

**CITY OF COLOGNE  
CITY COUNCIL  
RESOLUTION NO. 19-21  
RESOLUTION APPROVING APPEAL OF VARIANCE DECISION BY THE BOARD OF  
APPEALS AND ADJUSTMENT FOR 307 PLEASANT STREET EAST**

**WHEREAS**, Mary and James Meuwissen ("Applicant") are the applicant for an application related to property located at 307 Pleasant Street East; and

**WHEREAS**, the property is zoned R-1, Single Family Detached; and

**WHEREAS**, the Applicant had applied for a variance to permit the construction of an additional detached accessory structure consisting of approximately 900 square feet on the property; and

**WHEREAS**, the property currently has an attached accessory structure (2-car garage) and an approximately 300 square foot detached accessory structure; and

**WHEREAS**, the zoning ordinance does not permit detached accessory structures in excess of an aggregate total of 200 square feet within the R-1 zoning district; and

**WHEREAS**, Minnesota Statute Section 462.357, subd. 6 provides:

- a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
- b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

**WHEREAS**, the public hearing was properly noticed and scheduled for October 7, 2019; and

**WHEREAS**, the application was reviewed by the Board of Appeals and Adjustment at its meeting on October 7, 2019; and

**WHEREAS**, the Board of Appeals and Adjustment made the following findings of fact at its meeting on October 7, 2019:

1. The proposed variance is not a reasonable use of the land. Section 153.016 of the City Code of Ordinances provides all homeowners with the opportunity to have a reasonable amount of accessory structure (typically garages and storage), which may be either attached or detached from the principal structure (home). The proposed request to construct an additional 900 square feet of detached accessory structure on a property that is small in size (.48 acres) and that already contains at least a 2-car garage that is attached to the home and an additional approximately 300 square feet of detached accessory structure is already in excess of the City ordinances.

2. The plight of the landowner is due to circumstances created by the landowner and are not unique to the property. The lot is a typical lot in the City and already has more accessory storage space than a typical lot.
3. The variance would alter the essential character of the locality. The homes in the neighborhood are typical single-family homes with a 2-car attached garage, and an occasional small storage shed in the back. In addition, the proposed accessory structure does not have a practical means of access given the size of the lots in the neighborhood and the close proximity of the home on the lot to the side lot lines preventing access from the street.

**WHEREAS**, the Board of Appeals and Adjustment adopted Resolution 19-03 denying the variance at its meeting on October 7, 2019; and

**WHEREAS**, the Applicant filed an appeal of the decision of the Board of Appeals and Adjustment as permitted Under Section 153.090 (C) of the City Code of Ordinances; and

**WHEREAS**, a public hearing before the City Council was scheduled for November 18, 2019;

**NOW, THEREFORE, BE IT RESOLVED**, the City Council makes the following findings:

1. The proposed variance is a reasonable use of the land. The applicant is storing items outside and is proposing to store them inside a building if allowed to construct the building.
2. The plight of the landowner is due to circumstances not created by the landowner and that are unique to the property. The rear of the lot abuts TH 212, allowing the occupants of the home to hear highway noise. One of the traffic turnarounds on TH 212 is also situated in a way that headlights can shine into the back windows of the home, which the shed would block. This situation is unique to this property.
3. The variance would alter the essential character of the locality. The homes in the immediate vicinity are typical single-family homes constructed in the 1970's and 1980's with a 2-car attached garage, and an occasional small storage shed in the back. The homes located approximately one block to the north are of an older vintage and style that frequently did not include an attached garage and as such where space has allowed some of these property owners have constructed a larger detached garage in compliance with the terms of the zoning ordinance. The newer portion of the neighborhood is accessed through this older portion of the community.

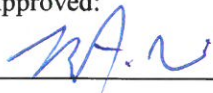
**BE IT FURTHER RESOLVED**, the City Council approves a variance to permit accessory buildings on the Subject Property not to exceed 900 square feet, subject to the following conditions:

1. No building permit shall be issued until a Certificate of Survey prepared by a licensed professional is provided for the review and approval of City staff. If the Certificate of Survey is approved, the accessory building shall be constructed in substantial conformance with

those approved plans. No improvements other than those shown on the Certificate of Survey are permitted.

2. No grading or land disturbing activities are permitted to occur within the existing easement on the property, nor may the easement be utilized for driveway purposes.
3. The existing accessory building shall be removed within one month of the issuance of a certificate of occupancy for the new accessory building. The escrow in condition #4 shall not be released until the existing accessory building has been removed.
4. Prior to the issuance of a building permit an escrow of \$5000 shall be provided to the City to ensure compliance with the conditions of this variance and may be used by the City as it determines necessary to complete any conditions of the variance or to restore or mitigate any damage to the easement area caused by the construction on the site. Following completion of the project and conditions in a manner determined satisfactory by the City Engineer, any remaining escrow balance shall be returned to the applicant without interest.
5. The Certificate of Survey to be submitted shall comply with all ordinance requirements including but not limited to setbacks, height, impervious surface coverage. The only variance granted is to permit an accessory structure of not to exceed 900 square feet.
6. Building plans shall be submitted that document compliance of the new building with relation to the maximum building height of 20 feet as well as ensuring that the exterior design of the garage is compatible with the existing home in relation to roof and siding materials, roof pitch, and other design characteristics. The plans shall be reviewed by city staff, and no building permit shall be issued until building plans in compliance with the zoning ordinance have been approved by staff.
7. Outside storage is not permitted. All vehicles and trailers shall be parked inside a building or on the paved driveway in front of the home.
8. The accessory building shall be used for personal use only and not for the operation or storage for a business use.
9. No driveway shall be operated or maintained on the drainage and utility easement. Any maintenance or repairs that may be needed to the stormwater infrastructure contained within the drainage and utility easement on the western side of the property shall be the responsibility of the property owner.
10. All funds owed to the City for the processing of this application shall be paid in full prior to the issuance of a building permit.
11. The variance shall expire if these conditions are not met and a building permit is not received for the property by June 16, 2020.

Approved:



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Matt Lein  
Mayor

Attested:

Michelle Morrison  
Michelle Morrison  
City Clerk

M/ Kells

S/ Bruss

Lein Nay

Szaroletta Nay

Kells yea

Bruss yea

Lenzen yea