

CITY OF ST. CLOUD ZONING BOARD OF APPEALS

Tuesday, May 16, 2017  
7:00 pm  
City Hall Council Chambers

**ROLL CALL:**

MEMBERS PRESENT: Drew Hultgren, John Mathews, Linda Radin and Ron Zenzen  
MEMBERS ABSENT: Abdi Daisaine  
STAFF PRESENT: Dave Broxmeyer and Ashley Skaggs

**APRIL 18, 2017 ZONING BOARD OF APPEALS MEETING MINUTES**

ACTION TAKEN: Zenzen/Mathews/Approved (4-0)

**CUP-2017-04 / MAHAD MURSAL & PREMIER PLAZA LLC / 3316 3<sup>RD</sup> ST N**

ACTION TAKEN: Radin/Mathews/Tabled (4-0)

Broxmeyer reminded Board members of a request for a Conditional Use Permit for an adult day care for the property located at 3316 3<sup>rd</sup> St N. Broxmeyer stated that the applicants have submitted licensing information to the State for review. Staff recommends the item remain tabled until the June Zoning Board of Appeals meeting. Radin made a motion to table the item. The motion was seconded by Mathews and carried unanimously.

**VAR-2017-07 / ISD 742 / 3500 COUNTY RD 74**

ACTION TAKEN: Mathews/Radin/Approved (2-1-1, Mathews opposed, Hultgren abstained)

**CUP-2017-04 / ISD 742 / 3500 COUNTY RD 74**

ACTION TAKEN: Mathews/Radin/Approved (3-0-1, Hultgren abstained)

Hultgren abstained from the discussion and voting of the item.

Broxmeyer explained a request for a Conditional Use Permit (CUP) to construct the new Tech High School. The Land Development Code requires schools located within an AG, Agricultural District to obtain a CUP prior to construction. The site is approximately 106 acres in size with unique environmental features, such as an active trout stream. An Environmental Assessment Worksheet was completed and submitted to numerous state agencies for review and comment, after which City Council declared that a need for a greater environmental study was unnecessary. Staff also included a request for variance to the maximum building height of the school. After further review, staff determined the areas of building exceeding the maximum allowance to be considered building height appurtenances and, therefore, not subject to the zoning district maximum height requirements.

Zenzen asked about the school's proximity to the Coldspring granite quarry. Broxmeyer stated the quarry is located approximately 1.5 miles from the school site on the other side of a granite hill. Mathews asked about zoning districts in the area. Broxmeyer stated that the majority of properties in the area are zoned agricultural.

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

Jeremy Anderson, Design Tree Engineering - Design Tree is responsible for the civil design of the project. The CUP request is for building the school in an agricultural district. Several additional permits are required from various state agencies.

Amy Kalar, Cunningham Group Architecture – The majority of the building is below the 35' height maximum, with the exception of the theatre fly lofts, above the gym, and the mechanical penthouses.

Scott Jennings, 3824 43<sup>rd</sup> Ave S – He would like to ensure that there is access to the new school from County Rd 74 and 33<sup>rd</sup> St S. He is concerned with a rumor that a southern access would utilize his driveway.

Broxmeyer stated the applicants have indicated that no access is intended from the south.

Shirley Studer, 3664 County Rd 74 – She asked if the proposed location of the school is definitive and if access will go through any other properties.

Broxmeyer stated that the two access drives identified on the submitted site plan are the only proposed access drives to the school.

There being no one else wishing to speak, the public hearing was closed. Mathews made a motion to approve the requests subject to staff recommendations. The motion was seconded by Radin. Mathews commented that the standards for the variance have not been met; however, a variance is not necessary due to the allowance for building height appurtenances. All of the standards have been met in order to grant the CUP, and the school is an excellent way to use the property. Zenzen agreed that the proposal makes excellent use of the land.

Zenzen called for a vote on the variance request, and the motion carried (2-1-1, Mathews opposed, Hultgren abstained). Zenzen called for a vote on the conditional use permit, and the motion carried (3-0-1, Hultgren abstained). Mathews clarified that he voted in opposition to the variance with the understanding that it was not necessary.

**VAR-2017-06 / DON & KAREN ONDRACEK / 4732 40<sup>TH</sup> ST S**

ACTION TAKEN: Zenzen/Radin/Denied (1-3, Hultgren, Mathews and Radin opposed)

Broxmeyer explained a request for three variances from Article 15, Section 15.5, which regulates the maximum number of structures, the maximum size of an accessory structure, and the total amount of space allowed for all accessory structures. Properties located within AG, Agricultural Districts and less than 10 acres in size are allowed up to 3 accessory structures for a total of 3,500 sq. ft. of accessory space, and no one building can exceed the footprint of the principal structure on the property. There are currently four accessory structures on the property, including a detached garage, barn, chicken coop and shed. The applicants are proposing to construct a 72' x 40' pole shed in place of the existing shed. The proposed shed would exceed the total accessory space on the lot by 1,410 sq. ft. The shed would also be 1,630 sq. ft. larger than the footprint of the home on the property.

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

Don & Karen Ondracek, 4732 40<sup>th</sup> St S – Mr. Ondracek stated the property was originally a running farm and was a part of St. Augusta. Since then, the property has been annexed into the City of St. Cloud. Years ago he was told he could build a shed this size, but he could not afford to do so at the time. He is requesting to build the shed now in order to store his antique tractors. There are approximately 12 tractors on site that he would like to restore and store

where they can be protected. Two or three tractors are used to keep the weeds down in the field on the south side of the property.

Hultgren asked about the other accessory structures on the site. Mr. Ondracek stated that the detached garage, chicken coop and barn are being utilized.

Radin asked about the average number of accessory buildings on a working farm. Mr. Ondracek stated that generally 8-10 buildings are used by a farmer. Mrs. Ondracek stated that the number of buildings depends on the type and size of farming operation; however, this property is not an active farm. She is concerned with increased traffic and the need to protect their property from vandalism.

There being no one else wishing to speak, the public hearing was closed. Zenzen made a motion to approve the request subject to staff recommendations. The motion was seconded by Radin. Hultgren commented that he is sympathetic to the property owner, but does not see that a practical difficulty has been met. He noted that the request seems to be contrary to the Comprehensive Plan as the Future Land Use Map shows the property as future residential use.

Radin stated that the property may be considered unique because of its proximity to the interstate and traffic and safety issues in the area. Mathews stated that the concerns of vandalism, etc. are uniquely related to the person or use and not to the property itself. He does not feel that the factors for granting a variance have been met. Zenzen commented that he is sympathetic to the cause and understands the need for the variance. Hultgren called for a vote, and the motion to approve failed (1-3, Hultgren, Mathews and Radin opposed).

**VAR-2017-05 / NATE SCHNEIDER / 1017 12<sup>TH</sup> AVE N**

**ACTION TAKEN:** Zenzen/Mathews/Denied (0-4)

Broxmeyer explained a request for a variance from Article 15, Section 15.6, which allows for a four foot encroachment into an interior side yard setback for a window well for a single family home located in an R1 District. The applicant's home was originally built 6'8" from the southern property line in 1952, which was well before the current zoning standards were adopted. The applicant requested a 2'4" administrative variance to install a 36" window well in the south wall of the basement. The Planning Department received a written objection to the administrative request, requiring a public hearing by the Zoning Board of Appeals.

Hultgren asked about the distance from the edge of the window well to the property line. Broxmeyer calculated that the edge of the window well would be approximately 3'8" from the property line. Zenzen asked about the letter written in objection to the request. Broxmeyer stated the letter referenced the lower part of the home being rented to unrelated parties. The property is not part of the City's rental registration program and may be in violation. Mathews asked if a smaller window well could be installed. Broxmeyer stated that a 24" window well could be installed; however, it would not meet the building code requirement for bedroom egress, and a setback variance would still be required.

Hultgren opened the public hearing and invited testimony. There being no one wishing to speak, the public hearing was closed. Zenzen made a motion to approve the request subject to staff recommendations. The motion was seconded by Mathews. Zenzen expressed disappointment that the applicant was not present to speak to the request. Mathews commented that he does not feel the factors for granting a variance have been met. Hultgren noted that one unique circumstance was

that the home was built prior to adoption of the Land Development Code which requires a 10' setback; however, there are no other physical features to the site that create a hardship. He is also concerned that the amount of space left between the edge of the window well and the property line could create a safety hazard. Hultgren called for a vote and the motion to approve failed unanimously.

#### **OTHER BUSINESS**

ACTION TAKEN: None

Hultgren asked for an update on the status of the pending lawsuit with St. John's Episcopal Church. Broxmeyer stated that the suit is still in litigation.

Board members discussed current membership and asked that an exception be made to allow Mr. Bright to return to the board. Broxmeyer stated he would make the request to administration. Hultgren reminded the public that two seats are currently vacant and asked for any interested parties to apply through the Mayor's Office.

Broxmeyer stated that a recent sign variance request from ISD 742 that was denied by the Zoning Board of Appeals has been appealed to City Council. City Council has decided to review the decision of the ZBA and hold a public hearing on May 22.

Mathews made a motion to adopt staff analyses as findings of fact for the items presented on this agenda. The motion was seconded by Radin and carried unanimously.

#### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:19 p.m.