



ITEM REPORT PLANNING AND ZONING COMMISSION

Agenda Date: 7/12/2022
Agenda Section: New Business

TO: Baxter Planning and Zoning Commission

FROM: Matthew Gindele, City Planner

REQUEST: PUBLIC HEARING. Conditional Use Permit to allow an accessory structure area to exceed the maximum size allowed and a Variance to allow a 27-foot setback to a side lot line for property located at 12006 Scenic River Drive (City file 22-25)

APPLICANT: Steve Kuepers, 12006 Scenic River 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 1,410 square foot accessory structure that does not meet the size requirements of the Code. The property also has an existing 1,230 square foot attached garage. The total proposed accessory structure area on the property is 2,640 square feet.

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 2.5 acres.

2. Context

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
North	Single Family Residential Property	R-1, Single Family Residential
East	Mississippi River/Vacant	Brainerd
South	Single Family Residential Property	R-1, Single Family Residential
West	Single Family Residential Property	R-1, Single Family Residential

Natural Characteristics of the Site

The subject property is a double-lot 2.5 acres in size located within the shoreland overlay district of the Mississippi River which has a small amount of floodplain near the river's edge. The property has low pockets on either side of the driveway near the street and slopes up to the where the house is located. On the river-side of the house is a 30-foot bluff with a steep slope down to the river. The subject property contains a smattering of mature trees primarily located on the perimeter of the property along the side lot lines and on the bluff with an open yard area in the center of the property.

3. Analysis of Request

Conditional Use Permit

The applicant has requested a conditional use permit (CUP) to be allowed to construct an additional 1,410 square feet of accessory structure area. The 1,410 square feet is in addition to an existing 1,230 square feet of accessory structure area bringing the total accessory structure area requested to 2,640 square feet when the maximum cumulative accessory structure area allowed is 1,800. The ordinance also limits the size of a single detached accessory structure to a maximum of 1,152 s.f.

The proposed structure would match the architectural design of the existing home including color and materials. The proposed garage height is approximately 15'10" and the house is approximately 28'6" 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 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 accessory structure will be 27 feet from the nearest property side lot line (see variance discussion below). Given that the subject property is a riparian lot (having frontage on a lake or river) the front yard is considered to be between the principal structure and the body of water with the rear yard between the principal structure and the street. The applicant is proposing the garage to be located in the rear yard between the street and the home in compliance with the condition above.

Staff has also reviewed the request on the general CUP standards. 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.

- 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 use is compatible with adjacent land uses consisting of larger lot residential uses, many of which have detached accessory structures between the home and the road. The use would not depreciate adjacent properties.

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

The proposed accessory building would not have an adverse effect on adjacent properties. The applicant has stated that the exterior materials of the proposed garage will match the existing home to mitigate visual impacts.

- 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 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 use would not conflict with the comprehensive plan of the city.

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

The use 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 use.

Variance

The applicant has also requested a variance to allow an accessory structure over the maximum area allowed to have a 27-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 27-foot setback from the northeast 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 since a fair amount of fill would be required to move the structure to a different location on the property and would essentially have to be located in the center of the yard.

- 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 existing grade of the property, it is not practical to locate the structure elsewhere on the lot.

- 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, many of which have side lot line setbacks that are less than 50 feet. Furthermore, the proposed 27-foot side lot line setback is still almost three times the distance from the property line than the standard 10-foot 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 adjacent property contains a total of three lots with the home situated on the middle lot far from the lot line shared with the subject property and is heavily wooded providing screening from the subject property. Additionally, any stormwater runoff from the proposed detached garage would drain to a low area on the subject property between the proposed garage and the street and would not drain to the neighbor's property or to the river.

- 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 permitted accessory uses within the Low-Density Residential zoning district.

4. Recommendation

Staff recommends approval of the Conditional Use Permit, subject to the findings and conditions in the attached resolution.

Attachments

1. Draft resolution approving the CUP and Variance
2. Site Location Map
3. Surveyed Site Plan
4. Garage Plans and Elevations