

**MINUTES
HEARING OFFICER
OCTOBER 4, 2016**

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.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Ryan Levesque, Deputy Director - Planning
Lee Jimenez, Senior Planner
Brandy Zedlar, Code Inspector
Hector Heredia, Code Inspector
Diane McGuire, Administrative Assistant II

There were 2 interested citizens present at the study session.

- Staff and the Hearing Officer discussed overview and updates to the scheduled cases for this hearing.

REGULAR SESSION 5:00 PM

Present:

Vanessa MacDonald, Hearing Officer
Ryan Levesque, Deputy Director - Planning
Lee Jimenez, Senior Planner
Brandy Zedlar, Code Inspector
Hector Heredia, Code Inspector
Diane McGuire, Administrative Assistant II

There were 3 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by October 18, 2016 at 3:00 PM, to the Community Development Department.

1. Ms. MacDonald noted the following:

- **Agenda Item No. 1**

September 20, 2016 Hearing Officer Minutes

Ms. MacDonald stated that the September 20, 2016 Hearing Officer Minutes had been reviewed and were approved.

- **Agenda Item No. 3**

Request approval to abate public nuisance items at the **NGUYEN PROPERTY (CE164791)** located at 2715 South Rita Lane. The applicant is the City of Tempe – Code Compliance.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

2. Request approval to abate public nuisance items at the **GURROLA PROPERTY (CE162988)** located at 1237 West Hermosa Drive. The applicant is the City of Tempe – Code Compliance.

Brandy Zedlar, Code Inspector, gave an overview of the case, noting that nuisance items pertained to over height grass and weeds, and deteriorated landscape. The property owner has failed to bring the property into compliance. Staff requests a 180 day open abatement period.

The property owner was not present at this hearing.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments and conducted a drive by of the property. She indicated that she agreed with Ms. Zedlar's assessment and noted that the property owner had been non-responsive to citations for a number of months.

DECISION:

Ms. MacDonald approved the abatement for CE162988 for an open period of 180 days.

3. Request approval to abate public nuisance items at the **BARBER PROPERTY (CE162761)** located at 2087 East 10th Street. The applicant is the City of Tempe.

Hector Heredia, Code Inspector, gave an overview of the case, noting that the nuisance item(s) pertained to over height grass and weeds, deteriorated roof, dead/dry palm fronds, deteriorated fence/gate and an unregistered RV/camper. Mr. Heredia noted that this property has had several abatements over the past several years. The property owner has failed to bring the property into compliance. Staff requests a 180 day open abatement period.

The property owner was not present at this hearing.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments and conducted a drive by of the property. She stated that she agreed with Mr. Heredia's assessment and noted that it is the property owner's responsibility to maintain the property.

DECISION:

Ms. MacDonald approved the abatement for CE162761 for an open period of 180 days.

4. Request approval of a variance to allow a block wall fence greater than four (4) feet in height in the required front yard setback for the **BREEN RESIDENCE (PL160279)** located at 1604 South Roosevelt Street. The applicants are Scott Breen and Leigha Williams.

Lee Jimenez, Senior Planner, gave an overview of this case. He presented an aerial depiction of the property and noted the physical location of the home within the two adjoining streets. He noted the following points:

- This residence was built in 1961 and the site is located on the southwest corner of West 16th Street and South Roosevelt Street on Lot 1 of the Marilyn Ann Unit 1 subdivision in the R1-6, Single Family Residential District.
- According to Section 7-113 'L' definitions of the ZDC, the front lot line of a corner lot shall be the shorter of the 2 lines adjacent to the streets; therefore, the required front yard of this residence is along 16th Street, and the required street side yard is along Roosevelt Street. However, the house was constructed to front Roosevelt Street instead of 16th Street; thus limiting the ability to construct an adequate privacy perimeter wall within the front yard building setback.
- According to Section 4-706A of the ZDC, walls or fences in a required front yard building setback shall be 4 feet maximum in height. An increase in height up to 6 feet may be permitted with a use permit. However, the use permit shall demonstrate that a natural surveillance to the street be maintained by incorporating openings, proving transparent materials, or varying height/materials.
- Aside from the use permit with required openings, the only other relief from the ADC that is available to this residence is through a use permit standard in accordance with Section 4-201A of the ZDC which would allow for a 20% reduction of the front yard setback. The applicants have decided to forgo all other options and request a variance to allow a 6 ft. block wall in the required front yard setback because they believe that they are deprived of private yard space, and meet the approval criteria for a variance in accordance with Section 6-309 of the ZDC.
- A neighborhood meeting was held on Wednesday, September 7, 2016 at The Boulders on Broadway located at 530 West Broadway Road. Eight (8) members of the neighborhood attended and signed a pre-drafted letter of support provided by the applicant(s). To date, staff has received one (1) inquiry for more information about the applicant's request.
- Staff believes that this application meets all the approval criteria for a variance and supports this request subject to the Conditions of Approval provided in the staff report.

Leigha Williams was present to represent this case. She acknowledged receipt of the Staff Summary Report and her understanding of the assigned Conditions of Approval.

Ms. MacDonald complimented Ms. Williams on the well written letter of explanation submitted with this request.

Ms. MacDonald explained that a variance is a variation from the development standard(s) as identified within the Zoning and Development Code, and, as such, needs to meet specific criteria.

Ms. MacDonald stated that this request meets the criteria for a variance as follows:

- The special circumstances are applicable to the property, including its size, shape, topography, location or surroundings. Ms. MacDonald noted that the orientation of the house and the location of the front door met the criteria for special circumstances.
- The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Ms. MacDonald noted that approval of this variance would not give this property owner special privileges.
- The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

- A variance may not be granted if special circumstances applicable to the property are self-imposed by the property owner.

DECISION:

Ms. MacDonald stated that there had been no public input against this request and that staff recommends approval. She approved the variance to allow a six (6) foot tall block wall fence in the required front yard setback for PL160279 subject to the following Conditions of Approval:

1. The variance is valid only after a building permit. If required, has been obtained and the required inspections have been completed, and a final inspection has been passed. As part of the building permit process, on-site storm water retention may be required to be verified or accomplished on this site.
2. The variance is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.

ANNOUNCEMENTS

- The next Hearing Officer public hearing is scheduled for Tuesday, October 18, 2016 at 5:00 PM with a study session scheduled for 4:30 PM.
- Ryan Levesque noted that Chad Weaver had been hired as the City's new Community Development Director, and would begin employment on October 17, 2016.

With no further business, the public hearing adjourned at 5:15 PM.

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



Ryan Levesque, Deputy Director – Planning
For Vanessa MacDonald, Hearing Officer

RL:dm