

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on June 18, 2013 at 7:00 p.m. in the St. Cloud City Hall Council Chambers. Members present were Barkalow, Bright, Fandel, Hultgren, Newman, and Ugochukwu. Zenzen was absent.

Approval of Minutes: Barkalow moved to approve the minutes of May 21, 2013 with an amendment changing the first line of the third paragraph to read “Barkalow made a motion to address a matter that had been previously tabled.” The motion was seconded by Bright and carried unanimously.

Conditional Use Permit / Affordable Auto Plus, Inc (Steve Bright) on behalf of Jim Feneis: Bright recused himself from the matter. Dave Broxmeyer, Senior Planner, explained a request for a conditional use permit (CUP). The Land Development Code (LDC) requires new and expanding automotive dealerships to obtain a CUP. The applicant is proposing to use the existing property, located at 2704 2nd St S, as an automotive dealership. The three former oil change bays can be used for detailing and minor vehicle repairs. The majority of the applicant’s lot could be used as display space. Staff is recommending approval. Barkalow asked what type of business resides to the east of the applicant’s property. Broxmeyer stated there is an existing used car sales lot. Barkalow asked about access to the facility. Broxmeyer stated that primary access comes off of 2nd St S, and there is an additional access point off of W St. Germain through the property to the south, Habitat for Humanity’s ReStore.

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

Bill Jar
2700 2nd St S

He is the owner of Williams West, which is the property to the east of the applicant’s property, and she spoke in opposition of the request. He is concerned with traffic. There are already issues with vehicles entering the parking lot looking for the Batteries Plus lot. There have been a few accidents with vehicles traveling west on 2nd St S and turning south onto 27th Ave S. The entrance on 27th Ave S is exclusive to Williams West, and it is blocked off so vehicles cannot drive through the lot to adjoining properties. He stated there is not enough room to park vehicles in front of the applicant’s building for display. There being Granite City Detailing in the same building will intensify the

problem with traffic. There is nothing differentiating his lot from the applicant's. Customers may get confused as to which cars belong to which lot.

- Susanne Barkalow
Board Member She asked if it would reduce the safety concern if the southern entrance were blocked.
- Bill Jar Blocking the southern entrance would only make the issue worse. The only entrance to the applicant's property and Batteries Plus would be from 2nd St S, which would force west bound vehicles to continue west and then turn around. Having a detailing business in the same building will cause more chaos in the parking lot.
- Susanne Barkalow She asked about the average number of trips an auto dealership business generates.
- Dave Broxmeyer
Senior Planner Possibly 20 to 30 per day.
- Drew Hultgren
Board Member He asked, if the subject property is not making use of the access at 27th Ave S, if it will interfere with the use of the Williams West lot.
- Bill Jar It is confusing to customers. He stated that vehicles are parking in his lot and walking over to the other businesses. If a vehicle is removed from display, traffic cuts across the lot through those spaces.
- Chairperson Fandel He asked if there is a driveway easement to the south.
- Dave Broxmeyer He stated he did not research that information.
- Bill Jar He stated that the driveway to the south goes to ReStore, but it was opened up for Batteries Plus. The majority of traffic enters through the south entrance.
- Chuks Ugochukwu
Board Member The request is permissible on the site. He stated he does not want to speculate on the traffic but to look at what is legitimate.
- Susanne Barkalow She asked about a reference to a MN State Statute.
- Dave Broxmeyer If the referenced statute is a requirement of the State, it would be up to the State to enforce. The request meets City's code requirements.
- Chuks Ugochukwu
Board Member The City is acting within their responsibility to approve or deny the request. If the request is granted, it is up to the property owner to meet any additional requirements.
- Brian Musech
2710 2nd St S He is the owner of Batteries Plus. He stated the use is consistent with the uses in the area. There are no objections from Batteries Plus.

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion for approval subject to staff recommendations. The motion was seconded by Ugochukwu. Hultgren

commented that as a customer of Batteries Plus and a member of the community, he believes there is a traffic flow issue in this area, but it doesn't affect his consideration of the request. He stated he is in favor of the request. Fandel noted that he is in favor of the request. Fandel called for a vote and the motion carried (5-0-1, Bright abstaining).

Conditional Use Permit / DM Property, LLC on behalf of Dean Building Partnership:

Dave Broxmeyer, Senior Planner, explained a request for a conditional use permit (CUP). The applicant, located at 2621 Division St which is the former Ground Round restaurant, is requesting to use the existing property as an automobile dealership. The interior of the building is proposed to be remodeled to accommodate office space, an area for car detailing and minor vehicle repairs. The majority of the applicant's lot could be used as display space. A revised site plan was provided to show an existing landscaping area and a potential second area of landscaping that compliments the work of Walgreens to the east and Ciatti's Ristorante to the west. Staff is recommending approval. Barkalow commented that the green space on this site is not comparable to what is at the neighboring properties. She asked if landscaping is a requirement of the Land Development Code (LDC). Broxmeyer stated it is not. Bright asked if the landscaped area could be something other than grass. Broxmeyer stated the recommendation noted landscaping in general.

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

- Dale Mathison
Clearwater, MN The current dealership location is on Division St across from Wendy's, and there is not sufficient space. There will be a number of improvements made to the building, including soil corrections, stripping the inside of the building and opening the front with windows. The 10' wide landscaped area that is recommended will take 14 prime parking show spaces. The existing site does need to be re-landscaped. The entrance from Walgreens will have a curb put in for safety reasons.
- Chairperson Fandel He asked if the front of the building is intended for a vehicle showroom.
- Dale Mathison It is not intended at this time, but it is feasible. The future use for the north end of the building is mechanical repair and detailing.
- Drew Hultgren
Board Member He asked if the green spaces on the properties of Walgreens and Ciatti's were required.
- Dave Broxmeyer In both cases there was no requirement. It was provided as part of their

Senior Planner own design.

Robert Abel
3640 Plum Tree Dr He represents the seller of the property. The seller has been looking for a buyer for nearly a year and a half. He stated he believes the use would be great for the property and asked for the Board's support.

Larry Brutger
2635 W Division He is the owner of Ciatti's Ristorante. He expressed concerns with the effect on his property. There is not a lighting plan, and car dealerships are usually highly lit. There are four windows in the dining room that faces the dealership, two of which are at ground level. He stated he hopes the landscaping is maintained.

There being no one else wishing to speak, the public hearing was closed. Barkalow asked how to address lighting. Broxmeyer stated the LDC has standards for exterior lighting such as pole height, but reflection from surfaces is not addressed. It may be appropriate to set time restrictions for the lighting along Division St. Barkalow asked if there are any barriers to prevent vehicles from crossing between the subject property and Ciatti's. Brutger stated that there is a fence preventing vehicles from cutting across.

Ugochukwu made a motion to approve the request subject to staff recommendations. The motion was seconded by Bright. Barkalow commented that her concerns are with lighting and landscaping, but she is unsure how to restrict the lighting as some lighting is needed for security purposes. She stated she would like to see the proposed landscaping areas along Division St broader. Mathison stated he understands the concerns of the Board; however, part of the allure to having a dealership along Division St is being able to showcase on the front line of the property. He gave a suggestion for more landscaping along the entrance to Walgreens. Barkalow commented that anything to help the City to create gateways and impress visitors should be considered. Ugochukwu commented that revisiting a change to the code to address issues in landscaping, etc. should be considered. The cost to the business should be taken into consideration when putting a strenuous request on the property owner. Fandel stated he supports Ugochukwu's comments and acknowledged Brutger's work with landscaping on his property. He suggested asking the applicant to work with the adjoining property owner with lighting issues. Broxmeyer stated that the stipulation can

be made, but it is difficult to ensure its implementation. A person qualified in lighting design would need to look at the design. Mathison and Brutger agreed to work together on the issue.

Hultgren stated he would be abstaining from the vote. Broxmeyer asked if the motion includes staff's first recommendation to include a 10' landscaping strip. Ugochukwu stated that his motion includes staff recommendations as presented in the staff report. Newman stated he would be more inclined to vote in favor without the first recommendation. The 10' strip would eliminate 14 parking spaces in the front of the building. Fandel stated that he is in favor of green space, but the recommendation imposes a difficulty on this dealership that is not imposed on other dealerships. Ugochukwu commented that the Board has the authority to make such stipulations. Bright noted that if a business wants to locate in a troublesome area, it should be made easier and not more difficult. Fandel commented that he is concerned with disallowing the applicant to park vehicles up to the edge of the property and suggested that the motion strike the first recommendation. Bright suggested withdrawing the motion. Ugochukwu stated he is not inclined to retract the motion as landscaping contributes to the ambiance of the business. Bright withdrew his second and the motion failed lacking a second. Newman made a motion to approve subject to staff recommendations with the exception of the first recommendation. The motion was seconded by Bright. Fandel called for a vote and the motion carried (4-1-1, Ugochukwu opposed, Hultgren abstaining).

Street Side Yard Setback Variance / Mendi and George Rogers: Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 8, Section 8.3, Table 8-2 which establishes street side yard setbacks of 10' for single family homes and any accessory structures located in a R2 District. The applicant, located at 1101 12th Ave S, is proposing to remove an existing detached garage from their property and replace it with a 24' x 28' detached garage. The garage is proposed to be 5' from the interior side property line and 6' from the street side property line, requiring a 4' variance. There is an existing fence on the applicants' property of which 3' is in the public right-of-way. Staff is recommending approval.

Fandel asked if the fence encroachment needs to be addressed. Broxmeyer stated that the fence does not need to be addressed. The current procedure allows the fence to remain until it is removed. Any new fence would need to be placed appropriately at the time it is erected. Barkalow asked if the proposed garage and the existing garage are similar in distance from the right-of-way. Broxmeyer stated they are close in distance. The request is not different than what is physically in place at this time. Hultgren asked if a condition could be included to require the fence be moved out of the public right-of-way. Broxmeyer stated that it is within the power of the Board to add that condition. Hultgren commented that the garage replacement is an improvement to the community, as would be the moving or replacement of the fence.

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

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| Mendi and George Rogers
1101 12 th Ave S | They are the applicants. Their goal since moving in has been to replace the garage because it is an eyesore. |
| Drew Hultgren
Board Member | He asked about the fence. |
| George Rogers | The fence was in place when the property was purchased. The current purpose is to keep the dog in the yard. |
| Mendi Rogers | She stated they would like to replace the fence but cannot afford to do so at this time. |
| Charles Jacobs
1103 13 th Ave S | He asked what the garage will be used for, what type of materials will be used and how high it will be built. |
| Dave Broxmeyer
Senior Planner | The Land Development Code (LDC) requires the structure to be compatible with the principal structure and restricts the height to a maximum of 17', which is measured halfway up the slope of the roof. |
| Mendi Rogers | The garage will be used for parking vehicles. The current garage is not functional for that purpose. |
| Susanne Barkalow
Board Member | She asked if the garage will be stick-build and what type of siding and roofing will be used. |
| Mendi Rogers | The garage will be stick-build with vinyl siding and shingles. |

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve subject to staff recommendations. The motion was seconded by Bright. Hultgren offered an

amendment to require the fence be moved or replaced. Fandel suggested offering a timeline of up to one year to make the change. Hultgren stated that was agreeable. M. Rogers stated her concern is with cost as there are only a certain amount of funds available at this time. There is also concern for the dog because it has learned to stay in the yard with the fence. Barkalow asked if the fence could be relocated instead of removed. G. Rogers stated that the fence is very old, and it would be difficult task; however, given the choice, he would choose to relocate the fence. Ugochukwu reminded the applicants that the Board is willing to give them a year to comply with this condition. G. Rogers asked for 24 months to comply with the condition. Hultgren agreed to 24 months. Barkalow accepted the amendment including the 24 month timeline and Bright seconded. Bright asked how the 24 month timeline would be enforced. Broxmeyer stated it would be placed on his computer calendar as a reminder. Hultgren clarified that he would like to see the fence replaced and relocated in the 24 month period. Newman stated he is not in favor of the fence stipulation because the applicants are making a sincere effort to improve the property. Moving the fence can be very costly, and requiring the fence to be moved may give a disincentive to replace the fence at a later date. Ugochukwu asked if there would be a penalty if the fence is not moved. Broxmeyer stated that if moving the fence is made a condition of the variance and it is not relocated within 24 months, then an administrative citation can be issued. Fandel asked if the applicant could come back at that time to ask for either a variance or some other type of remedy. Broxmeyer stated that would be possible. It would also be possible for the Zoning Administrator to make a minor adjustment. Fandel called for a vote and the motion carried unanimously.

Street Side Yard Setback Variance / Jeffrey Carlson: Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 8, Section 8.4, B., 1. which establishes a second front yard. The Land Development Code (LDC) requires corner lots to have two front yard setbacks when the street side yard is shared with the front yard of an adjoining property, requiring all structures to meet the front yard setback requirements on both frontages. The applicant, located at 3 Highbanks Pl, is proposing to construct a 15' x 24' addition to an existing attached garage. The applicant is

proposing to construct the garage addition “in-line” with the existing garage, which is 11’ from the western property line, requiring a 14’ front yard setback variance.

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

Jeffrey Carlson 3 Highbanks Pl	He is the applicant. The proposed variance is due to the uniqueness of the house. The existing garage is suitable for one car and a small amount of additional storage. The extension of the garage will help to make it a more practical space.
Susanne Barkalow Board Member	She commented that the house has been sold and asked if he is the new owner or the seller.
Jeffrey Carlson	He is the seller.
Susanne Barkalow	She asked if he will be building the addition.
Jeffrey Carlson	He will not be building the addition. The suggestion came when first putting the house up for sale. There was a lot of interest, and one of the questions that came up often was an extension of the garage. He is following through with the request as a favor to the buyer and because it makes sense for the neighborhood.
Susanne Barkalow	She asked if there is an issue with approving for a future owner.
Dave Broxmeyer Senior Planner	The variance, if granted, is valid for one year and will carry with the property.
Susanne Barkalow	She asked how many mature trees and shrubs will be removed.
Jeffrey Carlson	There is one bush that will be removed from the corner of the existing garage, but it does not change much from the street view.
Chairperson Fandel	The tree in the boulevard may need to be removed, but that cannot be answered at this time.
Dave Broxmeyer	It depends on the width of the driveway, the taper, etc.
Linda Macleod 19527 Florence Cir Richmond, MN	She is the new owner of the house. She stated she is excited to be a part of the historic property. There are a lot of parking restrictions in the area, and the garage is much needed.

There being no one else wishing to speak, the public hearing was closed. Hultgren made a motion to approve subject to staff recommendations. The motion was seconded by Bright and carried unanimously.

Conditional Use Permit / Robert Abel on behalf of 451 East St. Germain LLC: Dave

Broxmeyer, Senior Planner, explained a request for a conditional use permit (CUP). The applicant, located at 451 E St. Germain St, is requesting to operate an adult day care with 13 or more occupants in a commercial district. Originally, there would be between 8-9 persons during any given shift period. The plan was appended, and there will be closer to 20 people during any given shift period; however, this does not change the standards. The applicant is proposing to remodel approximately 2,000 sq. ft. of the building to accommodate the day care. Parking is shared with other Eastgate properties, and the required parking can be easily accommodated.

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

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| Robert Abel
3640 Plum Tree Dr | The property has had several uses, and the day care is a use that the community needs. The day care is funded by the State and meets all the requirements. |
| Susanne Barkalow
Board Member | The property is located in an area with busy streets. She asked if the clients will be supervised as they have been identified as 'vulnerable'. |
| Robert Abel | The clients will be supervised. The facility will help Somali clients transitionally with language issues, job skills, etc. The applicant can better speak to the details. |
| Denise Fale
Sauk Rapids, MN | She is the Director of the day care center. Some of the clients have Dementia, Alzheimer's, etc. The State requires a ratio of 1:16 for caretakers to clients. This facility will have a ratio of 2:5 to ensure the safety of the clients. There will be approximately four individuals that are deemed non-capable. The most important things are providing quality care and safety of individuals. The State is particular in terms of quality of care and safety. Traditional facilities will allow clients from other cultures; however, there are differences in cultural practices that traditional facilities will not be able to accommodate. There is a large presence of Somalis in the community that needs this accommodation. |
| Drew Hultgren
Board Member | He asked if the facility will be required to be licensed and if safety concerns will be addressed. |
| Denise Fale | There will be policies regarding procedures in place for situations such as infection control, fire safety, evacuation safety, etc. The individuals will be trained and measures of safety will be followed. |

There being no one else wishing to speak, the public hearing was closed. Barkalow made a motion to approve the request. The motion was seconded by Ugochukwu and carried unanimously.

Updates: John Pfeffer appealed the Zoning Board's decision of denial at the May 21, 2013 meeting. The City Council denied the appeal request. Pfeffer intends to submit a revised plan for the July ZBA agenda.

As of today, the fire system has been charged in regards to the Ehlert lodging house variance.

The first Administrative Conditional Use Permit (CUP) has been approved by planning staff. Two years ago at the former Baker's Square location, a 5,000 sq. ft. multi-tenant building was approved. The Administrative CUP asked for a 6,000 sq. ft. building, which then changed to a 7,500 sq. ft. building as the property manager asked for a third tenant in the building. The plan includes a drive thru for a Starbucks. The request was approved administratively because the property owner had a small window of opportunity to bring in the third tenant. The Board discussed Administrative CUPs and under what circumstances the requests come before the Board.

The Riverside Park Siphon Pit screening enclosure is near final completion. The final grass related restoration was completed last Friday; however, the work was rejected. The building materials used were selected by matching the colors and materials of the new greenhouse structure to the north of the siphon.

Adjournment: There being no further business, the meeting was adjourned at 8:50 p.m.

Chuks Ugochukwu, Secretary