

PROCEEDINGS OF THE ST. CLOUD ZONING BOARD OF APPEALS

A meeting of the St. Cloud Zoning Board of Appeals was held on Tuesday, October 21, 2014, at 7 p.m. in the City Hall Council Chambers.

ROLL CALL: Members present were Barkalow, Bright, Hultgren, Mohamed, Newman and Zenzen. Staff present were Dave Broxmeyer and Carla Chapman.

APPROVAL OF MINUTES FROM THE AUGUST 19, 2014 ZONING BOARD OF APPEALS MEETING

ACTION TAKEN: Newman/Zenzen/Approved (6-0)

VAR-2014-11 / DOUG DINGMANN ON BEHALF OF WILLIAMS DINGMANN FUNERAL HOME, INC. / 1900 8TH ST N

ACTION TAKEN: Hultgren/Zenzen/Approved (6-0)

Broxmeyer explained a request for a variance from Article 18, Section 18.4, which requires a 20' setback for business signs within a C1, Business Office District. The applicant is proposing to relocate the existing business sign, which is currently 20' from the property line, to a location 6.5' from the property line, requiring a 13.5' variance. Staff recommends approval of a 10' variance to prevent the sign from encroaching into the 10' wide drainage and utility easement that parallels 8th St N. If the Zoning Board of Appeals approves a variance greater than 10', an encroachment agreement with the City would be necessary or a portion of the easement would need to be vacated.

Bright asked about the possibility of the sign overhanging into the easement. Broxmeyer stated that if a portion of the sign overhangs into the easement, it would need to be a minimum of 8' above the ground so as not to interfere with equipment access.

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

Doug Dingmann, Williams Dingmann Funeral Home, Inc. - Relocation of the sign will allow for an additional handicapped accessible parking space.

Barkalow asked about the mature trees near the proposed sign location. Dingmann stated that the tree closest to the proposed sign location has split, and there is a possibility it will need to be removed. Landscaping around the sign will continue.

There being no one else wishing to speak, the public hearing was closed. Hultgren made a motion to approve a 10' variance subject to staff recommendations. The motion was seconded by Zenzen. Bright asked the applicant if the modification was acceptable. Dingmann indicated that the 10' variance would be acceptable. Barkalow called for a vote, and the motion carried unanimously.

VAR-2014-12 / KIMBERLY LEMCKE / 904 12TH AVE S

ACTION TAKEN: Zenzen/Bright/Approved (6-0)

Broxmeyer explained a request for a variance from Article 15, Section 15.6, which regulates window wells projecting into an interior side yard setback. The applicant is requesting to install an egress window and its associated window well on the north side of the existing home. Window

wells are permitted to encroach 3' into the standard interior side yard setback, but must be set back a minimum of 2' from the property line. The proposed window well will be located 4" from the northern property line, which requires a 1'8" variance. Staff is recommending approval.

Hultgren and Barkalow expressed concern for the window well's placement being so close to the property line. Broxmeyer stated that a provision could be included that would require the window well to project above grade.

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

Kimberly Lemcke, 904 12th Ave S- The window well will be a galvanized metal. She has spoken with the neighbor to the north who does not oppose the request.

Barkalow asked if the window well could be located on the south side of the house. Lemcke stated the bedroom is located on the north side of the house.

Barkalow asked if it would be acceptable to the applicant if a 'height above grade' provision were included. Lemcke stated that is acceptable.

There being no one else wishing to speak, the public hearing was closed. Zenzen made a motion to approve subject to staff recommendations. The motion was seconded by Bright. Barkalow offered an amendment to add a provision that the window well project 6" above grade. The amendment was accepted. Barkalow called for a vote and the amended motion carried unanimously.

VAR-2014-13 / CITY OF ST. CLOUD / 25 5TH AVE N

ACTION TAKEN: Hultgren/Bright/Approved (6-0)

Broxmeyer explained a request for a variance from Article 9, Section 9.2, which regulates the interior side yard setback for a parking structure that will have openings 4' from the interior side property line. The parking structure is proposed to be 53' tall on the west side, which requires a minimum interior side yard setback of 26.5'. The parking structure is being designed with the possibility of two additional levels being added in the future, which increases the overall height of the structure to 76', and the potential interior side yard setback increases to 38'. The parking structure is proposed to be located 4' from the western property line, requiring a 22.5'/32' variance.

Broxmeyer clarified that if the structure were not proposed to have openings, the interior side yard setback would be 0'. The structure will still meet building and fire codes.

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

Pat Shea, City of St. Cloud Director of Public Services - A study is in process to ensure emergency equipment can access the alley.

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

CUP-2014-07 / RHL - BLACK SIGNS ON BEHALF OF EAST SIDE OIL COMPANY / 621 & 625 LINCOLN AVE SE

ACTION TAKEN: Hultgren/Bright/Approved (6-0)

Broxmeyer explained a request to modify the existing rotating sign Conditional Use Permit to allow the static portion of the sign to be replaced with an LED sign. The existing rotating sign obtained a CUP from the City in 2001. One of the approved conditions stated that any changes to the sign would require an amendment to the CUP. The applicant is requesting to remove the existing 10' x 28' portion of the sign which is static and replace it with a changeable 12.5' x 20' LED sign. The applicants are requesting to use the LED sign for the on-site business, as well as off-premise advertising. Staff is recommending approval with a number of conditions associated with the operation of the electronic sign. Hultgren suggested adding a condition requiring that all temporary signs follow the City's temporary sign ordinance.

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

Jim Feneis, East Side Oil Company - He is proposing to make an upgrade to the current sign to an LED changeable sign. The temporary black signs on the property will be removed when the new sign is installed.

Theresa Cardinal, 606 5th Ave SE - She is concerned with the light shed from the LED sign.

Broxmeyer stated that as part of the conditions of approval, the applicant will be required to maintain a maximum illumination for daytime and nighttime hours.

There being no one else wishing to speak, the public hearing was closed. Hultgren made a motion to approve the request subject to staff recommendations with the added condition that the temporary black signs either be removed or come into compliance with the City's temporary sign ordinance. The motion was seconded by Bright and carried unanimously.

VAR-2014-14 / SAM DELEO ON BEHALF OF THE DIOCESE OF ST. CLOUD / 396 & 402 1ST AVE S
ACTION TAKEN: Bright/Newman/Tabled (6-0)

Broxmeyer explained a request for a variance from Article 8, Section 8.2, which regulates interior side yard setbacks for an existing place-of-worship and a single family home and Article 16, Section 16.13, which regulates required off-street parking. A property line divides the place-of-worship in half, with a single family home on the southern lot. The applicants are proposing to remove the property line that currently divides the building and create a new property line between the place-of-worship and the single family home. There is approximately 17' between the two structures. The Land Development Code requires places-of-worship to have a 20' interior side yard setback and a 10' setback for a single family home. The applicants are requesting a total variance of 13' between the two structures. In addition, the single family home does not have any off-street parking spaces, requiring a variance to address the shortfall.

At this time, the exact location of the proposed property line is not available. The applicants are requesting the variances in advance to replatting the properties. While there is adequate space to meet the off-street parking requirement, the property is depressed approximately 8' below street level which would make installing a driveway extremely difficult.

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

Sam DeLeo, KLD, 13 11th Ave N - The Diocese of St. Cloud is considering selling the single family home. He will work with City departments to determine the best location of the new property line. There will be

easements required for both properties, which will be addressed during the platting process. There are no activities proposed at this time that would trigger a building permit.

Krister Johnson, 37 Highbanks Pl – He is concerned with granting variances to make a property more marketable for sale. He is also concerned that a precedent will be set for properties in this neighborhood. It is unclear whether it is necessary to meet building and fire codes at this time. He asked that the request be tabled for more information.

Bright asked if it is possible for the Diocese to provide two permanent off-street parking spaces for the home. DeLeo stated he is unaware if that conversation has taken place.

Hultgren asked for a clarification on the ownership of the two properties. DeLeo noted that the two properties are owned by two separate entities that are not related to each other.

Hultgren asked if it were possible to move forward with the plat if the parking issue were tabled. DeLeo agreed that the parking situation should be addressed further, and allowing the platting process to move forward would be helpful.

Johnson asked that the entire request be tabled as there are still questions regarding the building and fire code.

There being no one else wishing to speak, the public hearing was closed. Bright made a motion to table the request. The motion was seconded by Newman. Board members discussed whether to table the entire request or simply the parking variance portion. Barkalow called for a vote and the motion to table the entire request carried unanimously.

CUP-2014-08 / HASHIRO CHILD CARE CENTER ON BEHALF OF ROBERT INKSTER / 605 FRANKLIN AVE NE

ACTION TAKEN: Newman/Bright/Approved (5-0-1, Hultgren abstained)

Hultgren recused himself from the discussion and vote related to this item.

Broxmeyer explained a request to increase the number of children at the child care facility from 80 to 96 children. The Zoning Board of Appeals approved a CUP for the facility at this location in 2013. The CUP limited the maximum number of children at the facility at 80. The applicants are proposing to convert two existing rooms within the building into classroom space and increase the maximum number of children onsite from 80 to 96. Staff is recommending approval.

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

Ismail Ali, 423 20th Ave N – He noted that the number of children would be increased to 98.

There being no one else wishing to speak, the public hearing was closed. Newman made a motion to approve the request to increase the number of children at the facility from 80 to 98 children subject to staff recommendations. The motion was seconded by Bright and carried (5-0-1).

OTHER BUSINESS

ACTION TAKEN: None

Broxmeyer asked interested Board members to attend the Comprehensive Plan Update Community Workshop at the Regency Plaza on Thursday, October 23rd at 7:00 p.m.

Zenzen asked about attendance requirements for Board members. Board members discussed recent absences in addition to an open seat on the board. Broxmeyer stated he would review the Zoning Board of Appeals bylaws and provide a copy to Board members.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:24 p.m.