



## Minutes of the Development Review Commission REGULAR MEETING December 12, 2023

Minutes of the Regular Meeting of the Development Review Commission, of the City of Tempe, was held in Council Chambers  
31 East Fifth Street, Tempe, Arizona

**Present:**

Vice Chair Michelle Schwartz  
Commissioner Barbara Lloyd  
Commissioner Linda Spears  
Commissioner Joe Forte  
Alt Commissioner Rhiannon Corbett  
Alt Commissioner Charles Redman

**City Staff Present:**

Jeff Tamulevich, Director, Community Development  
Ryan Levesque, Deputy Director, Community Development  
Mailen Pankiewicz, Principal Planner  
Diana Kaminski, Senior Planner  
Chris Jasper, Senior Planner  
Whitney Mayfield, Planner I  
Joanna Barry, Administrative Assistant II

**Absent:**

Chair Andrew Johnson  
Commissioner Don Cassano  
Commissioner Larry Tom  
Alt Commissioner Robert Miller

**Hearing convened at 6:02 p.m. and was called to order by Vice Chair Schwartz**

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**Consideration of Meeting Minutes:**

- 1) Development Review Commission – Study Session 11/14/23  
Development Review Commission – Regular Meeting 11/14/23

**Motion:** Motion made by Commissioner Spears to approve Study Session minutes and Regular Meeting minutes for November 14, 2023 and seconded by Commissioner Redman.

**Ayes:** Vice Chair Schwartz, Commissioners Lloyd, Spears, and Redman

**Nays:** None

**Abstain:** Commissioners Forte and Corbett

**Absent:** Chair Johnsons, Commissioners Cassano and Tom

**Vote:** Motion passes 4-2

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The following items were considered for **Consent Agenda**:

- 3) Request a Use Permit Standard to reduce front setbacks from 35 to 28 feet to allow an addition to a single-family residence for the **SANTORO RESIDENCE**, located at 1 West Citation Lane. The applicant is Reef Construction. (PL230296)
- 4) Request a Use Permit to allow two (2) required parking spaces in the front yard building setback for the **ATIKUZZAMAN RESIDENCE**, located at 2003 E Rice Drive. The applicant is Syed Atikuzzaman. (PL230305)

- 5) Request a Use Permit to allow two (2) required parking spaces in the front yard building setback for the **KELLER RESIDENCE**, located at 942 East Broadmor Drive. The applicant is Nicholas Keller. **(PL230309)**
- 7) Request a Use Permit to allow a massage establishment for **ASCENSION MASSAGE THERAPY**, located at 1801 South Jentilly Lane, Suite C-16. The applicant is Lora Vance, LMT. **(PL230339)**
- 8) Request a Use Permit to allow a massage establishment for **THERA-MED MASSAGE** (dba Infinitely-U Integrative Energy Bodywork), located at 1801 South Jentilly Lane, Suite C-9. The applicant is Leah DeLong, LMT. **(PL230342)**

**Motion:** Motion made by Commissioner Spears to approve Consent Agenda and seconded by Commissioner Forte.

**Ayes:** Vice Chair Schwartz, Commissioners Lloyd, Spears, Forte, Corbett, and Redman

**Nays:** None

**Abstain:** None

**Absent:** Chair Johnsons, Commissioners Cassano and Tom

**Vote:** Motion passes 6-0

The following items were considered for **Public Hearing:**

- 6) Request a Use Permit to allow a second-story walk deck addition for a single-family residence for the **LEWIS RESIDENCE**, located at 921 South Roosevelt Street. The Applicant is MNF Design Drafting & Planning LLC. **(PL230326)**

#### **PRESENTATION BY APPLICANT:**

Nathan Fowler, MNF Design, stated that this request was previously approved by the DRC, but the construction was delayed due to bids being inflated by the consultant and the Covid pandemic. This led to a new Use Permit application being required. Mr. Fowler proceeded to give an overview of the request and project design. He stated that nothing has changed from the submittal that was previously approved. At that time, they did try to address some of the neighbor's initial concerns regarding the deck and privacy by reducing the size of the walk deck and added screening to the staircase and the sides of the walk deck. He showed pictures of other residences in the area that had second stories/decks.

Commissioner Lloyd asked if the changes made to the deck size and the screen walling were made prior to the first Use Permit being approved. Mr. Fowler stated they were nothing has changed since the Use Permit was first approved. Commissioner Lloyd asked if the flooring of the deck would be wood. Mr. Fowler stated that it was and that it would be foamed, have a slip deck finish, and have scuppers for drainage. Commissioner Lloyd stated that if it is wood and being exposed to the sun and rain, it will not last as long. Mr. Fowler stated that it will be foamed and have a reflective surface that is required.

#### **PRESENTATION BY STAFF:**

Diana Kaminski, Senior Planner, gave a brief overview of the request. She stated that the stairwell on the south side is within the south set back to the house. Staff had asked the applicant if it would be possible to incorporate the stairwell inside the house, however that would require a separate stairwell, adding to the height of the structure. Staff then suggested putting it as a spiral staircase on the east side, which would be the rear yard, to try and separate the stairwell from the residences. The applicant was not willing to do this and chose to use the same design that they had in their previous Use Permit application. Ms. Kaminski went over the unique Conditions of Approval for the request.

A neighborhood meeting was not required for this request. Staff received requests from two members of the public for the project plans, and a total of seven (7) people either called or emailed with concerns about the project.

**PUBLIC COMMENT:**

Karen Morrissey, Tempe resident, requested that the Commission vote “no” on this project. She stated there is a privacy issue with this request as these lots are very long but are very narrow. She went over the Use Permit criteria and how she believes this request violates them. She noted that the pictures the applicant showed of other second stories/decks in the area are homes that are on the end streets, none are in the middle. Ms. Morrissey stated that when this item was first heard before the Commission a continuance was granted so that the applicant could work with the neighbors on their concerns. She stated that the person they spoke to did not have any decision-making authority and that Ms. Lewis never met with them.

Kathleen Palmer, Tempe resident, stated that she lives next door on the south side of the Lewis property. The proposed patio deck is on her side and faces her yard. This deck would invade her privacy and make a lot of noise. The staircase would be very noisy, it is unattractive, and as it is six feet away from her property it is an encroachment on the setback. This deck would enable anyone who lives there so see into every aspect of her backyard and into her windows.

Brett Lewis, property owner, stated there have not been any modifications since the initial plans were approved due to issues with Covid and construction costs. He stated that between the first DRC meeting and the second meeting (prior to approval) there was a City generated email for everyone to meet however Ms. Morrissey never showed up. He noted they did speak with Ms. Palmer to address some of her concerns, but it went nowhere. He discussed the panels and how they were arranged so there would not be any gaps.

Commissioner Forte asked Mr. Lewis why they are building a deck up when they have so much room in the backyard where they could put in a patio. Mr. Lewis stated that the master bedroom addition in the back will already eat into the existing yard and that the idea was to maintain as much of the remaining green space as possible. He works from home and the thought is to maybe add an office unit at the back of the yard. Commissioner Forte asked if the new deck would have anything under it and was advised there would be a master bedroom.

**APPLICANT RESPONSE:**

Mr. Fowler stated that the main issue is not about the design, but a privacy/college people/party issue, which is all based on assumption and speculation. They are taking the necessary steps to get this project approved and build to code.

**ADDITIONAL QUESTIONS FOR STAFF:**

Vice Chair Schwartz asked staff to address the comment regarding the screen wall being one continuous material or a staggered material. Ms. Kaminski stated that when she received the additional drawings it was not clear. She asked the applicant if this was a continuous wood wall with separations and it was explained to her that they will be gapped. Vice Chair Schwartz asked if this was a condition that was in that plan set when the building permits were previously approved. Ms. Kaminski stated she believed the drawings that the Commission is seeing now is what was submitted for the building permits.

Commissioner Lloyd referred to the pictures that were shown of other residences in the area with second stories/decks and asked how they compare in terms of proximity to the adjacent neighbors. Ms. Kaminski stated that one or two of them were corner lots, one of them was on the back portion of the lot, possibly an accessory dwelling unit with a second story. Ms. Kaminski stated that if the applicant reconsidered moving the stairwell to the rear it might help alleviate some of the concerns and that it could be added as an additional Condition of Approval. Vice Chair Schwartz asked if the stairwell was within the setback. Ms. Kaminski stated that if it were a stairwell leading to livable space as part of the footprint of the building then it would be encroaching in the setback and would not be allowed. However, because it is an external stairwell going to an outside deck it is not part of the building since you could remove the stairwell and there would be no impact to the livability of the house.

**COMMENTS AND DISCUSSION FROM THE COMMISSION:**

Commissioner Spears stated that the additional Conditions of Approval added by staff are attempting to address the privacy issues. She noted that it did not sound like the privacy issue appears to be about where the stairs are located but more to do with people looking out from the deck. These are long, deep lots so it is a different perspective that you would normally see because the lots are very narrow. There has been a lot of additions to houses in this area and she believed this project would be an improvement to the neighborhood.

Commissioner Forte stated that he understands the perspective from the neighbor as it will look into her yard and house. It is not like there is not room to have a deck on the first floor. He stated he was not in support of the project. Vice Chair Schwartz asked if his position would change if there was an additional Condition of Approval added regarding the location of the stairwell. Commissioner Forte stated he does not feel it is a stairwell issue. People going out onto the deck would look directly into the neighbor's backyard. The added condition would be more privacy related but he did not feel the applicant has been working with the neighbors to address that.

Commissioner Lloyd agreed with Commissioner Forte and stated that the narrowness of these lots does create a nuisance for the neighbors. She might have differently if the applicant did not have any additional space to have an entertainment area or patio furniture on their property. She stated she is inclined not to approve the request.

Commissioner Spears noted that since the Commission is short a member, she was not sure if the applicant would be interested in a continuance. Vice Chair Schwartz stated that due there being only six Commission members in attendance they would need a vote from four members to approve any motion for this item.

Commissioner Redman stated that if he lived on the site, he would like to be able to do what he wanted with the home and choosing to live in a 50-foot-wide lot precluded privacy. However, too many people do not want this, so he would not be in support of it.

Commissioner Corbett agreed with Commissioner Lloyd's comments and stated that there is some space here to build into the yard rather than up.

Vice Chair Schwartz stated that she was present when this case was initially heard and was not favor of this addition. She appreciated that the deck was made smaller, and some visual changes were made to provide some privacy, however the development of what would normally be a setback does encroach upon the south side of the property. She stated she was not in favor of the project.

Commissioner Lloyd stated to the applicant that even though she did not support the deck she appreciated the addition of the building as it was done well.

Vice Chair Schwartz stated she would be more in favor of the Condition of Approval was added to move the stairwell.

**Motion:** Motion made by Commissioner Lloyd to continue PL230326 to a later date when there is a full Commission. The motion was not seconded. Motion failed.

**Motion:** Motion made by Commissioner Lloyd to deny PL230326 and seconded by Commissioner Corbett.

**Ayes:** Vice Chair Schwartz, Commissioners Lloyd, Forte, Corbett, and Redman

**Nays:** Commissioner Spears

**Abstain:** None

**Absent:** Chair Johnsons, Commissioners Cassano and Tom

**Vote:** Motion passes 5-1

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**Staff Announcements:**

None

**There being no further business the meeting adjourned at 6:52 p.m.**

Prepared by: Joanna Barry, Administrative Assistant II  
Reviewed by: Mailen Pankiewicz, Principal Planner