

Memorandum

To: Mayor Nelson and Members of the City Council
From: Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer
Date: February 28, 2023
Subject: Variance and CUP Applications – 1409 Osborne Road NE

The City of Spring Lake Park has received a variance and CUP application from Greg and Colleen Pettersen, 1409 Osborne Road NE, that would permit a 2-family dwelling at this property, which allow the property owner to rent a fully separate two-bedroom apartment located above their garage.



The applicant is seeking a variance from the requirement that a parcel has 7,500 square feet for each dwelling (15,000 square feet total), as set forth in Spring Lake Park Code (“SLPC”) 16.64.050(A)(1). If the variance is granted, the applicant is seeking a conditional use permit to allow a two-family dwelling on this property.

The property is located on the 1400 block of Osborne Road. The area is guided Low Density Residential in the 2040 Comprehensive Plan. The property is zoned R-1, Single Family Residential. Allowed uses include single family homes, as well as two family dwellings by conditional use permit.

The current home was built in 1992, with an addition constructed in 2007. To the west of the property is the Carriage Oaks Townhomes (zoned R-3, Multiple Family Residential). To the north and east, the properties are zoned R-1, Single Family Residential. The properties to the south, located in Fridley, are zoned R-1, One Family Unit.

The schedule of permitted uses by district (SLPC 16.64.040, A) states as follows

Use	Details	R1
Dwellings	Single-family detached dwellings	P
Dwellings	Two-family dwellings	C

The City's current lot area requirements for the R-1 zoning district is as follows:

Dwelling, single family	10,000 square feet per unit
Dwelling, two family	7,500 square feet per unit

According to the 1992 property survey the City had on file, the lot area of the property is 14,262 square feet, or 738 square feet below the standard.

Previous applications.

- None

Variance

Section §16.60.040 of the City of Spring Lake Park's zoning code outlines the criteria for considering variances:

“The City Council may grant a variance from the strict application of this title and impose conditions and safeguards on the variance so granted only in instances where their strict enforcement would cause practical difficulties in complying with the official control because of circumstances unique to the individual property under consideration, and may grant a variance only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variances are consistent with the Comprehensive Plan. “Practical difficulties” as used in connection with granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes, but is not limited to, direct sunlight for solar energy systems. A variance shall not be granted to allow a use that is not allowed in the zoning district involved.”

Conditional Use Permit

Conditional use permits are considered permitted uses with reasonable conditions. Section § 16.56.030, F of the zoning code outlines the findings required prior to issuance of a conditional use permit:

1. The proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;
2. The use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity;
3. The proposed use will comply with the regulations specified in this title for the district in which the proposed use is to be located;

4. The use is one of the conditional uses specifically listed for the district in which it is to be located;
5. The proposed use shall not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity;
6. The use will not lower property values or impact scenic views in the surrounding area;
7. Existing streets and highways and proposed access roads will be adequate to accommodate anticipated traffic;
8. Sufficient off-street parking and loading space will be provided to serve the proposed use;
9. The use includes adequate protection for the natural drainage system and natural topography;
10. The proposed use includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance; and
11. The proposed use will not stimulate growth incompatible with prevailing density standards.

If the City Council takes action to deny the variance, the CUP application would also need to be denied as the proposed use does not comply with the regulations specified in the chapter (Finding #4).

Analysis and Recommendation

Variance

City staff believes that the applicant has shown that the proposed use would be reasonable and would not alter the essential character of the locality as the space above the garage currently exists and the home fits in with other homes in the neighborhood. In addition, a town home development is located just to the west of the property.

The larger question the City Council needs to answer is if the plight of the landowner is due to circumstances unique to the property not created by the landowner. The property is reasonably used as a single-family dwelling. Osborne Road is a major thoroughfare in Spring Lake Park, with a wider right-of-way than typical residential streets. The ROW is 82 feet wide, compared to 60 feet for a typical local street. This is a circumstance not created by the owner and unique to the few properties like this on major roads, whereas most single family lots are on narrower local streets. If Osborne Road had a typical ROW of 60 feet, the lot would have the necessary depth of 150 feet to achieve the 15,000 square foot lot area to qualify for a two-family dwelling.

In practical terms, therefore, the request meets the tests for a variance – the use itself is reasonable, the request would not alter the essential character of the locality, granting the variance is not for economic reasons alone, and there are circumstances unique to the property not created by applicant that make it impossible to meet the ordinance lot size standard.

Conditional Use Permit

Staff believes that, if the variance is granted, the use will qualify for a conditional use permit with the following findings:

- The proposed use will contribute to the general welfare of the neighborhood or community by creating a dwelling unit.
- The use will not be detrimental to the health, safety, morals or general welfare of persons residing or working the vicinity of the use or injurious to property values/improvements within the vicinity of the use as the second dwelling unit is located above the garage and maintains the residential character of the existing neighborhood.
- The proposed use, if the variance is approved, complies with Chapter 16 of the City Code.
- Existing infrastructure is adequate to accommodate anticipate traffic generated by the proposed use.
- The use will not impact the natural drainage system and natural topography of the site.
- Adequate measures are included to prevent or control offensive odor, fumes, dust, noise or vibration so that none of these will constitute a nuisance.
- That the proposed use is compatible with prevailing density standards as the R-1 zoning district envisions two family dwellings on larger lots.

Planning Commission Action

The Planning Commission held a public hearing on the application at its February 28, 2023 meeting. The Commission unanimously recommended approval of the variance and the conditional use permit. [see draft minutes from the 2/27/23 PC meeting, which are included with this memo]

If you have any questions, please do not hesitate to contact me at 763-784-6491.