

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on August 20, 2013 at 7:00 p.m. in the St. Cloud City Hall Council Chambers. Members present were Barkalow, Bright, Fandel, Hultgren, Newman, Ugochukwu and Zenzen. Barkalow chaired the meeting.

**Approval of Minutes:** Zenzen made a motion to approve the minutes of July 16, 2013. The motion was seconded by Fandel and carried unanimously.

Hultgren made a motion to move agenda item three to the end of the meeting. The motion was seconded by Bright and carried unanimously.

**Front Yard Setback Variance / Beth Henning:** Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 8, Section 8.3, Table 8-2, front yard setback in an R2, single family and two family residential district. The applicant, located at 1024 16<sup>th</sup> Ave S, is proposing to construct a 22' x 6' sunroom on the front of her house. The proposed sunroom addition would be 20' from the front property line, which requires a 5' variance to the front yard setback. Staff is recommending approval.

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

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|----------------------------------|--|
| David Tuetal                     | He is representing the applicant. The existing porch is approximately 10' x 6'. Ms. Henning wants to construct the room to give her mother who suffers from dementia a safe place to enjoy the outdoors. |
| Chairperson Barkalow             | She asked if the existing porch is encroaching into the setback.   |
| Dave Broxmeyer<br>Senior Planner | Yes. The applicant is asking to expand an existing non-conformity.   |
| Chairperson Barkalow             | She asked if the materials being used are similar to that of the house.  |
| David Tuetal                     | The sunroom would be similar in structure and material character. The roof pitch may be slightly shallower.  |

There being no one else wishing to speak, the public hearing was closed. Bright made a motion to approve subject to staff recommendations. The motion was seconded by Zenzen and carried, 6-1-0 (Fandel opposed).

**Setback and Off-Street Parking Variances / Redevelopment Holdings One, LLC on behalf of Bremer Bank NA:** Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 9, Section 9.3, Table 9-2, which states that when C3, C4, and C5 District boundaries are adjacent to a residential district, the required setback must be the same as required on the residential lot line and a variance from Article 16, Section 16.7, F., which does not permit parking within a setback when it is located within 150' of a residential district. The applicants, located at 1740 W St. Germain St, are proposing to remove the existing bowling alley building from the site and replace it with a 17,000 sq. ft. office building on the west end of the site. The building is proposed to be 5' from the northern property line requiring a 5' variance, and the off-street parking area is proposed to be 0' from the property line requiring a 10' variance. Staff is recommending approval.

Barkalow asked if the parking requirements can be met with a 10' off-street parking setback. Broxmeyer stated that the applicant would lose 6-7 parking spaces, which still exceeds the minimum requirement for off-street parking. Based on the floor plan, the number of work stations exceeds the number of parking spaces; however, parking requirements are determined based on square footage of the building. Barkalow asked what the current setback is for off-street parking. Broxmeyer stated the current parking is setback approximately 10'. Zenzen asked about plans to widen Division St. Broxmeyer stated he is unaware of any current plans to widen Division St. Hultgren asked about the rationale to approve encroachment of a new construction project. Broxmeyer stated that the property is unusually shaped, and in order to maximize the number of parking spaces the applicant is proposing to move the building as close as possible to the property boundaries.

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

Marshall Weems	The proposal is seeking to meet the needs of the Comprehensive Plan
Redevelopment Holdings One	which suggests extending downtown to Cooper Ave with commercial

603 20 <sup>th</sup> St N, Sartell	buildings. The proposed building will be no closer to W St. Germain St than the current building. The request is to maximize the property in terms of off-street parking so as to not create a burden to the residential neighbors. The building will be 84' away from any residential uses. The proposal should not create a hazard or burden to the neighbors and will be an improvement to the neighborhood.
Chairperson Barkalow	She asked about having less parking spaces than work stations.
Marshall Weems	Due to the nature of work that will take place in the building, not all employees will be in the office at the same time.
Chairperson Barkalow	She asked about the landscaping proposed for the property.
Marshall Weems	The landscaping will match what is in the sketches.
Chuks Ugochukwu Board Member	He asked about the setback of the current building.
Marshall Weems	The building has a current setback of 0'. The proposal is simply moving the building to the opposite side of the property.
Peter Fandel Board Member	He stated that in his experience, new construction should conform to the Land Development Code (LDC). He asked if the building can meet the setback requirements and meet the needs for the parking.
Marshall Weems	In order to meet the setbacks, the building would need to be moved further east which would cause the loss of the first row of parking.
Drew Hultgren Board Member	The practical difficulty seems to be created by the intended use of the property. He asked about moving the building further to the east.
Marshall Weems	The hardship is created by ordinance. If the project were to rehabilitate the current building, which is not possible, there would not be a need for variances because what is being proposed is what is already in place.
Chairperson Barkalow	She asked what the setback would be if there was not residential to the north of the property.
Dave Broxmeyer	There would not be a setback requirement for the building or off-street parking if the property on the other side of W St. Germain St were commercial. The need for these setbacks is created due to the residential property across W St. Germain St.

There being no one else wishing to speak, the public hearing was closed. Ugochukwu made a motion to approve subject to staff recommendations. The motion was seconded by Bright. Hultgren commented that his concern is that the LDC was written to provide a buffer for residential properties abutting commercial property. He stated that when a site is constructed new, he fails to see the merit

in granting a variance. Bright commented that there is a mixture of uses on both sides of W St. Germain St, and the project is an improvement for the area. Fandel commented that the project is good for the area, and he will be voting in favor as there has not been any testimony against the proposal.

Ugochukwu offered an amendment to add a landscaping stipulation. Broxmeyer stated that landscaping is not a requirement of the LDC but could be added as a stipulation. Bright declined the amendment. Fandel offered an amendment to add a snow removal stipulation. Broxmeyer stated that snow removal has been addressed in other variance requests. Ugochukwu agreed to the amendment. Bright declined the amendment. Barkalow called for a vote and the original motion carried, 6-1-0 (Hultgren opposed).

**Front Yard Setback Variance / Patricio Castro on behalf of CWP dba Mister Car Wash:**

Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 9, Section 9.3, Table 9-2, which requires buildings in the C5, Highway Commercial District to be setback a minimum of 10' from the front property line. The applicant, located at 3104 W Division St, is proposing to locate a 6' x 8' sales booth for the car wash 0' from the front property line requiring a 10' variance. The property has two front yards, and the side yard is on W Division St. Staff is recommending approval.

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

Patricio Castro  
Mister Car Wash  
3104 W St. Germain St

The proposal is to remove the current sales booth and move it closer to the property line to allow vehicles a wider turn, increase ease of processing and increase safety. The booth will not be permanent, but it will be on a concrete slab. The change will enhance safety for customers and employees as it will lessen bottlenecking. The new booth will be slightly larger than the current booth. The booth will be staffed, and heat and air conditioning will be used for customer service advisors to process sales.

Paul Woolson  
Mister Car Wash  
3104 W St. Germain St

Currently, turning vehicles are moving directly towards the sales booth. The change will allow vehicles to move by the booth and will allow vehicles to exit properly if needed.

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

**Conditional Use Permit / Gary Theisen on behalf of Cold Spring Granite:** Fandel recused himself from the item. Dave Broxmeyer, Senior Planner, reminded the Board of an item that was presented at the April 2013 meeting. Coldspring (formerly Cold Spring Granite) is requesting approval of a Conditional Use Permit (CUP) for mineral extraction on property zoned AG, Agricultural District and RR, Rural Residential. The applicant is requesting to open a new 30 acre aggregate quarry and granite processing area near their existing dimensional stone quarry. The item was suspended until the applicant and City completed the Environmental Assessment Worksheet (EAW) process. The EAW process included a 30-day public comment period which ended on May 29, 2013. A response to comments and additional studies were completed. On August 12, 2013, City Council declared that an Environmental Impact Statement (EIS) was not necessary. Staff is recommending the Board table the item until the September 2013 meeting due to the limited amount of time given to review the information. As part of MN Statute §15.99, the 60-day review period was suspended when the EAW review process began, and suspension ended with the City Council's negative declaration for an EIS. Staff has notified the applicant that the City will exercise a 60-day extension. A decision will need to be made by November 25, 2013 unless the applicant agrees to an additional extension. The Zoning Board of Appeals is the deciding board for this item, with the potential of appeal from the Mayor, City Council and/or the Planning Commission. Hultgren asked if the public hearing will remain open if the item is tabled. Broxmeyer stated it is the discretion of the Board to either close or suspend the public hearing. Zenzen asked about public hearing notifications. Broxmeyer stated that a public hearing notice was published in the St. Cloud Times as well as sent to all properties within 500' from each boundary line for the April meeting and for the present meeting. Bright commented that he has heard that City Council will appeal the item regardless of the decision, and he thinks that is out of line. He

asked about the findings of facts for appeal. Matt Glaesman, Planning Director, stated that City Council has the discretion to review the decision for good judgment.

Don Vry, Consultant to Coldspring, asked that Coldspring's full presentation be entered into public record. He introduced Steve Knopf, Quarry Materials Director for Coldspring. Knopf gave a brief presentation about Coldspring and its culture. Vry gave a brief presentation about the project and the process thus far. Vry introduced Greg Korstad of Larkin Hoffman Lawfirm. Korstad gave a brief presentation on the legal standards for the project. Barkalow commented that Coldspring intends to mine 30 acres of the 108 acres available and asked what will happen to the balance of the property. Vry stated that some property will be used for processing, but 30 acres is the extent of the mining project. Barkalow asked about the route from County Rd 136 prior to the construction of the 33<sup>rd</sup> St S/TH15 Interchange. Vry stated that Coldspring is willing to use the existing entrance on County Rd 74 until the interchange is completed. Hultgren stated that he is in favor of suspending the public hearing, and he asked that a hard copy of the Coldspring presentation be provided to the Board members. Hultgren asked if there is current data as far as traffic volume on the various roadways. Glaesman stated that the EAW conducted a traffic study, and any of the parties engaged could commission a traffic study. Ugochukwu asked about a hydrologist study. Vry stated that Coldspring hired Barr Engineering which conducted a follow up study and created a letter of their analysis.

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

Michael Sjorgren  
3038 Santa Fe Trl

The project is threatening the quality of life of residents. Coldspring has hired several professionals to study such things as water, sound and particulates. Those professionals have used the phrase 'no significant impact'. He stated he would like to see the quality of life maintained or enhanced. The Board needs to hire their own independent researchers. He expressed concern regarding noise levels, vibration and traffic.

Lowell Olson  
23 Pandolfo Pl

He represents the Natural Parks and Trails Coalition. The proposed expansion is on property identified by the State of MN as a site of high biodiversity significance, which means it contains very good quality occurrences of the rarest species, high quality examples of the rare native plant communities and/or important functional landscapes. It was identified as a Natural Heritage Site by the St. Cloud Environmentally Sensitive Areas Ordinance and is sometimes referred to as the Hundred

Acre Woods. He expressed concern that nearly half of the woods will be eliminated and will impact wetlands and hydrology. He spoke about the Environmental Task Force which developed the Environmentally Sensitive Areas Ordinance.

Maureen McCarter  
1931 17<sup>th</sup> St S

She agreed with the previous comments. Trees are needed to help the environment stay cool and are valuable to the quality of life in St. Cloud. She stated that she walked Quarry Park during the work week and the sound of the aggregate company across the road crushing materials carries. According to documents, the proposed quarry will be in operation 24 hours a day, 7 days a week during the summer months. She stated that she can hear blasts from the working quarry site. Adding trucks in the City limits will increase air pollution, and the area will be subject to more air quality reports.

Jerry McCarter  
1931 17<sup>th</sup> St S

He would like to know the impact on the roads and how improvements will be paid for. He stated he does not want to deprive a good quality business from opportunities; however, he is not sure if an industrial site in the middle of a neighborhood is the right economic investment. He suggested using outside independent sources to evaluate the issues and studies.

Linda Peck  
12299 Sauk River Rd

She expressed concern for the tubercled rein-orchid, which is a plant species that is endangered in MN. She suggested the Board consider requiring an orchid survey in 2014 that is done weekly from early June to the end of September and compare all map locations, past and present. Other species of concern include the Blanding's Turtle, the Red-Shouldered Hawk and the Acadian Flycatcher. She recommended a yearlong study by avian and reptile naturalists. She asked the Board to investigate the possibility of a land swap.

Chris Brixius  
126 25<sup>th</sup> Ave N

His wife is a member of Granite Grove, LLC. He expressed concern for traffic and noise and referenced a table of estimated noise generation by sources provided in the EAW. Blasting from the current quarry is quite loud. He stated he is concerned about the noise that will be created when the trees are removed. He asked the Board to look at documents regarding the original conditional use permit granted by the township.

Ted Schmid  
3202 42<sup>nd</sup> Ave S

He researched the economic benefit of the proposed site and stated that tax generation would be minimal. County Rd 136 is a 9-ton road and will need updates in a few years. He provided an estimates of the cost to rebuild the road. He asked what will happen to the several other developments in the area. The Comprehensive Plan noted that the current quarry would be allowed to operate and future plans were for residential. He expressed concern for traffic and water usage details.

Judy Peters  
3038 Santa Fe Trl

She referred to the quarry in Maple Grove and noted that the community built up after the mining operation was in place. She stated she spoke with representatives from Edina and Bloomington and did not know about a quarry in the area.

Joni Olson  
Oak Hill Community School  
2600 County Rd 136

She is the Principal of Oak Hill Community School, and she agrees with previous comments asking for more research. She expressed concern for the health of the students attending the school. Approximately 82 students have asthma conditions. Over 1,000 people use the school and its spaces each day. She expressed concern for traffic and stated that County Rd 136 is the only access point to Oak Hill from the north and south. Adding semi traffic during peak times would significantly add to traffic. She also expressed concern for noise regarding structural impact and the impact of the education of children, especially those with special needs. She is concerned that the dust mitigation standards do not apply in situations where people are in residential areas or where children are present in schools.

Margy Bailey  
Stride Academy  
3241 Oakham Ln

She agreed with many points made by residents. She provides special education services for Stride Academy and agreed with the mention of consideration to children with special needs. She suggested that noise and environmental impacts be considered further. Trucks would be hauling directly in front of the school, which is approximately 4,000 feet away from the quarry site.

Chris Larkin  
2829 23<sup>rd</sup> St S

He is concerned about wetlands and wells. People chose to locate near other quarry sites after the quarries were in place. That is not the case with the proposed quarry. The future land use plan for the Coldspring property is identified as residential in the 2003 Comprehensive Plan. He expressed concern for noise and dust control.

Susan Burns  
447 Madison St NE  
Minneapolis, MN

She owns property along with her family that is adjacent to the quarry. She asked the Board to suspend the public hearing rather than close it. She agreed with the previous comments made. She asked that referenced statutes and court cases be made available, as well as the multiple economic studies confirming lack of value impacts. She cited the township documents from the original CUP and expressed concerns that the conditions of the CUP are not being met.

Tom Sis  
24400 32<sup>nd</sup> Ave  
St. Augusta, MN

He is a member of Granite Grove, LLC. He agreed with previous comments. The project will hinder existing and future development. Much of the land surrounding the project is zoned Rural Residential and the project does not fit with that zoning.

Sue Brixius  
126 25<sup>th</sup> Ave N

She is a member of Granite Grove, LLC. She agreed with previous comments. She stated that the U.S. Department of Health and Human Services National Institute on Deafness and Other Communication Disorders states that long or repeated exposure to sounds at or above 85 decibels can cause hearing loss. The decibel level of many of the uses exceeds 85 decibels, and she is concerned about those levels reaching outside of the site.

Steve Sis  
5800 157<sup>th</sup> Ln NW  
Ramsey, MN

He is a member of Granite Grove, LLC. He agreed with previous comments. He suggested a Comprehensive Plan Amendment if the Board finds the property to be feasible for mining.

Jim Marrer  
2606 Arden Ct

He agreed with previous comments. The south side of St. Cloud has continued to move from an agricultural environment to residential. It is important to continue in the change to residential and not explore the expansion of the mining operation. The area was planned as residential in the 33<sup>rd</sup> Corridor Master Plan, and he requested it remain residential.

David Hoeller  
2600 23<sup>rd</sup> St S

He asked that the public hearing notification be sent to a larger radius than 500'. He suggested that all properties that can hear blasting from the proposed quarry be notified. He asked the Board to suspend the public hearing rather than close it.

Brad Kuhlman  
1721 Shannon Dr

He stated that the project is too large with too many questions unanswered to make a decision by November 25. He asked for the item to be delayed as long as possible. He commented that it is appropriate for City Council to be involved in this process as another set of ears. He asked for the Board to suspend the public hearing.

Bryan Brown  
24943 County Rd 7  
St. Augusta, MN

He is the Supervisor of Buildings and Grounds for ISD 742. He expressed concern for the dust standards. Oak Hill has 43 air handling units on top of the building, and high maintenance costs will make it difficult to maintain these units. He commented on the several athletic fields on the property and suggested a water study on the impact to the school's wells. He expressed concern for noise and the impact noise will have on outdoor sporting events. He agreed with previous comments and asked the Board to suspend the public hearing.

Al Gully  
2837 23<sup>rd</sup> St S

He commented on the 'S' curves on County Rd 136 and the dangers of semis operating on the road. The road will need to be repaired, and the taxpayers will end up paying for it, not Coldspring.

Margaret Tchida  
2837 23<sup>rd</sup> St S

She expressed concern for pedestrians as parking occurs on County Rd 136 for sporting events at Oak Hill. There is not a sidewalk or shoulder on this road. She commented on trucks that passed her home when 33<sup>rd</sup> St S was being repaved and the noise they made. She stated she can hear the blasts from the current quarry and they are startling. She expressed concern for grinding noise, dust and air pollution, and traffic.

Greg Stepan  
2454 Imperial Dr

The south side of St. Cloud has a unique reputation which will be affected by what is planned for this quarry. He asked why this permit would be allowed in the only area of St. Cloud that will be developed.

Board members requested information regarding street improvements and traffic analysis.

Ugochukwu made a motion to suspend the public hearing. The motion was seconded by Bright.

Hultgren thanked members of the public for testifying and asked them to come back when the item returns to the Board. Glaesman stated that when received, new materials will be available to the public as soon as possible. Hultgren offered an amendment to suspend the public hearing and table

the item. Ugochukwu and Bright agreed to the amendment. Barkalow called for a vote and the motion carried, 6-0-1 (Fandel abstaining).

**Adjournment:** There being no further business, the meeting was adjourned at 10:10 p.m.

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Chuks Ugochukwu, Secretary