

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on October 18, 2011, at 7 p.m. in the City Hall Council Chambers. Members present were Barkalow, Bright, Fandel, Newman, Ugochukwu and Zenzen. Larson was absent.

Approval of Minutes: Bright moved to approve the minutes of September 20, 2011. The motion was seconded by Barkalow and carried unanimously.

Variance Request/Kevin and Wanda Lutz: Chairperson Fandel announced the request from Kevin and Wanda Lutz for approval of a variance from Article 15 – On-Site Development Standards, Section 15.5 Accessory Structures and Uses, 6., which does not permit detached accessory structures to exceed the size of the principal structure in residential districts. The home on the applicants' property has a footprint of 690 sq. ft., and applicants are proposing to construct a 1,280 sq. ft. (32' x 40') detached accessory structure (location: 1521 34th Ave. No.) (VAR-2011-11). Dave Broxmeyer, Senior Planner, explained that the existing detached garage on applicants' property already exceeds the size of the house by 10 sq. ft. in area. Applicants are proposing to construct a second detached accessory structure in the rear of the property. Applicants are proposing 6' setbacks from both the rear and interior side yard property lines; the Land Development Code (LDC). Broxmeyer stated that the new structure would be 32' x 40' or 1,280 sq. ft., making it significantly larger than the house on the property resulting in the need for a variance. Chairperson Fandel requested an explanation for this provision in the LDC. Broxmeyer stated that during the update of the LDC, there was discussion about properties in the City that have a small home and an extremely large accessory structure. It was believed that the character of the neighborhood is changed from residential in nature to commercial or industrial when accessory structures are significantly larger than

the principal structure. Chairperson Fandel opened the public hearing and invited testimony. The following persons testified:

Kevin Lutz
1022 9th Ave. SE

He introduced his wife, Wanda.

Wanda Lutz
1022 9th Ave. SE

She stated that the new structure would be positioned toward the back of the lot; therefore, it would not be very visible from the street or to the neighbors. The area at the back of the property is wooded. They also own the two vacant lots to the south. The new structure would accommodate recreational vehicles and some trailers and keep them secure.

Susanne Barkalow
Board member

She asked how the new structure would be accessed.

Kevin Lutz

It would be accessed along the north side of the property.

Susanne Barkalow

She asked if a hard surface driveway would be installed back to the building.

Wanda Lutz

She asked if a hard surface driveway would be required. The intended use of the new structure would be for cold storage; therefore, it would probably only be accessed several times a year.

Dave Broxmeyer

The LDC would not require a hard surface unless it is intended to meet parking requirements. In this case, a hard surface would not be required.

Susanne Barkalow

She asked applicants how long they have lived in the house.

Wanda Lutz

She answered that they purchased the property about 6 months ago because it is adjacent to her husband's parents' property, and she and her husband own two of those lots. The house is currently being rented out; however, the long term plan is to use the house as a starter home for their 18 yr. old son who will be attending vocational school.

Allen Bright
Board member

He asked who would be using the new structure.

Wanda Lutz

She said it would be used for their own personal property. It would be for cold storage. It probably will not have any electricity or heat. She stated that the drawing mistakenly calls it a shop.

Allen Bright

He asked if the boats that are currently being stored on the property belong to the applicants.

Wanda Lutz

She stated that the boat belongs to the renter.

Ronald Zenzen Board member	He asked how the two smaller buildings on the lot are being used.
Wanda Lutz	She stated that the renter is using those for his vehicles and some storage.
Susanne Barkalow	She asked if the LDC has any limitation on the number of non-residential buildings on a site.
Dave Broxmeyer	A maximum of two detached accessory structures are permitted. In this case, the garden shed could be removed from the site or combined with the existing garage.
Kevin Lutz	They have talked about taking down the small storage shed.
Bernadine Barrett 1505 Remington Ct.	She lives behind applicant's property to the west. She had difficulty hearing the previous conversation. She asked about the location of the proposed structure because her house is set back because she lives on a cul-de-sac. Therefore, there isn't a lot of space between the two property lines. She was concerned that the proposed structure would be very visible if she is sitting on her deck. She wondered why the shed couldn't be built in a couple years when they build the new house on the lot.
Dave Broxmeyer	He indicated where the proposed shed would be constructed.

There being no one else wishing to speak, the public hearing was closed. Zenzen asked what would prevent applicant from building this structure for cold storage and then using it for something else later. Broxmeyer stated that there is very little that could be done to prevent that unless the City received a complaint about it. He pointed out that the LDC allows a home occupation to be operated in an accessory structure. Bright asked if the new construction would have to be compatible with the house construction. Broxmeyer stated that the new structure would be a pole type building. However, the LDC requires that the new accessory building be "consistent with the architecture and design of the principal building. Consistency of design includes use of the same palette of materials as the principal building, roofing, roof pitch, trim and colors." Broxmeyer noted that he included that provision as one of the conditions of approval. Chairperson Fandel asked staff if the Board needs to take into consideration that the property owners will be renting the house rather than occupying it themselves. Broxmeyer said it is probably not relevant because the Board must consider land use.

Barkalow moved to approve the variance request subject to the following conditions: 1) Any new accessory structure must comply with Article 15, Section 15.5, A. Accessory Buildings, 10. which states: "In all residential districts, accessory buildings must be consistent with the architecture and design of the principal building. Consistency of design includes the same palette of materials as the principal building, roofing, roof pitch, trim, and colors."; 2) The applicant is permitted to have a maximum of two detached accessory structures not to exceed a maximum of 2,000 sq. ft. of floor area; 3) The applicant must obtain all necessary permits from the City of St. Cloud; 4) Upon completion of the project, the applicant must sign and return the Statement of Completion to the St. Cloud Planning and Zoning Department; and, 5) The site plan approved by the Zoning Board of Appeals shall be the only site plan approved for this property. Bright seconded the motion. Zenzen asked if there is sufficient space to place a permanent drive back to the structure on the north side of the house if the new structure would no longer be used for cold storage. Broxmeyer answered that there would be ample space. The motion failed unanimously.

Variance Request/Kevin Koenig: Chairperson Fandel announced the request from Kevin Koenig for approval of a variance from Article 15 – On-Site Development Standards, Section 15.5 Accessory Structures and Uses; 6., which does not permit detached accessory structures to exceed the size of the principal structure in residential districts. The home on the applicant's property has a total floor area of 692 sq. ft., and applicant is proposing to construct a 1,040 sq. ft. detached accessory structure (728 sq. ft. on main floor and 312 sq. ft. on second floor) (location: 1708 9th Ave. So.) (VAR-2011-12). Dave Broxmeyer, Senior Planner, stated that the property is 50' x 120'. The existing home is 20' x 22' (440 sq. ft.) on the first floor with a small porch, in addition to a half basement for a total square footage of 692. The proposed garage would be 26' x 28' with a single 12' wide overhead door that would face the rear of the house. The garage would have space to park one vehicle with additional space on the north side of it and stairs going up to the second level of the garage that would have 312 sq. ft. of usable floor area. The total accessory building area would be 1,040 sq. ft. which exceeds the square footage of the principal structure. Staff is recommending

approval with the condition that a second off-street parking space be located on the property to meet the minimum requirement for two off-street parking spaces. Broxmeyer stated that could be accommodated by extending the existing driveway straight so that another parking space could be located on the south side of the new garage. Ugochukwu asked for clarification of the floor area ratio of 30%. Broxmeyer explained that the 30% relates to lot coverage. He added that lot coverage relates to the footprint of the structure; floor area ratio is the total sum of multiple floors. He pointed out that the variance relates to the LDC requirement that accessory structures not exceed the square footage of the principal structure. Bright asked if there some way to prevent the second story of the garage from being used as living space. Broxmeyer responded that it is his understanding that no plumbing will be installed in the new structure. He stated that if the ZBA wishes to approve the variance, that a condition could be included that states that the accessory structure cannot be used for living space. Barkalow asked if the condition would be valid since two dwelling units are permitted in the R2 zone. Broxmeyer pointed out that the lot area does not meet the minimum 8,000 sq. ft. required in the R2 district for two dwelling units. Ugochukwu asked for an explanation of why staff is recommending approval of this request but recommended against the previous request for the same LDC provision. Broxmeyer explained that this request would provide one of the two off-street parking spaces required by the LDC. There would be adequate space on site for the second stall. The previous request differed in that there was already a detached accessory structure that had space for two vehicles. Broxmeyer added that this lot is one of the smaller ones in the neighborhood, making it more difficult to develop. Also, the existing house on this lot does not meet the minimum dwelling size requirement. Chairperson Fandel opened the public hearing and the following person testified:

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| Kevin Koenig
1708 9 th Ave. So. | He would use one stall for parking; the other half would be used for his art studio. The upstairs would be used for storage. |
| Chairperson Fandel | He asked applicant if there are future plans for using the second floor as living space. |
| Kevin Koenig | He has no plans to use the upstairs for anything other than storage. He stated that he plans to reduce the size of the proposed structure from |

26' x 28' to 22' x 28 to allow more yard space. He stated that he talked to his neighbor about his plans, and she does not object.

- Susanne Barkalow She asked applicant if there would be any finishing work done on the upper level.
- Kevin Koenig It would be just rough rafters. It is just attic space for storage.
- Susanne Barkalow She asked if there will be electricity in the building and heat.
- Kevin Koenig There will be electricity and there may be a wood stove. There will be no plumbing.

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 upper level of the structure may not be finished or used as a rental unit; 2) The applicant must provide a second off-street parking space on site that meets the LDC requirements for paving material, size and setbacks; 3) The applicant must obtain all necessary permits from the City of St. Cloud; 4) Upon completion of the project, the applicant must sign and return the Statement of Completion to the St. Cloud Planning and Zoning Department; and, 5) The site plan approved by the Zoning Board of Appeals shall be the only site plan approved for this property. Bright seconded the motion. Broxmeyer asked Barkalow if it was her intent that the size of the structure would be reduced to 22' x 28'. Barkalow accepted that as a friendly amendment to her motion, and Bright concurred. The motion as amended carried by a vote of 5-1 (Fandel opposed).

Other Business: Broxmeyer stated that Matt Glaesman, Planning Director, has requested that a brief discussion take place regarding the LDC provision that prohibits an accessory structure from exceeding the size of the principal structure. Broxmeyer stated that when variances from this provision are requested, staff compares floor area of the principal structure to the floor area of the accessory structure. Staff is requesting that the Board give their input on whether staff is correctly interpreting this provision. Barkalow stated that she believes the footprints of the buildings should be compared rather than total building square footage. Bright stated that there should also be some consideration given to the number of accessory buildings allowed depending on the size of the

property, e.g. AG or RR. Broxmeyer clarified that properties of one acre or more in size in the AG or RR zoning districts are allowed up to 3,000 sq. ft. of accessory structure space. For properties that are 40 acres or larger in size in the AG district, up to 6,500 sq. ft. of accessory structure space is allowed with greater setback requirements.

Adjournment: There being no further business, the meeting was adjourned at 7:41 p.m.

Chuks Ugochukwu, Secretary