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2 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
3 **APPEALS HEARING OFFICER MEETING**

4
5 **Wednesday, November 9, 2023**

6 **5:00 p.m.**

7 **City Council Work Room**
8 **2277 East Bengal Boulevard**

9
10 ***ATTENDANCE***

11
12 **Present:** Independent Hearing Officer Frank Nakamura
13 Michael Johnson, Community Development Director
14 Maria Devereux, Deputy City Recorder
15 Samantha DeSeelhorst, Senior City Planner
16 Maverick Yeh, Assistant Planner

17
18 **PUBLIC MEETING**

19
20 **1.0 Welcome and Acknowledgements.**

21
22 **1.1 Ex Parte Communications or Conflicts of Interest to Disclose.**

23
24 There were no Ex Parte Communications or Conflicts of Interest to disclose.

25
26 Independent Hearing Officer, Frank Nakamura welcomed those present. Each Staff member
27 introduced themselves.

28
29 **2.0 Business Items**

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31 **2.1 Project AHO-23-007.**

32
33 Assistant Planner, Maverick Yeh presented the Staff Report and stated that the applicant is proposing
34 an extension of a non-conforming structure located at 2494 East Bengal Boulevard. The property
35 owner was identified as Frank Mylar. The subject property is currently zoned Residential Office.
36 The proposed addition is a 10' x 15' side porch extending into the west yard. The home was
37 constructed prior to the City's incorporation and the parcel was subdivided in 2018 to create an
38 additional residential property directly to the south. In 2019, the adjacent property to the south was
39 granted a Zone Map Amendment to Residential Single-Family (R-1-8). As part of that rezone, the
40 minimum side setback requirement for the applicant's property increased from 20 to 25 feet. The
41 structure is now considered a legal non-conforming structure in that it was legally approved and
42 established but no longer meets the minimum side-yard setback requirement of the City's Zoning
43 Ordinance. After the proposed addition, the front yard setback will measure 37.5 feet with a side
44 setback of 20 feet and a rear setback of 30 feet.

45
46 Staff found that the proposed expansion of a nonconforming structure introduces no significant
47 impact, given the following:

- 1
- 2 • The proposed addition will maintain the current distance from the south property line. The
- 3 height of the building will also remain unchanged as the roof pitch will be aligned with the
- 4 existing design.
- 5 • The proposal is otherwise compliant with zoning standards and will be verified to comply
- 6 with all other City regulations during the Building Permit process.
- 7 • A significant number of the City's existing structures were established prior to incorporation
- 8 and are non-conforming in some way. The City has used this provision to promote
- 9 reinvestment and revitalization of older properties to enhance the value of the City and provide
- 10 applicants/property owners the opportunity to stay in Cottonwood Heights.
- 11 • The proposed addition does not introduce any further non-conformity than already legally
- 12 exists.
- 13

14 Staff found that the proposed expansion of the building introduces no significant impact, given the
15 following:

- 16
- 17 1. The proposal will not negatively affect the health, safety, convenience, order,
- 18 prosperity, and welfare of the present and future inhabitants of the City because the
- 19 use is the same as currently exists.
- 20
- 21 2. The proposal will not create any additional congestion on the streets or roads.
- 22
- 23 3. The proposal will not create a fire safety issue.
- 24
- 25 4. The proposal will not affect airflow or block natural light from adjoining properties by
- 26 conforming with all height regulations.
- 27
- 28 5. The proposal will have no apparent negative effect on the City's tax base.
- 29
- 30 6. The proposal will not place any type of unreasonable burden upon neighboring
- 31 properties.
- 32
- 33 7. The proposal is in keeping with the intent of the Cottonwood Heights Zoning
- 34 Ordinance.
- 35

36 Senior City Planner, Samantha DeSeelhorst stated that the applicant will be required to obtain a
37 Building Permit.

38

39 The applicant, Frank Mylar, stated that at the time of the property subdivision, the property line was
40 determined by the City. A six-foot fence was constructed to divide the properties and evergreen trees
41 were added to provide buffering. He believed the non-conformity would not draw attention and
42 would actually measure 21 feet from the property to the south. The proposed building would have a
43 small footprint.

44

45 Community and Development Director, Michael Johnson stated that the proposed subject property
46 only became non-conforming after the subdivision and the property to the south were rezoned from
47 Residential Office back to Single-Family Residential.

1
2 *Hearing Officer Nakamura approved the request for expansion of a non-conforming structure:*

3
4 ***Findings:***

- 5
6 1. *The expansion shall measure 21 feet from the adjacent property to the south.*
- 7
8 2. *Front and rear setbacks must meet requirements.*
- 9
10 3. *The height of the building remains the same.*
- 11
12 4. *The expansion is in harmony with the purposes of Code Section 19.02.020.*
- 13
14 5. *There is no unreasonable burden placed on the surrounding properties.*
- 15
16 6. *The proposal will not negatively affect the health, safety, convenience, order,*
17 *prosperity, and welfare of the present and future inhabitants of the City because the*
18 *use is the same as currently exists.*
- 19
20 7. *The proposal will not create any additional congestion on the streets or roads.*
- 21
22 8. *The proposal will not create a fire safety issue.*
- 23
24 9. *The proposal will not affect airflow or block natural light from adjoining properties*
25 *by conforming with all height regulations.*
- 26
27 10. *The proposal will have no apparent negative effect on the City's tax base.*
- 28
29 11. *The proposal will not place any type of unreasonable burden upon neighboring*
30 *properties.*
- 31
32 12. *The proposal is in keeping with the intent of the Cottonwood Heights Zoning*
33 *Ordinance.*

34
35 ***Conditions:***

- 36
37 1. *The Applicant shall obtain a building permit for the construction of the addition.*

38
39 *Hearing Officer Nakamura stated the Authorization Permit is granted subject to the remaining*
40 *processes. Written findings and conclusions were to follow.*

41
42 **3.0 Consent Agenda**

43
44 **3.1 Approval of Appeals Hearing Officer Minutes from November 9, 2023.**

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46 *The Appeals Hearing Officer will approve the minutes of the November 9, 2023, meeting after the*
47 *following process is met. The City Recorder will prepare the minutes and email them to the*

1 *Hearing Officer. The Hearing Officer will have five days to review the minutes and provide any*
2 *changes to the Recorder. If, after five days there are no changes, the minutes will stand approved.*
3 *If there are changes, the process will be followed until the changes are made and the hearing*
4 *officer is in agreement, at which time the minutes shall be deemed approved.*

5

6 **4.0 Adjournment.**

7

8 The Administrative Hearing adjourned at approximately 5:16 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*
2 *Cottonwood Heights City Appeals Hearing Officer Meeting held Thursday, November 9, 2023.*

3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8

9 Minutes Approved: _____