

6.01: Public Hearing: Consider Request for a Conditional Use Permit and Variance Related to a Proposed Addition of a Carport to a Detached Accessory Building (Project No. 23-112); Case of Jay and Carol McDonald

Public Hearing

Commissioner Anderson called the public hearing to order at 7:02 p.m.

Presentation

Senior Planner Anderson presented the staff report stating that staff recommends approval of both the Conditional Use Permit (CUP) and variance requests.

Commissioner Anderson asked if the property would be in compliance, with the exception of the square footage, if the driveway were taken away on the side of the building.

Senior Planner Anderson replied that if the variance was not approved, and the driveway portion were removed, back to the five foot minimum setback, the current property would be in compliance and the CUP would cover the additional square footage.

Commissioner VanScoy asked the lifespan of the encroachment agreement.

Senior Planner Anderson replied that the City Attorney would be reviewing the document. He stated that as drafted there is language that states the agreement may be null and void if either property changes ownership. He noted that the City Attorney will determine if the agreement would need to run in perpetuity.

Commissioner VanScoy commented that once the variance is approved, that would run with the property and not the owner.

Senior Planner Anderson confirmed that if the variance were approved, it would allow a zero-foot setback but would not address encroachment onto a neighboring property. He stated that a condition within the variance, if approved, is that the encroachment agreement must be approved and recorded against both properties.

Citizen Input

Jay McDonald, 14275 Alpaca Street, commented that he was present to address any questions.

Commissioner VanScoy asked if it was a surprise that the driveway encroaches onto the neighbor's yard.

Mr. McDonald commented that when he purchased the property in 2018, he was still living in Fargo and did not move in until June of 2019. He stated that there was no driveway to the building, as the previous owner was driving across the grass, therefore he wanted to have a driveway put in. He stated that he had communication with the City about the driveway options, where he learned

the driveway had to branch off of the existing driveway. He commented that he had someone install the driveway at a time he was not home and was under the impression that his property included the row of trees, but it turned out that was a mistake. He commented that once he learned of the mistake, he reached out to his neighbor who did not have an issue with it. He stated that when he applied for the CUP, the issue came up again. He commented that he would be happy to have it all cleared up at this time.

Councilmember Olson asked which side of the building the carport would be located.

Mr. McDonald replied that it would be on the north side, which would be the opposite side of the driveway.

Motion by Commissioner Peters, seconded by Commissioner VanScoy, to close the public hearing.

A roll call vote was performed:

Commissioner VanScoy	aye
Commissioner Anderson	aye
Chairperson Gengler	aye
Commissioner Peters	aye
Commissioner Hunt	aye

Motion Carried.

Commissioner Anderson closed the public hearing closed at 7:17 p.m.

Commission Business

Motion by Commissioner Peters, seconded by Commissioner VanScoy, to adopt Resolution #23-240 granting a variance to the driveway setback on the subject property.

Further discussion

Commissioner VanScoy asked if the resolution includes the reference to the encroachment agreement. Senior Planner Anderson confirmed that is included.

A roll call vote was performed:

Commissioner Hunt	aye
Commissioner Peters	aye
Chairperson Gengler	aye
Commissioner Anderson	aye
Commissioner VanScoy	aye

Motion Carried.

Motion by Commissioner VanScoy, seconded by Commissioner Peters, to recommend that City Council adopt Resolution #23-239 approving a Conditional Use Permit for 700 square feet of accessory building space to allow the addition of a carport on the north side of the existing detached accessory building.

A roll call vote was performed:

Commissioner VanScoy	aye
Commissioner Anderson	aye
Chairperson Gengler	aye
Commissioner Peters	aye
Commissioner Hunt	aye

Motion Carried.

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