

Zoning Board of Appeals
Tuesday, September 18, 2018
7:00 p.m.
St. Cloud City Hall Council Chambers

ROLL CALL

Members Present: Dick Andzenge, Susanne Barkalow, Drew Hultgren and Emil Radaich
Members Absent: Allen Bright, John Mathews and Ryan Schleicher
Staff Present: Dave Broxmeyer and Ashley Skaggs

AUGUST 21, 2018 ZONING BOARD OF APPEALS MEETING MINUTES

ACTION TAKEN: Barkalow/Andzenge/Approved (4-0)

VAR2018-07 / DAVID TOMASEK / 711 11TH AVE N

ACTION TAKEN: Barkalow/Radaich/Approved (4-0)

Broxmeyer explained a request for a variance from Article 15, Section 15.5, which regulates the maximum fence height in a rear and side yard setback area. The applicant received a Notice of Violation (NOV) for the privacy fence he recently completed being taller than the 6' allowed. Portions of the lot are uneven, and the fence was installed maintaining a consistent height. The fence is up to 6'5" tall in some locations. The violation was discovered by an anonymous complaint. Staff recommends approval of the request.

Hultgren opened the public hearing and invited testimony. The following persons testified:

David Tomasek, 711 11th Ave N – He did not intend to exceed 6' in height. The fence was built to maintain a consistent height, and some areas of the yard dip causing those areas to be taller than 6'. He put a lot of work into building the fence and is hoping to not have to change it. The highest point of the fence is near the parking lot of the neighboring multi-family property.

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve the request subject to staff recommendations. The motion was seconded by Radaich. Hultgren noted the high quality of the fence. Normally the Board does not look kindly upon after-the-fact variances, but he does not believe there was an intention to exceed the height limit. Barkalow commented that it is understandable to want a consistent height on the perimeter of the property. Andzenge agreed and noted that no objections were received regarding the request. Hultgren called for a vote, and the motion carried unanimously.

VAR2018-08 / DENISE RUDD / 1921 WEST OAKES DR

ACTION TAKEN: Barkalow/Andzenge/Approved (3-1, Hultgren opposed)

Broxmeyer explained a request for a variance from the maximum lot coverage of a lot in an R2, Single Family and Two Family Residential District. The Land Development Code (LDC) allows residential properties in the R2

district to cover up to 30% of the property with structures. All structures with a roof, including a screen roof, are counted towards the maximum lot coverage of a property. The applicant is requesting to construct a 13' x 13' screened enclosure around the existing patio. The screen porch would increase the lot coverage to 31.3%. Staff recommends denial of the request.

Hultgren opened the public hearing and invited testimony. The following persons testified:

Denise Rudd, 1921 West Oakes Dr – She is requesting the variance in order to cover the existing deck. If the enclosure is smaller than the deck, it will look like it does not fit. The screen enclosure will be permanently attached to the deck but not to the house. The roof will come off in the winter months. The purpose of the screened enclosure is to use the deck despite the mosquitos and excessive sun. She would like to keep the structure aesthetically pleasing.

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve the request subject to staff recommendations. The motion was seconded by Andzenge. Barkalow noted that the applicant's lot is smaller in width than neighboring properties. There is also a wood privacy fence around the parcel that blocks the view of the porch. She does not believe the screened enclosure will interfere with the enjoyment of others. Hultgren noted that the applicant could construct a smaller screened enclosure without a variance. Hultgren called for a vote, and the motion carried (3-1, Hultgren opposed).

VAR2018-09 / AHMED OMAR / 823 11TH AVE SE

ACTION TAKEN: Barkalow/Radaich/Denied (0-4)

Broxmeyer explained a request for a variance from Article 15, Section 15.5, which regulates the maximum fence height in a rear and side yard setback area. The applicant recently completed a 6' tall fence along the southern property line and is seeking a variance to increase the height of the fence to 8' for four sections, or approximately 32'. The additional fence height is intended to block the view from the windows of the neighboring home. Staff recommends denial of the request.

Hultgren asked for the reasoning behind the fence height regulation. Broxmeyer stated that taller fences tend to give a stockade effect and are generally viewed as a hostile living environment. Fence height is regulated to define a distinct neighborhood character through open space, fire protection, air movement, and visual aesthetics.

Hultgren opened the public hearing and invited testimony. The following persons testified:

Ahmed Omar, 823 11th Ave SE – He is having an issue with the neighbor yelling profanities and racial slurs. The neighbor can see into his kitchen window and stares, making his wife and children very uncomfortable. He believes the problem could be reduced by increasing the height of the fence to provide additional screening from the neighboring property.

Hultgren apologized for the experience Mr. Omar's family has lived with. He explained the parameters by which the Zoning Board can approve a variance.

Barkalow asked about a discrepancy between the owner of record and the applicant's name. Omar stated he has owned the property since 2009. His name was changed in 2015, but he has not yet updated the land record.

Raha Omar, 823 11th Ave SE – She is the applicant's second oldest child. The neighbors are constantly drunk and use profanities, so the younger children cannot play in the yard anymore.

Shuab Omar, 823 11th Ave SE – He is the applicant’s oldest child. Besides the physical height, the fence will meet all requirements. Since the neighbors moved in at the beginning of the year, there have been multiple reports of verbal abuse.

Andzenge stated he has dealt with many of the same issues as the applicant. Adjusting the fence height is not the solution to the problem; the best solution is addressing the relationship issues with the neighbor.

Hultgren agreed that the best solution is to seek a way to heal the relationship.

S. Omar stated that he has worked to better the relationship, but there are underlying issues.

Andzenge offered to connect the family with resources to work on an appropriate solution.

Pat Moran, 917 13th Ave SE – She used to own the abutting house, and the windows facing the fence were used for ventilation purposes. A higher fence would be inappropriate when the applicant could put up curtains or blinds.

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve the request subject to staff recommendations. The motion was seconded by Radaich. Radaich stated that the duty of the Zoning Board is to look at the fence height requirement from a land use perspective. There are better ways to remedy the situation. Barkalow sympathized with the applicant and recommended contacting the City’s police chief and mayor. Hultgren called for a vote, and the motion failed unanimously.

VAR2018-10 / JLG ARCHITECTS & WHITNEY LAND COMPANY LLC / 505 W ST. GERMAIN ST

ACTION TAKEN: Barkalow/Andzenge/Denied (1-3, Andzenge, Barkalow and Radaich opposed)

Broxmeyer explained a request for a variance from Article 18, Section 18.2, which regulates the maximum projection of signs into the right-of-way. The Land Development Code allows signs in the C4, Central Business District to project a maximum of 24” into the right-of-way if the bottom of the sign is at least 8’ above the ground or sidewalk. The applicant is proposing to install a sign that extends 42” from the front of the building wall into the W St. Germain St right-of-way requiring an 18” variance. Staff feels that a clear practical difficulty has not been established and recommends denial.

Hultgren asked about approval from the City of St. Cloud Heritage Preservation Commission (HPC). Broxmeyer stated that the HPC has reviewed and approved the sign design and application; however, there is a discrepancy between the size presented to the HPC and what is proposed for the variance. Staff for the HPC did not feel the increase in size would alter the decision of the HPC.

Barkalow asked about the width of the sidewalk. Broxmeyer stated the sidewalk is wider than average. The sign location is adjacent to the Mexican Village restaurant’s fenced-in outdoor seating area.

Hultgren opened the public hearing and invited testimony. The following persons testified:

Blaze Sommer, Indigo Signworks – JLG is a well-established company with 12 locations. Nine of the 12 locations have the same sign as what is proposed. JLG would like to keep consistent branding throughout their company. If installed, the sign will be installed into the grout and will not damage the granite on the building in any way.

Barkalow asked if other signs in the area comply with the 24” projection regulation. Broxmeyer stated that while an inventory has not been completed, other recently approved signs have met the requirement.

Radaich noted his professional history in advertising and signage, and he commented on his belief in the importance of complying with sign ordinances.

Matt Torgerson, JLG Architechts – JLG has been through a similar sign approval process in every city in which they are located, and he respects the Board’s perspective regarding the sign ordinance. The property is unique with the neighboring restaurant’s outdoor seating area adjacent and the depth of the sidewalk. There are also balconies in the area that project further than 24”.

Hultgren asked about the Paramount’s marquee sign. Broxmeyer stated the sign pre-dates any sign ordinance. Balconies are regulated by an encroachment agreement and are not addressed by the sign ordinance.

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve the request subject to staff recommendations. The motion was seconded by Andzenge. Hultgren commented that he is not offended by the sign, and he feels the request should be heard before the City Council. Andzenge noted that the requested 42” is much different than the 24” requirement, and he does not see a compelling reason to approve the request. Hultgren asked about the discrepancy between the HPC request and the variance request. Broxmeyer stated the HPC approved a 2’6” square sign, and the variance request identifies a 3’ square sign. Hultgren asked the applicant to address the change in size. Torgerson stated that a mistake was made when the sign was presented to the HPC. The intent has always been to install a 3’ x 3’ sign. Hultgren called for a vote, and the motion failed (1-3, Andzenge, Barkalow and Radaich opposed).

OTHER BUSINESS

ACTION TAKEN: Radaich/Barkalow/Approved (4-0)

Radaich made a motion to change the regular meeting time of the Zoning Board of Appeals to a 6:00 p.m. start. The motion was seconded by Barkalow. Radaich noted that many other boards and commissions begin at 6:00 p.m. and the change will make for an earlier adjournment time. Hultgren called for a vote, and the motion carried unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:37 p.m.

John Mathews, Secretary