

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on July 20, 2010, at 7 p.m. in the St. Cloud City Hall Council Chambers. Members present were Barkalow, Fandel, Jamnick, Larson, and Ohman. Ugochukwu was absent. Chairperson Fandel welcomed new member, Evan Larson. Chairperson Fandel announced that there is an open seat on the Zoning Board, and anyone interested in serving on the Board can contact the Mayor's Office.

Approval of Minutes: Barkalow moved to approve the minutes of May 18, 2010. Ohman seconded the motion, and it carried by a vote of 4-0-1 (Larson abstaining).

Variance Request/Nicholas Jesok: Chairperson Fandel introduced the request from Nicholas Jesok for approval of a variance from Article 8, Section 8.3, Table 8-2: 10' interior side yard setback located in an R1 District. The applicant has placed a 6' x 7' playhouse 0' from the interior side yard property line and is seeking a variance to keep it in the same location (location: 125 35th Avenue North) (VAR-2010-09). Dave Broxmeyer, Senior Planner, explained the site plan provided by the applicant. The playhouse is 0' from the interior side property line. In that location, it would be required to be set back 10' from the southern property line. After reviewing the applicant's information and visiting the site, staff believes placement of the playhouse in its current location is applicant's personal preference and that a hardship has not been established. Fandel asked if a variance would be necessary if the playhouse were moved away from the property line and placed in the rear setback. Broxmeyer responded that no variance would be necessary in that case. He explained that behind the rear plane of the house, the interior side yard setback for a detached structure is reduced from 10' to 5'. Therefore, applicant could move the playhouse 5' away from the fence and closer to the garage without the need for a variance. Barkalow asked if the fence is on the lot line. Broxmeyer

said he is not sure. Chairperson Fandel stated that many years ago when a fence was built, it was required to be placed a certain distance inside the property line. He asked the current code requirement. Broxmeyer stated that the Land Development Code allows a fence to be placed up to, but not on the property line. Chairperson Fandel asked if the City offers a guideline for fence placement. Broxmeyer stated that may depend on the type of fence being installed. For example, a chain link fence usually requires little maintenance, so it may be placed a little closer to the property line. However, in the case of a wood fence which may require maintenance on both sides, a larger distance should be allowed from the property line. Chairperson Fandel opened the public hearing and invited testimony on the variance request. The following persons testified:

Nicholas Jesok
125 35th Ave. No.

He stated that he recently purchased the home. His father built the playhouse for his daughter. He placed it in its current location because he did not know there was a code for non-permanent buildings without footings. The current location allows him to watch his daughter from the deck. The playhouse in its current location is sheltered by the garage and the house away from the alleyway.

Joan Dehn
121 35th Ave. No.

She said she complained about the playhouse because it is right next to the fence. The rain from the playhouse roof will run off onto her property, making a ditch in her yard. When she and her husband built their garage, they were required to stay 2' off their property line. Also, they could not have the overhang in the alley due to runoff. She believes the applicant should be required to follow the same regulations. She pointed out that the chain link fence belongs to her and her husband.

Steve Dehn
121 35th Ave. No.

They had their lot surveyed before they put up their fence, and the chain link fence was put up by Bemboom's Fence. Bemboom drilled a 6" hole and put in a 2" pole with 2" on each side of the pole, meaning applicant has 2" of his property. That was the regulation at that time. When they built their garage, they had to stay 2 ½' off the alley. When it rains, the rain off the roof of the playhouse will make a ditch on their property. The distance between the playhouse and their fence is 5 ½". It is actually only 3 ½" because 2 of those inches don't actually belong to the applicant; they belong to him and his wife.

There being no one else wishing to speak, the public hearing was closed. Barkalow moved to approve the variance subject to the following conditions: 1) The applicant must sign and return the Statement of Completion to the St. Cloud Planning & Zoning Department; and, 2) The site plan approved by the Zoning Board of Appeals shall be the only site plan approved for this property.

Jamnack seconded the motion. Jamnick visited the site and shared information he received from one of the residents of the property: the structure was built by a relative and was hauled onto the property on a trailer; it sits on the ground and is not on a foundation; the resident said the structure could be moved, but it would “take a forklift or something”; the resident was concerned about moving the playhouse into the back yard as there are power lines going from the house back to the alley; the resident estimated the structure weighs about 600 lbs.; and, the resident believes the complaint is unwarranted. Chairperson Fandel asked Mr. Jesok if he would be agreeable to moving the playhouse into the rear yard setback. Jesok responded that if he was okay with that, he would have done that originally and not proceeded with the variance request. He wouldn’t oppose moving it so that rain runoff would be onto his own property; however, he doesn't have enough yard area to move it over 10'; however, he could move it over 2' or 3'. Barkalow explained that one of staff's proposals is to move it 5' behind the house itself eliminating the need for a variance. The motion to approve applicant’s request failed unanimously.

Election of a Vice-Chair: Chairperson Fandel announced that the position of Vice-Chair is vacant due to the resignation of Tom Mathews. He asked staff if an officer can serve multiple and successive terms. Broxmeyer answered that there is no limitation on length of any given office. Tradition has been annual rotation of moving from the position of Secretary to Vice-Chair and Vice-Chair to Chair; however, that is only a tradition rather than a written rule or procedure. The Board agreed to wait until the August meeting when the normal annual election of officers is held.

Adjournment: There being no further business, the meeting was adjourned at 7:19 p.m.

Chuks Ugochukwu, Secretary