



**ITEM REPORT  
PLANNING AND ZONING COMMISSION**

Agenda Date: 11/12/2024  
Agenda Section: New Business

**TO:** Baxter Planning and Zoning Commission

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**FROM:** Matthew Gindele, City Planner

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**REQUEST:** PUBLIC HEARING. Conditional Use Permit to allow an accessory structure area to exceed the maximum size allowed and a Variance to allow a reduced setback to a side and a rear lot line for property located at 12700 Persimmon Drive (City file 2024-37)

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**APPLICANT:** Damond Clanton, 12700 Persimmon Drive, Baxter, MN 56425  
R-1, Low Density Residential

**ZONING:**

**1. Application Request**

The applicant has requested a conditional use permit (CUP) to allow for the construction of a 780 square foot accessory structure. The property also has an existing 1,040 square foot attached garage, which, when added to the requested accessory area, brings the total accessory area requested to 1,820 sq. ft. when the ordinance limits accessory structure area to a cumulative total of 1,800 sq. ft. The applicant has also requested a variance to allow a reduced setback from the side and rear lot lines where a minimum of 50 feet is required.

The zoning ordinance allows properties within the R-1, Single Family Residential district that are 2.5 acres or larger deviate from the size requirements of the Code with approval of a conditional use permit. The subject property is 3.84 acres.

**2. Context**

Adjacent Land Use and Zoning

	<b>Adjacent Land Use</b>	<b>Zoning</b>
<b>North</b>	Single Family Residential Property	R-1, Single Family Residential
<b>East</b>	Single Family Residential Property	R-1, Single Family Residential
<b>South</b>	Single Family Residential Property	R-1, Single Family Residential
<b>West</b>	Vacant	PB, Public Benefit

**Characteristics of the Site**

The subject property is 3.84 acres in size and is accessed by a private drive that connects to Joler Road to the south. It is not located within any shoreland overlay district but does contain significant wetlands on the south and east sides of the property. The wetlands act as a FEMA floodplain which encroaches into the property on the east and south sides but does not encompass the area where the existing house or proposed garage are. The property is heavily wooded with mature deciduous trees except for the west property line, and slopes down to the wetlands to the south and east.

### 3. Analysis of Request

#### Conditional Use Permit

The applicant has requested a conditional use permit (CUP) to be allowed to construct a 780 square foot detached accessory structure in addition to the existing 1,040 square feet of attached accessory structure area. The cumulative accessory structure area requested is 1,820 square feet when the maximum cumulative accessory structure area allowed is 1,800.

The proposed structure would match the architectural design of the existing home including color, materials, construction type, and design compliant with ordinance requirements. The proposed garage height is approximately 13' 4" and the house is 15' 6" so the garage is also compliant with the maximum height restriction in the ordinance.

The zoning ordinance allows accessory structures to deviate from the size standards of the ordinance with a conditional use permit for properties that are a minimum of 2.5 acres, subject to the following conditions:

- 1) The accessory building shall be a minimum of 50 feet from the side and rear property lines.
- 2) The accessory building is located rearward of the front line of the principal structure.
- 3) The accessory building meets all the conditions of the approved conditional use permit.

The applicant has submitted a plan showing that the proposed garage will be 85 feet from the north rear lot line and 21 feet from the west side lot line (see variance discussion below). The applicant is proposing the garage to be located rearward of the front line of the home in compliance with the condition above. Staff has also reviewed the request on the general CUP standards, and finds that those standards are being met as described below. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. *Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.*

The detached accessory building would not create a burden on existing parks, schools, streets, and other public facilities when used in a manner that complies with all City Ordinances.

- B. *Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.*

The proposed garage is compatible with adjacent land uses consisting of larger lot residential uses, many of which have detached accessory structures. Staff finds that the proposed garage would not depreciate adjacent properties when used in a manner that complies with City Ordinances.

- C. *Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.*

The proposed residential accessory building would not have an adverse effect on adjacent properties because it will drain onto the subject property and will be designed to blend into the existing development. The applicant has stated that the exterior materials and color of the proposed garage will match the existing home to mitigate visual impacts to the neighbor.

- D. *Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.*

The accessory building would be related to the single-family use on the property.

- E. Consistent with Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.*

Accessory buildings for personal use located on a single-family home site are an acceptable use that is consistent with the purpose of the R-1 zoning district.

- F. Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.*

The garage use would not conflict with the comprehensive plan of the city.

- G. Traffic: The use will not cause traffic hazard or congestion.*

The garage would not cause traffic hazard or congestion.

- H. Facilities: The use shall have adequate utilities, access roads, drainage and necessary facilities.*

The site has adequate utilities, access roads, drainage, and necessary facilities to serve the proposed residential accessory structure use.

### Variance

The applicant has also requested a variance to allow an accessory structure that is over the maximum area allowed to have a 21-foot setback from a side lot line. One of the stated conditions of the ordinance allowing an oversized garage with approval of a CUP requires a minimum of a 50-foot setback from the side and rear property lines. The applicant is requesting the variance to allow a 21-foot setback from the west side property line.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Staff has reviewed the application for consistency with the variance standards, as follows:

- a) That there are practical difficulties in complying with the Zoning Ordinance.*

There are practical difficulties in complying with the Zoning Ordinance due to the natural features on the property (slope, wetlands, floodplain) and the fact that the most reasonable location for the detached garage on the property is in the proposed location; any other location would require a much longer driveway on a site that has sensitive natural features.

- b) That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.*

The conditions are unique to the parcel of the land and were not created by the landowner. Due to the natural features on the property and the location of the existing home as it relates to the private access road, the proposed location of the detached garage is the most reasonable location on the property.

- c) That the granting of the variation will not alter the essential character of the locality.*

The granting of this variance will not alter the essential character of the locality because adjacent properties have also been developed with detached accessory structures near the property line of

the subject property. Furthermore, the proposed setbacks are still a greater distance from the property line than the standard 10-foot district setback requirement.

- d) *The proposed variance would be in harmony with the general purposes and intent of the Ordinance.*

The variance would be in harmony with the general purposes and intent of the ordinance. The intent of the ordinance is to protect the adjacent property from visual impairment and potential stormwater runoff. The accessory structure will match the house in color and materials so that it blends in well with the surroundings. The natural slope of the subject property drains away from neighboring properties.

- e) *The variance is consistent with the Comprehensive Plan.*

The comprehensive plan and zoning ordinance identifies this property as a residential use, and accessory structures are allowed accessory uses within the Low-Density Residential zoning district.

#### **4. Recommendation**

Staff recommends approval of the conditional use permit and the variance, subject to the findings and conditions in the attached resolution.

#### **Attachments**

1. Draft Resolution 2024-090 approving the CUP and Variance
2. Applicant Narrative
3. Site Location Map
4. Site Plan
5. Garage Plans and Elevations