

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on May 18, 2010, at 7 p.m. in the St. Cloud City Hall Council Chambers. Members present were Barkalow, Fandel, Jamnick, Mathews, and Ohman. Ugochukwu was absent. He is out of the country and will return in September.

Approval of Minutes: Mathews moved to approve the minutes of April 20, 2010. The motion was seconded by Barkalow and carried by a vote of 4-0-1 (Jamnick abstaining). Fandel welcomed Michael Jamnick as a new Zoning Board member.

Variance Request/Ryan Mulliner on Behalf of A & J Investments of Minnesota (Al Keller): Chairperson Fandel announced the request from Ryan Mulliner on behalf of A & J Investments of Minnesota (Al Keller) for approval of a variance from Article 16, Section 16.13, Table 16-3: required off-street parking. The applicant is proposing to change the use of the building at 2605 5th Street North from a baseball academy to a contractor's office / warehouse, which requires the off-street parking to be brought into compliance (location: 2605 & 2617 5th Street North) (VAR-2010-06). Dave Broxmeyer, Senior Planner, displayed the survey done in 2006 when Mr. Keller received a conditional use permit for a baseball academy at the 2605 5th St. No. property. A total of four parking spaces had to be provided for the 2605 and the 2617 buildings; three stalls for the baseball academy and one for the warehouse building. There are two lots, and they are of limited depth. There is no other space to locate off-street parking. Applicant is seeking a change in use of the building at 2605 for use as a contractor's office/warehouse with the same use for the building at 2617 5th St. No. That square footage would require applicant to provide a minimum of 11 off-street parking spaces.

Applicant is requesting a variance of seven off-street parking spaces. Chairperson Fandel said there appears to be ample on-street parking on both sides of 5th St. No. However, a variance is needed due to lack of off-street parking that can be provided. Mathews stated that according to the aerial photo, the building to the east is part of the 2605 property. Broxmeyer stated that it appears that the building to the east is constructed on a portion of the 2605 property and is part of the vacated 26th Ave. No. right-of-way. He assumes applicant will probably correct that. Chairperson Fandel opened the public hearing and invited testimony on the request. The following persons testified:

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| Al Keller
2521 19 th St. No. | Mr. Mulliner approached him about putting a business in the building similar to what was once there. Mr. Maiers had cars and trucks parked overnight there for years. The biggest complaint seems to be on-street parking. It is similar to the parking that occurs in the right-of-way on 25th Ave. No. in front of the Northgate Shopping Center strip mall. There is still enough roadway along 5th St. for vehicles to travel even if there is parking by the building. 5th St. isn't as busy as 25th Ave. Overnight parking has not been a problem in the past. |
| Tom Mathews
Board member | He asked Mr. Keller if he has read staff's recommended conditions. |
| Al Keller | If Mr. Mulliner does not purchase the building, Keller said he will try to have the easement vacated so that it can be used for parking. |
| Tom Mathews | He asked if he would agree to combining the two properties into one parcel. |
| Al Keller | He does not agree to that. |
| Tom Mathews | He asked if he would agree to the condition of no exterior storage. |
| Al Keller | He would have no problem with that. |
| Tom Mathews | He asked if he would agree to the condition that all business vehicles must be stored indoors overnight. |
| Al Keller | He has no problem with that. |
| Susanne Barkalow | She asked Mr. Keller to address future use as an electrical contractor's office and warehouse. |
| Al Keller | Mr. Mulliner wants inside storage for his equipment. He also would put electrical supplies inside. If a contractor were to stay overnight somewhere, their vehicle may be stored outside. |

Susanne Barkalow	She asked what percentage of the building space would be used as office and what percentage as warehouse.
Al Keller	There would be a couple small offices. He believes Mr. Mulliner has eight employees. The remainder would be used for warehouse and vehicular storage.
Susanne Barkalow	She asked if some vehicles would be stored on street overnight.
Al Keller	There may be an employee vehicle parked outside overnight. Presently, there are 4 or 5 vehicles parked outside.
Susanne Barkalow	She asked if they would be parked in designated stalls or on the street.
Al Keller	Some would be parked in the stalls, but some would be in the right-of-way between the curb and the building.
Susanne Barkalow	She asked the hours of operation of the contractor's office/warehouse business.
Al Keller	It would be open between 7 a.m. and 5 p.m. Monday thru Friday.
Kaye Kowalke 438 27 th Ave. No.	5th St. is getting busier every year. She does home child care. She has almost been hit several times when she tries to turn left onto 5 th St. when cars are parked on the street because she can't see. When she takes the day care kids for a walk, she has to walk in the middle of the street if there is parking on both sides of the street. The Maiers did not park on the south side of 5th St. She is glad there are businesses in these buildings because it has reduced vandalism, but she doesn't like the parking situation. No one drives 30 mph on 5 th St. She wants the neighborhood to be safe, and parking on the south side of 5th St. will not make it safe, for children in particular.
Tom Mathews	He asked if there are sidewalks in that area.
Kaye Kowalke	There are no sidewalks on 5 th St. or on the avenues. When the baseball academy is in session during the day, there are cars parked on both sides of the street. One of the neighbors could not even get into his driveway in the evening.
Tom Mathews	He wondered if there would be less parking if the buildings were used for a contractor's office and warehouse.
Kaye Kowalke	She hopes it would. The neighborhood opposes parking on the south side of 5 th St. It was her understanding that the 3 parking spaces located closest to 27 th Ave. were supposed to be for the baseball academy, but Tom's Windshield stores semis in those spaces,
Heath Warnert 406 27 th Ave. No.	He also expressed concern about parking on the residential side of 5th St. There is a lot of parking on 26th and 27 th Avenues.

John Horn 440 27 th Ave. No.	There have been instances when he comes home in the evening that there has been a vehicle blocking part of his driveway, requiring him to go up over the curb by the alley to get into his property. When he backs out of his driveway, it is very difficult to avoid traffic and not hit the cars parked on the north side of the street. He is opposed to parking on the residential side of 5th St. No.
Tom Mathews	He asked if the residents have complained to the City and petitioned for "No Parking" on one side of the street.
Kaye Kowalke	She has called the Police Department (PD) numerous times, and the PD said they will talk to them. However, she gets mixed messages from the police about whether cars are allowed to park along 5 th St.
Valerie Ohman Board member	She asked if neighbors attribute the on-street parking to the baseball academy.
John Horn	The academy is open afternoon and evenings.
Kaye Kowalke	Some of the parking is from Tom's Windshield, too. However, most of it is by the baseball academy.
Al Keller	The baseball academy is open from 5-9 p.m. They are open Saturday from noon until 6 or 9 and also on Sunday. He has never received a complaint about parking. Cars are parked from 25th Ave. all the way down to 33rd on 5th St. If that is an issue, it should be taken up with the City. He has been very courteous to the neighbors. He has never received a complaint from Planning or the Police Dept. about parking. He has one employee working at all times.
Susanne Barkalow	She asked if Tom's Windshield will leave if the contractor business goes in.
Al Keller	Tom's Windshield is a separate business located 2 blocks down. They are not using his parking spots.
Susanne Barkalow	She asked if sales will be conducted from this warehouse.
Al Keller	It is not a retail business.
Susanne Barkalow	She asked if other contractors will be buying supplies from that location.
Al Keller	It is not a retail business. Mr. Mulliner is an electrical contractor who buys from a wholesaler and will store his supplies in this warehouse and gives them to his employees for their use.

There being no one else wishing to speak, the public hearing was closed. Fandel asked if 5th St. No. is standard width. Broxmeyer answered that he did not check but believes it is 32' or 34' wide. That is standard width for a 66' wide right-of-way. Fandel noted there is a low curb that can be driven

over on the north side of 5th St. He asked if the street would be measured from the normal curb on the south side of the street to the low curb on the north side of the street. Broxmeyer responded that is correct. Fandel stated that there was also a proposal that vehicles might also park diagonally between that low curb and the building. He asked if the general public could park there if it is public right-of-way. Broxmeyer stated that it is not exclusively designated parking for the occupants of those buildings. Chairperson Fandel asked if it would also be possible to parallel park on the north side of 5th St. adjacent to the diagonal parking. Broxmeyer said that would be unlikely. Chairperson Fandel asked how would that parking would be controlled. Broxmeyer stated that the power of the ZBA applies only to private property; it does not apply to anything within the public right-of-way. Broxmeyer stated that there has been diagonal parking on the north side of 5th St. for so many years, he assumed it would continue as such. He stated that this is the first he has heard concerns raised about parking on the south side of 5th St. No. He pointed out that people typically drive faster on streets with no on-street parking. Chairperson Fandel stated that cars park diagonally on the east side of 25th Ave. in front of the Northgate strip mall. He asked if it would be legal to parallel park behind those cars that are parked diagonally. Broxmeyer responded that a portion of the diagonal parking is actually located in the public right-of-way. When the stalls are striped for diagonal parking, there is a clear intention as to how cars are meant to park. Mathews said the baseball academy is required to have 3 parking stalls; however, the site plan appears to show only 1 parking stall next to the baseball academy and 3 stalls provided west of the warehouse building. Broxmeyer stated that when the conditional use permit was approved for the baseball academy, the parking requirement for the baseball academy was 3 off-street parking spaces. The requirement for the 2617 warehouse building was 1 off-street parking stall. Broxmeyer said it was his understanding applicant was purchasing both buildings; that was the reason for his recommendation to combine the two properties into one parcel. An easement was supposed to be granted to the building so that 3 parking stalls would be provided for the baseball academy use next to the warehouse building. Barkalow asked if the easement has been granted and recorded. Broxmeyer stated that the City has not received a

copy of it. Keller stated there is an easement from one building to another. Ryan Electric is going to buy both buildings. However, the transaction involves using 1031 funds. Chairperson Fandel asked staff if the buildings can be combined at a later date, and Broxmeyer answered that they can. Keller said that he will grant Mr. Mulliner an easement to the baseball building. The diagonal parking has been in front of the building for over 50 years, and he is requesting that it be allowed to continue. Barkalow stated the ZBA does not have that ability because that parking is in the public right-of-way, not on his private property. Keller contended that the same situation exists on 25th Ave. at the Northgate Shopping Center. Barkalow asked what the process would be to have that parking situation approved. Broxmeyer explained that for the parking to be dedicated to that property, either the City Council would have to approve it and designate a set number of spaces within the public right-of-way that would be associated with that building; or, a portion of 5th St. No. would have to be vacated and attached to the property and be used as off-street parking. Jamnick stated that even though the ZBA does not have the authority to grant parking in the public right-of-way, he wondered if the ZBA can make a recommendation to the City Council to take a certain action. Broxmeyer stated that would be appropriate and that a copy of the minutes could be forwarded to the City Council for their deliberation.

Mathews moved to approve the variance subject to the following conditions: 1) The applicant may want to consider submitting a request to vacate a portion of the 5th St. No. right-of-way, which would permit a portion of the parking to be located on the applicant's property; 2) That applicant show verification of an easement that provides for four off-street parking stalls on the adjoining property at 2617 5th St. No.; 3) No exterior storage is permitted; 4) All business vehicles must be stored indoors overnight; 5) Upon completion of the project, the applicant must sign and return the Statement of Completion to the St. Cloud Planning & Zoning Department; and, 6) The site plan approved by the Zoning Board of Appeals shall be the only site plan approved for this property. The motion was seconded by Barkalow. Relative to Mr. Jamnick's comment, Mathews stated that he does not think

the ZBA should make a recommendation to the City Council relative to diagonal parking. The motion carried unanimously.

Variance Request/Douglas Gilbertson: Chairperson Fandel announced the request from Douglas Gilbertson for approval of a variance from Article 8, Section 8.3, Table 8-2: 10' street side yard setback for a single family home located in an R2 District. The City is acquiring a portion of the applicant's property, including the removal of the attached garage, for improvements to 25th Avenue South. The proposed replacement garage and building addition will be located 5' from the future property line (location: 2437 1st Street South) (VAR-2010-07). Chairperson Fandel stated that Barkalow has recused herself from discussion of this issue. Ohman stated for the record that she owns property on 25th Ave. So. across from this property and was notified of this public hearing. Dave Broxmeyer, Senior Planner, explained that as part of the proposed 25th Ave. So. improvements, an 11' strip of property along applicant's western property line is proposed to be purchased by the City. A portion of the acquired property would go through applicant's existing garage. Applicant is proposing to replace the existing garage with a new structure that would be attached in a similar location. The street side yard setback requirement in the R-2 zoning district is 10'; applicant is requesting a 5' setback variance from the new property line. This situation was not created by the property owner, and staff is recommending approval. Chairperson Fandel opened the public hearing and invited testimony on the request. The following persons testified:

Mike Kloss 6880 85th Ave. NE Foley	He is the builder representing applicant. He thinks it is a reasonable request.
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There being no one else wishing to speak, the public hearing was closed. Ohman moved to approve the variance subject to the following conditions: 1) A minimum 5' street side yard setback from the future property line must be maintained; 2) Upon completion of the construction, the applicant must sign and return the Statement of Completion to the St. Cloud Planning & Zoning Department; and, 3) The site plan approved by the Zoning Board of Appeals shall be the only site plan

approved for this property. Jamnick seconded the motion, and it carried by a vote of 4-0-1 (Barkalow abstaining).

Other Business: Broxmeyer stated that the variance for the Holiday gas station on 5th Ave. So. was appealed by the applicant, and the public hearing is scheduled for May 24.

Chairperson Fandel announced that one vacancy remains on the Zoning Board of Appeals and that anyone interested in serving on the Board should contact the Mayor's Office.

Adjournment: There being no further business, the meeting was adjourned at 7:45 p.m.

Chuks Ugochukwu, Secretary