

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on September 17, 2013 at 7:00 p.m. in the St. Cloud City Hall Council Chambers. Members present were Bright, Fandel, Hultgren, Newman, Ugochukwu and Zenzen. Barkalow was absent.

Approval of Minutes: Hultgren made a motion to approve the minutes of August 20, 2013. The motion was seconded by Bright and carried, 5-0-1 (Fandel abstaining).

Side Yard Setback Variance / Stuart and Patricia Hamilton: This item was withdrawn by the applicant prior to the meeting.

Conditional Use Permit / Recovery Plus (St. Cloud Hospital) on behalf of Recovery Four, LLC: Dave Broxmeyer, Senior Planner, explained a request for approval of a Conditional Use Permit to expand an existing residential facility. In reviewing the information, the applicant noted that a floor area ratio variance will be needed. The applicant is requesting the item be tabled until next month so a variance application can be submitted and considered at the same time.

Bright made a motion to table the item until the October meeting. The motion was seconded by Zenzen and carried unanimously.

Lot Coverage and Interior Side Yard Setback Variances / John and Susan Lieberg: Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 15, Section 15.5, Table 15-1, which states that detached accessory structures cannot exceed the total lot coverage of the principal structure and Table 15-2, which requires detached accessory structures to be setback a minimum of 5' from an interior side yard property line. The applicants, located at 1303 Oak Ridge Ln, are proposing to construct a 36' x 36' detached garage 3' from the western property line and that would exceed the lot coverage of the principal structure. Staff feels the variance request is a personal preference and that a clear practical difficulty has not been established. Staff is recommending denial.

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

Zoning Board of Appeals – September 17, 2013

John Lieberg 1303 Oak Ridge Ln	He is the property owner.
Chuks Ugochukwu Board Member	He asked why the structure cannot be moved 2' to meet the setback requirements.
John Lieberg	He would like enough room to be able to back straight into the garage with a truck trailer. If the building is moved 2' to the east, it will be difficult to maneuver into the garage with the trailer. The house and existing garage are angled to the west which also creates a difficulty with backing up.
Drew Hultgren Board Member	He asked where the structure would be reduced if needed.
John Lieberg	He presented a drawing of the structure that would be allowed without a variance. The variance is needed to square up the building.
Chairperson Fandel	He asked about the height of the structure.
John Lieberg	The structure will meet the 17' height requirement.
Ronald Zenzen Board Member	He asked if staff is concerned with one variance or both variances.
Dave Broxmeyer Senior Planner	Staff is concerned with the combination of variances. With minor modifications the standards could be met.
Harry Rothstein 5003 Hidden Acres Cir	His son owns the property adjacent to the subject property. He asked about the height of the structure at its peak.
Dave Broxmeyer	The structure is 17' at midpoint and 20.5' at the ridge.
Harry Rothstein	The height of the structure is good and bad. It will block noise from County Rd 75, but it is a tall building. He asked about compliance with aesthetics standards.
Dave Broxmeyer	The structure must meet the design requirements of Article 15.5.A.6 for structures exceeding 120 sq. ft.
Harry Rothstein	He said that knowing Mr. Lieberg, the structure will look spectacular.

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 asked for clarification of the motion. Ugochukwu confirmed that the motion is to approve both variances. Hultgren stated he understands the hardship regarding the setback variance, but would be opposed to granting the lot coverage variance. Ugochukwu commented that the difficulty with backing into the

new garage is a personal preference. Fandel called for a vote and the motion failed, 2-4-0 (Bright, Fandel, Hultgren and Ugochukwu opposed).

Sign Variance / Jeremy Olson on behalf of East Congregation of Jehovah’s Witnesses:

Dave Broxmeyer, Senior Planner, explained a request for a variance from Article 18, Section 18.3, C., which permits a single identification sign of up to 30 sq. ft. to institutional uses, such as places of worship. The applicant, located at 1012 Division St E, is proposing a second identification sign to be located on the southwest corner of the building. The second sign will be in Spanish and will be approximately the same size as the current sign. Staff is recommending approval. Zenzen asked about the difference between signs attached to the building and not attached to the building. Broxmeyer stated the Land Development Code (LDC) refers to each as identification signs regardless if they are on the structure or on the lawn.

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

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| Jeremy Olson
311 3 rd Ave N, Sartell | There is a growing Spanish speaking population in the area. As of August 1, 2013, a new congregation has formed and is meeting twice a week. The meetings are open to the public; however, they are complete Spanish speaking services. The sign will be identifiable from Hwy 10 so travelers know that it is a place of worship that offers Spanish services. On Sunday’s, there are speakers that are visiting from other towns throughout the state, and the second sign is needed for identification purposes. |
| Drew Hultgren
Board Member | He asked if it is possible to redevelop the existing sign. |
| Jeremy Olson | A mock-up was created, but the sign would not be legible from a distance due to the amount of content. |
| Armand Rios
1044 E St. Germain St | He spoke in support of the request. The Spanish speaking population has been increasing, and the additional sign would benefit those looking for Spanish services. There are approximately 30 members that are meeting at the site twice a week, and the number is growing. Those looking for Spanish services were previously traveling to Monticello for services. |

There being no one else wishing to speak the public hearing was closed. Zenzen commented that this request may open the door to other institutions, such as libraries and schools, to ask for the same

privilege. Broxmeyer stated that when the sign section of the LDC was written, a multi-lingual culture was not addressed, but it is possible to makes changes to accommodate that.

Hultgren made a motion to approve subject to staff recommendations. The motion was seconded by Bright. Hultgren commented that this is a community of growing diversity, and if we were to looking to put new signs on each of our public buildings for each of the languages in the community, the code requirement will be exceeded quickly. This particular property is zoned R5; however, if this property were located within a commercial district, multiple signs would be permitted. He stated he fails to see a reason to part from the R5 regulations. Bright noted that in the past, requests have been approved for electronic display signs in the yard of the place of worship, and he asked how this is different from the current request. Broxmeyer recalled three instances where electronic display signs were approved, all of which were located within a residential district. Ugochukwu asked what the process is to review or revise the sign ordinance. Broxmeyer stated that if the Board chooses, the issue can be forwarded to the Planning Commission where staff can evaluate the processes of other jurisdictions. The recommendation would then be forwarded to City Council for a LDC amendment. The amendment process could also be prompted by a resident through the Planning Commission's open forum.

Hultgren asked if the second sign is intended for a separate congregation. Olson confirmed that the sign is for a separate congregation. Bright commented that the requested sign is not different than past approved electronic signs. Newman commented that this sign is different from previously granted variances. The previous variances were regarding electronic signs with which the applicants stayed within the size limit and advertise multiple messages. Ugochukwu stated that his preference is to approve the signage on the building as it is much less intrusive than those closer to the street. Hultgren commented that he is struggling to find a reason to grant the variance other than the fact that it has been done before, but that should not be a reason to grant the variance. Fandel called for a vote and the motion failed 2-4-0, (Fandel, Hultgren, Newman and Zenzen opposed).

Interior Side Yard Setback / Ryan Zimmer: Dave Broxmeyer, Senior Planner, explained a request for approval of a variance from Article 15, Section 15.5, Table 15-2, which requires all detached accessory structures to be setback a minimum of 5' from interior side property lines. The applicant, located at 2656 Waterford Ct, is proposing to install a 14' x 20' yard shed on an existing concrete slab that is located 3' from the side property line. Staff feels the request is a personal preference and that a clear practical difficulty has not been established. Staff is recommending denial.

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

Ryan Zimmer 2656 Waterford Ct	He is the property owner. He sent a personal letter to his neighbors explaining his intentions. He received a number of emails in support. One neighbor was concerned with lilac bushes planted nearby and an agreement was made to add a gutter to the shed so the bushes do not drown out.
Chairperson Fandel	He asked who poured the slab and if it can be moved.
Ryan Zimmer	The slab was in place when the property was purchased. It cannot be moved as it has substantial footings.
Drew Hultgren Board Member	He asked if there was anything preventing the pouring of a new slab or adding on to the current slab.
Ryan Zimmer	There is not. He stated he could build the shed to be 12' x 24'; however, the downside is that anything that does not fit in the shed would be placed on the two feet of uncovered concrete.
James Newman Board Member	He asked about the size of the slab.
Ryan Zimmer	The concrete slab is 14' x 20' with an apron on the front.
Stephen Rudnicki 2660 Waterford Ct	He has no objections to the shed.

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 Newman. Hultgren commented that the only reason the variance is being considered is because the slab was in place when the applicant purchased the house. He does not believe that is a valid reason to grant the

variance. Ugochukwu expressed concern that a precedent may be set. Fandel called for a vote and the motion failed, 1-5-0 (Bright, Fandel, Hultgren, Ugochukwu and Zenzen opposed).

Rear Yard Setback Variance / Dick and Carol Lewis: Dave Broxmeyer, Senior Planner, explained a request for approval of a variance from Article 8, Section 8.3, Table 8-2, which requires a minimum rear yard setback of 30' or 20% of the lot depth, whichever is less. The applicants, located at 1126 Kilian Blvd, are proposing to construct a 24' x 24' attached garage addition 23' from their rear property line. Staff feels there is adequate room to reduce the depth by 3' to meet the setback requirements. If additional room is needed for storage, there is ample room to increase the width. Staff is recommending denial. Fandel asked about the site being under construction. Broxmeyer stated that it is permitted to dig and excavate, but a permit is required to pour the foundation footings.

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

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| Steve Rudnicki
2660 Waterford Ct | The primary reason for the variance request is due to handicap accessibility. The objective is to reduce the home to one level. Leveling the lot will allow access to the interior of the home from the garage. |
| Dick Lewis
1126 Kilian Blvd | He has lived in the home for over 30 years. He stated that due to medical conditions, he would like to make changes to the home before becoming wheelchair-bound. The new garage will have a greater setback than any others that use the alleyway. |
| Drew Hultgren
Board Member | The additions to make the space handicap accessible are worthwhile. He commented that if the garage were reduced by 3', there would not be a need for a variance. |
| Steve Rudnicki | Due to the size of handicap accessible vans, a shortened garage would not allow access to the house through the garage. Another feature to consider is that there is a water problem on the lot and this will help direct the water to Kilian Blvd. |

There being no one else wishing to speak the public hearing was closed. Fandel commented that there appears to be enough room in the driveway to park a full size vehicle without encroaching into the alleyway. Hultgren made a motion to approve subject to staff recommendations. The motion was seconded by Bright. Bright suggested amending the LDC to accommodate modern vehicles. Hultgren asked if the garage could have been oriented differently. Rudnicki stated it could have been, but there are budget constraints, and reorienting the garage would have created more square footage.

Bright noted that the Board cannot take financial issues into consideration. Ugochukwu commented that in considering the character of the neighborhood the size of the garage is not excessive, and he will vote in favor. Fandel commented that he will vote in favor as there is ample room on the property, and the plan is reasonable. Fandel called for a vote and the motion carried unanimously.

Other Business: Broxmeyer stated that information on the Coldspring Conditional Use Permit will be forwarded to Board members as soon as possible. Hultgren asked if additional traffic studies will be included in the data. Broxmeyer stated that he does not know the specifics, but he expects traffic to be addressed.

Bright asked about the idea of precedent setting. Broxmeyer stated that after a visit from an attorney who specializes in land use actions, the recommendation was to eliminate the section regarding similar requests in staff reports. The lawyer emphasized that Boards should look at what is truly unique about the property.

Adjournment: There being no further business, the meeting was adjourned at 8:25 p.m.

Chuks Ugochukwu, Secretary