

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on November 20, 2012 at 7:00 p.m. in the St. Cloud City Hall Council Chambers. Members present were Fandel, Barkalow, Bright, Zenzen and Ugochukwu. Larson and Newman were absent.

Approval of Minutes: Barkalow moved to approve the minutes of October 16, 2012. Brightseconded the motion which carried unanimously.

Variance Request/Lawrence and Lydia Friesz: Dave Broxmeyer, Senior Planner, explained the request for a variance from Article 8, Section 8.1 for rear yard setbacks of the West Prairie Point Planned Unit Development (PUD). The concept that was anticipated for West Prairie Point was to increase the density for detached single family home lots. There are more lots on an acre than in a typical development resulting in reduced lot depth. As a result of the reduced lot depth, there are reduced setbacks including side and rear yard setbacks. The applicants, located at 6874 24th Ave N, are requesting to construct a 10' x 12' sunroom on the south side of their home. The southern wall of the home is located 20' from the southern property line. The proposed addition would encroach 10' into the rear yard setback. There is a large wetland/stormwater holding pond abutting the southern property line. The closest neighbor to the south of the applicants' lot is approximately 500' away. Staff is recommending approval.

Chairperson Fandel asked if there is a covenant with the developer or a neighborhood association to help determine if there are others in the neighborhood that might request a similar variance. Broxmeyer stated he is not aware of any homeowner's association and if there is one, he has not had contact with them. Chairperson Fandel commented that in years past there have been similar situations where there was concern that others in the neighborhood would request the same variance. The request was sent back in the hopes that the neighborhood would handle it first. Broxmeyer stated a Development Plan Amendment would be planning staff's preferred option, but it is an expensive fee and there is no guarantee that it would be approved. That would be a heavy burden

for one property owner to bear. Barkalow inquired about the lot coverage percent. Broxmeyer explained that the maximum lot coverage for this development is 40% versus the typical 35%. With the applicants' proposed sunroom, the lot coverage would be 40.1%. Barkalow asked if that would need to be included as a part of the motion. Broxmeyer confirmed that either the lot coverage would need to be included in the motion or the applicants would need to reduce the size of the sunroom. Barkalow asked if there would be any impact on the holding pond if the sunroom is built 10' from it. Broxmeyer explained there would be no impact. There is a 5' wide drainage/utility easement that parallels the property line and there are no concerns of run-off issues. Barkalow commented that another property owner in the development requested a similar setback variance and asked where the property was located in regards to the holding pond. Broxmeyer stated that the property was located at 67th Ave N and was not along the holding pond. Ugochukwu asked about the possibility of requiring letters from neighbors or owners before a decision is made. Broxmeyer stated it is a possibility, but the likelihood is unknown. Some property owners in this development have an adequate rear yard setback and some do not. Whether everyone would support the variance is unknown, but it is an alternative. Bright commented on a similar issue several years ago with porches. There were two or three occasions where it did not make sense to incur the expense of a new development plan and therefore, the variances were approved. Broxmeyer recalled one such variance approved on Jenisa Lane. Bright noted that if there were covenants, the owners would be required to comply with the covenants and those could not be more lenient than City requirements. Broxmeyer stated this was correct. Chairperson Fandel opened the public hearing and invited testimony. The following persons testified:

Nick Sobieck
906 15th Avenue SE

He expressed his interest in the truck driving school item.

Chairperson Fandel

He clarified that the truck driving school item would be addressed later during the meeting.

Lawrence and Lydia Friesz
6874 24th Street North

They are the home owners. Lydia has a disease called Lupus which means she is allergic to the sun and the sun's rays. Right now the door at the rear of the house is useless and the windows need to be closed at

all times. By putting in the sunroom, the door would be moved to the other side and would allow for her to enjoy fresh air but still not sit in the direct sunlight. It would provide a better quality of life.

- Chairperson Fandel That is a very compelling reason for the request.
- Lawrence Friesz There was another variance in the neighborhood that was approved previously. Across the holding pond, there are several homes that have screened-in areas. He is not aware of any approvals that were received for the screened-in additions across the holding pond. The addition will be built identically to the house.
- Susanne Barkalow
Board Member Will the materials be the same as what is currently used on the house including windows and roof pitch?
- Lawrence Friesz Yes, the siding will also be identical to the house.
- Susanne Barkalow This is a four-season sunroom so will it be heated?
- Lawrence Friesz Yes, it will have heating and air conditioning. The windows will be closed most of the time, but that would allow for Lydia to open them on the side of the house that the sun is not shining on.
- Lydia Friesz A patio door is too large to keep open.

There being no one else wishing to speak, the public hearing was closed. Bright moved to approve the variance subject to staff recommendations and was seconded by Barkalow. Barkalow asked if the motion and staff recommendation should be amended to include the change in allowed lot coverage. Broxmeyer stated it would be appropriate to include the lot coverage. Chairperson Fandel stated he was inclined to vote in favor of the variance. Chairperson Fandel called for a vote of the amended motion and the motion carried unanimously.

Variance Request/Kristen Holm-Guith: Dave Broxmeyer, Senior Planner, explained the request for a variance from Article 8, Section 8.4, B., 2. minimum setback for a garage that fronts onto a side street. The applicant, located at 232 2nd Ave NE, is requesting to replace a garage that has already been removed. The Land Development Code (LDC) requires a minimum setback of 20' to provide adequate space for a full size vehicle to be parked in the driveway without any portion of that vehicle crossing onto the public right-of-way. Staff is recommending denial. There is a requirement in the LDC for a 10' vision triangle that extends onto the property. The garage would not encroach in that triangle, but if the driveway is extended and a vehicle is parked in that location, it could create a

visual barrier for anyone exiting the alley.

Barkalow clarified that the main reason for recommending denial is due to visibility and the old garage would not have been an issue because it was closer to the house. Broxmeyer stated that was correct; the old garage was further west on the lot. Barkalow asked if the shed is moveable. Broxmeyer stated in talking with the owner, the shed is able to be moved. Zenzen asked how many feet the property line is from the curb. Broxmeyer stated the property line is approximately 18' from the curb. Zenzen asked if the majority of the driveway would be in the public right-of-way. Broxmeyer stated that was correct. If the garage was built as requested, there would be approximately 23' from the front of the garage doors to the curb. Chairperson Fandel opened the public hearing and invited testimony. The following persons testified:

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| Kristen Holm-Guith 232 2 nd Ave NE | She is the homeowner. The old garage would have fallen down if it had not been removed. There is a fence along the far property line and the garage would look much better as proposed. They do not have many vehicles so blocking views should not be an issue. |
| Susanne Barkalow Board Member | Keep in mind that we are not thinking of just your vehicles, but future vehicles should you sell the house. Is the shed moveable? |
| Kristen Holm-Guith | Yes. |
| Susanne Barkalow | Could the shed be moved so the garage could be pushed back another 5 to 8 feet? |
| Kristen Holm-Guith | Yes. |
| Susanne Barkalow | What will the garage look like? Will it be aligned with the current design of the house? |
| Kristen Holm-Guith | It will be two-stall, two-door garage. The siding and roofing materials will match the house. |

There being no one else wishing to speak, the public hearing was closed. Barkalow moved to approve the variance subject to staff recommendations and was seconded by Bright. Barkalow stated she has concerns with visibility and would have no issue granting a partial variance but thinks the garage needs to be pushed further back. Chairperson Fandel commented if the applicant decides to move the shed, it would obviate the need for a variance and asked if the applicant would be able to proceed with a revised plan should the Board vote against the variance. Broxmeyer stated if the

Board voted to approve a denial, the only alternative would be to construct the garage with the full 20' setback. If the Board wanted to approve a variance less than 20', it is in their power. There was a similar request on Kilian Blvd where a 15' setback was approved to align with the house on the street-side yard. Ugochukwu noted the size of the demolished garage is the same size as the proposed garage and safety is a huge concern. He asked if it is possible to approve shifting the garage to the demolished location but towards the shed without further requirement from the applicant. Broxmeyer clarified Ugochukwu's proposal to keep the garage in the same east/west location but move it 5' off the property line. Chairperson Fandel stated that is not the proposed site plan and asked if it was possible for the Board to change a site plan. Broxmeyer stated it would be possible for the Board to require the change as a stipulation. Barkalow suggested asking the applicant if that would be acceptable. Holm-Guith stated there are mature trees and a fence along the property lines. Barkalow asked if the proposed garage could be located where the demolished garage was, except further back from the street's edge. Holm-Guith stated the reason the garage is proposed to be closer to the back of the property is to make for a larger yard. There is a patio between the house and garage and it would be nice for the family to have a bigger yard. The yard behind the garage would otherwise be wasted space. Chairperson Fandel called for a vote and the motion did not carry (unanimously opposed).

Variance Request/Joy Reid: Dave Broxmeyer, Senior Planner, explained that the LDC has provisions that allow for a window well to encroach into required setback areas. At the time the home was constructed, the setback standards were different and the home was placed 6' from the northern property line. The applicant, located at 1013 21st Ave N, is requesting to install a window well that would be 3' in depth and would leave approximately 3' between the window well and the property line. There is an additional window in the basement that is partially blocked by an air-conditioning unit. The Building Safety Department stated this location would be accepted as an egress location, but it is not the preference of the applicant. Barkalow asked if there was any input from neighbors and Broxmeyer stated he had not received any. Chairperson Fandel opened the public hearing and

invited testimony. The following persons testified:

Kevin Renslow
1201 2nd Ave S
Sauk Rapids, MN 56379

He is the contractor for the project and is here on behalf of the property owner, Joy Reid. It was considered to place the egress window in the alternate location, but there is a wall that would need to be relocated. The air-conditioning unit would also need to be relocated. In terms of cost, it would be very inhibitive to the owner. Joy talked to her neighbors and they were going to write a letter of approval, but apparently it was not submitted.

There being no one else wishing to speak, the public hearing was closed. Zenzen moved to approve the request subject to staff recommendations. Ugochukwu seconded the motion. Barkalows stated her original concern was safety. After viewing the house to see where the window well would be, there was no further concern. There is a fence and the house is very well set back from the neighbor's house. Chairperson Fandel called for a vote and the motion carried unanimously.

Variance Request/St. Cloud Technical and Community College on behalf of Anderson Properties of St. Cloud, LLC: Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 16, Section 16.8, B., which requires all off-street parking areas to be surfaced with asphalt, concrete, interlocking brick, pervious pavers or mortared stone or brick. The applicant submitted two variance applications. One of the applications was for the current location at the former Towns Edge Café site and the second application for a new location south of Culver's, along the Highway 10 frontage. The St. Cloud Technical and Community College (SCTCC) is planning on moving its operation to the new location in early December 2012. Given the limited amount of time the applicants are planning to operate in the current location, planning staff decided to focus only on the future location. The SCTCC is willing to provide dust control on the site. Staff is recommending approval.

Zenzen asked if part of the property on the back side of Culver's is still used by St. Cloud Truck Sales for additional tractor/trailer parking. Broxmeyer stated it is and most of their parking is in the area that fronts along 15th Avenue SE. Chairperson Fandel opened the public hearing, and the following persons testified:

Nick Sobieck
906 15th Ave SE

He is a nearby homeowner and has lived there for 45 years. None of Anderson's lots are tarred. He stated he has eaten enough dirt and dust

in 45 years to give me emphysema. What concerns me is their proposal now to get 7-8 trucks on a gravel surface for 8 hours a day. I am not in favor of it. The state has a training lot on East Highway 10. Why can't they use that property?

Chairperson Fandel

That is a question for the applicant if they are here tonight.

Bruce Peterson
Industry
SCTCC

He is the Academic Dean at SCTCC for the Trade and programs. The SCTCC moved to the current site during the winter months and was not able to see the challenges of the surface. We recognize there has been a dust issue, but because we are a state agency, we were not able to go in and apply a dust inhibitor to the site. This issue is being addressed in the new lease agreement. The planned site has crushed granite aggregate so there should be considerably less dust. The site is used for practice backing maneuvers and we believe we can control the dust. The Anderson's have agreed to the changes in the lease agreement and we are currently waiting for the paperwork to return.

Allen Bright
Board Member

We had a similar request at our last meeting. It was approved based on the need to provide education for new employment. One item that came up was adding something to the trucks that could dispense water.

Dave Broxmeyer

They were looking at getting a tractor with a tank system on it to apply a liquid.

Bruce Peterson

That is commercially available and we would be doing a similar thing to the property.

Allen Bright

I am fine with that. The City also has nuisance ordinances if there are any dust issues.

Bruce Peterson

I would like to address Mr. Sobieck's question if the training could be done at the St. Cloud State site. The problem with that site is that it is an uncontrolled intersection. The students are just learning how to drive and pulling onto Highway 10 is a safety concern. The proposed site has a controlled intersection.

Chairperson Fandel

Please explain what type of treatment would be applied to the surface.

Bruce Peterson

Sodium chloride is a chemical mix that is used commonly in the construction industry. It is applied in a mixture from a water tank pulled behind either a truck or a tractor.

Susanne Barkalow
Board Member

How much activity is expected? How many students would be there at any given time?

Bruce Peterson

On a typical day there would be two or three trucks practicing their backing maneuvers on the site between 8 a.m. and 6 p.m.

Susanne Barkalow

Are classes Monday through Friday?

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| Bruce Peterson | We do occasionally run weekend classes. Students would be doing backing drills on Saturday and be on the road on Sunday. Those classes are much smaller and would only have one or two trucks maximum being used. |
| Ronald Zenzen Board Member | Has there been any concern from Culver's or has anyone talked to them about the activity? |
| Bruce Peterson | We have not heard any concerns from Culver's. |
| Ronald Zenzen | Is their property curbed and sectioned off from this property? |
| Bruce Peterson | That is correct. We use the same access lane behind the property. |
| Ronald Zenzen | This is a common entrance to Culver's and this site? |
| Bruce Peterson | Yes. |
| Allen Bright | How many students are enrolled? |
| Bruce Peterson | The courses run a month at a time. The largest class has been 12 students at one time. |
| Nick Sobieck | I talked to the manager of Culver's and he said they had never received a letter regarding this meeting. |
| Dave Broxmeyer | Notices were sent out to property owners within 500' of the site including properties on the other side of Highway 10. The letter probably went to the Corporate Office and not the individual location. Whether it made it from the corporate office to the individual location is unknown. |
| Chairperson Fandel | Presumably the property owner would have been notified. |

There being no one wishing to speak, the public hearing was closed. Barkalow moved to approve the request subject to staff recommendations including the dust and weed control program. The motion was seconded by Bright. Chairperson Fandel clarified that part two of staff recommendations included submitting a dust and weed control program to be reviewed and approved by the planning department staff and asked if that was sufficient. Barkalow stated since it will be reviewed and approved by staff she is comfortable with the recommendation. Chairperson Fandel stated he was inclined to vote in favor of the variance. Chairperson Fandel called for a vote and the motion carried unanimously.

Update on potential changes to Article 15 of the LDC regarding fence heights in the

front yard setback: Dave Broxmeyer, Senior Planner, explained that the Planning Commission reviewed the item for potentially changing the standards for fence height in front yard setback areas. At the Planning Commission October meeting they asked staff to conduct additional research which was presented to them at their November meeting. There were 75 properties identified within the City where they felt the change might be appropriate. The Planning Commission did not feel changing the LDC for 75 properties was a sufficient reason and they recommended denial. Chairperson Fandel clarified that no changes would be made regarding fence heights or materials at this time. Broxmeyer confirmed the LDC would remain as it is today. Chairperson Fandel asked if the matter would be taken up again by the Planning Commission. Broxmeyer stated it is concluded for the time being unless there is some other need for them to review the standards. Chairperson Fandel asked if the 75 properties are deemed insignificant. Broxmeyer stated it was looked at as a small enough number that, in using the ZBA, there is a means of seeking relief for those property owners. The Planning Commission was looking at properties that were on principal and minor arterial streets that had deep enough setbacks. Using the GIS system, a staff member calculated the number of properties that would be affected and determined there were only a handful of areas affected. Bright commented that traffic counts should also be looked at because traffic counts for these properties are heavier than in other areas. That should have a significant impact. Broxmeyer stated that traffic counts were part of the equation. In order to be labeled as principal or minor, they have to meet a certain threshold of traffic. Ugochukwu commented that aesthetics in terms of the length of setback played a role. Setbacks on CR 75 are less intrusive whereas on a road such as 9th Ave, properties butt up against the road and are visually different. Broxmeyer stated one thing that was looked at was the example of the fence built on 9th Ave S. The question then becomes if you want to permit a fence such as that and also possibly something 2' higher. The Planning Commission's opinion was that they did not want this in St. Cloud.

Barkalow asked if there was anything in the LDC that addresses the type of fencing used. Broxmeyer stated there is not anything listed in the LDC. A wide variety of material is allowed; but

electrified and barbed wire is prohibited except in certain districts. Barkalow asked if there are restrictions on the type of materials used for fencing in historical districts. Broxmeyer stated he is not familiar with the standards of the HPC when it comes to fencing. Chairperson Fandel suggested that staff look into the issue. A green-treated solid wood fence would challenge the HPC code. Broxmeyer stated that wood is a legitimate material so the issue gets into design and he would have to find out from a co-worker whether or not fences are addressed. A building permit is not required and that is usually the point when a HPC review is initiated. Barkalow asked if that could be changed. There are other historic districts, some of which are along arterial roads that may fall below the traffic threshold. Broxmeyer stated the HPC only has authority to regulate within a local historic district. Ugochukwu commented that what happens is, by default, they would be violating some of the standards for retaining a historical designation. If certain types of fencing are not encouraged, the status of the neighborhood in a historic district is not maintained. A significant change to that effect delists the designation. Even when someone submits an application, the historical preservation office, by default, considers it a significant impact on the designation. Zenzen asked if a neighborhood can petition the City for a fence because of noise. Broxmeyer stated he does not know of anything that would prohibit a petition, but is not aware of any such requests within St. Cloud. The closest example would be the sound walls in the metro area. Most are public projects constructed within public right-of-way. In theory it would possible to have multiple applicants for a particular stretch along a public right-of-way. Bright commented that high fences have been approved in the past along Roosevelt and in some other cases. Chairperson Fandel commented that a 6' high fence was approved on the 300 block of 9th Ave N.

2013 ZBA Schedule: Dave Broxmeyer, Senior Planner, stated that meetings will continue to be held on the third Tuesday of each month. Some deadlines have been changed to accommodate for holidays.

Other Business: Barkalow asked for an update on the Lodging House appeal. Broxmeyer stated the public notices went out today and a public hearing with the City Council will be held on

December 3rd.

Adjournment: There being no further business, the meeting was adjourned at 8:00 p.m.

Chuks Ugochukwu, Secretary