

**CITY OF COLOGNE
CITY COUNCIL
RESOLUTION NO. 22-31
RESOLUTION DENYING APPEAL OF VARIANCE DECISION BY THE BOARD OF
APPEALS AND ADJUSTMENT FOR 310 PARK STREET EAST**

WHEREAS, Scott and Halie Meuwissen (“Applicant”) is the applicant for an application related to property located at 310 Park Street East; and

WHEREAS, the property is zoned R-1, Single Family Detached and lies within the Shoreland Overlay, which limits impervious surface coverage to 25%; and

WHEREAS, the Applicant has applied for two variances to 1) permit the construction of a detached accessory structure consisting of approximately 1,152 square feet on the property and 2) permit impervious surface coverage of 33.4%; and

WHEREAS, the property currently has an attached accessory structure (2-car garage) and an approximately 216 square foot detached accessory structure(s); 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, the accessory structure proposed by the Applicant exceeds the maximum allowable size for an accessory structure in the R-1 zoning district; and

WHEREAS, the subject property is typical of residential lots in the City; and

WHEREAS, the subject property is approximately 700 feet from Lake Benton, which the Minnesota Pollution Control Agency has declared to be an impaired body of water; 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 November 7, 2022; and

WHEREAS, the application was reviewed by the Planning Commission and a public hearing was held during its meeting on November 7, 2022; and

WHEREAS, the Board of Appeals and Adjustment made the following findings at its meeting on November 7, 2022:

1. The above recitals and accompanying comment memo from Collaborative Planning, LLC are hereby incorporated as findings of fact.
2. 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 1,152 square feet of detached accessory structure on a property that is typical in size (.425 acres) and that already contains at least a 2-car garage that is attached to the home would be in excess of the City ordinances and significantly out of scale with the surrounding neighborhood. If allowed to be constructed, this would also require a variance from the impervious surface coverage limits for the garage and the surfacing of the driveway within the shoreland overlay of Lake Benton. Both variances are inconsistent with the purpose and intent of the City ordinances and are inconsistent with the Comprehensive Plan.
3. The plight of the landowner is due to circumstances created by the landowner and are not unique to the property. There is nothing unique about the property that prevents the Applicant from complying with City ordinances. The lot is typical of residential lots within the City. Here, the Applicant wants to construct an improvement that is not allowed under the zoning code. This is not an appropriate use of a variance. The property has an existing 2-car attached garage, which is more garage space than many lots in the Downtown Overlay District. The maximum impervious surface coverage may be lower than a residential city lot outside of the shoreland overlay, but that is not unique in Cologne; many residential properties within the City, perhaps 50% of them, are located within the shoreland overlay, including those in the locality of the Applicant.
4. The variance will alter the essential character of the locality. The homes in the neighborhood are typical single-family homes with a 1- or 2-car attached garage, and an occasional small storage shed in the back yard. None of the properties on the Applicant's block, Park Street East, have both a 2-car attached as well as a detached accessory garage structures. As proposed, the additional detached accessory structure is considerably larger than a typical accessory structure on a small urban single-family lot within the City. Even if the Applicant did not have an existing garage, the size of the proposed detached accessory structure is out of scale for the neighborhood, which would be larger than many of the principal residential structures in the surrounding area.

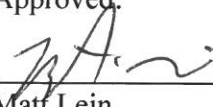
WHEREAS, the Board of Appeals and Adjustment adopted Resolution 22-04 denying the variance at its meeting on November 7, 2022; and

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 December 5, 2022; and

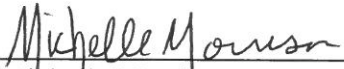
NOW, THEREFORE, BE IT RESOLVED, the City Council concurs with the findings of the Board of Adjustment and Appeal; and hereby denies the appeal to issue a variance to 1) permit an accessory building not to exceed 1,152 square feet and 2) permit impervious surface coverage of 33.4%.

Approved:



Matt Lein
Mayor

Attested:



Michelle Morrison
City Clerk

M/ Bruss

S/ Kells

Lein yes

Kells yes

Szaroletta yes

Lenzen absent

Bruss yes