday, October 7, 2008.**

There being no further business the public hearing adjourned at 3:40 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:



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

SA:dm

APPROVED