
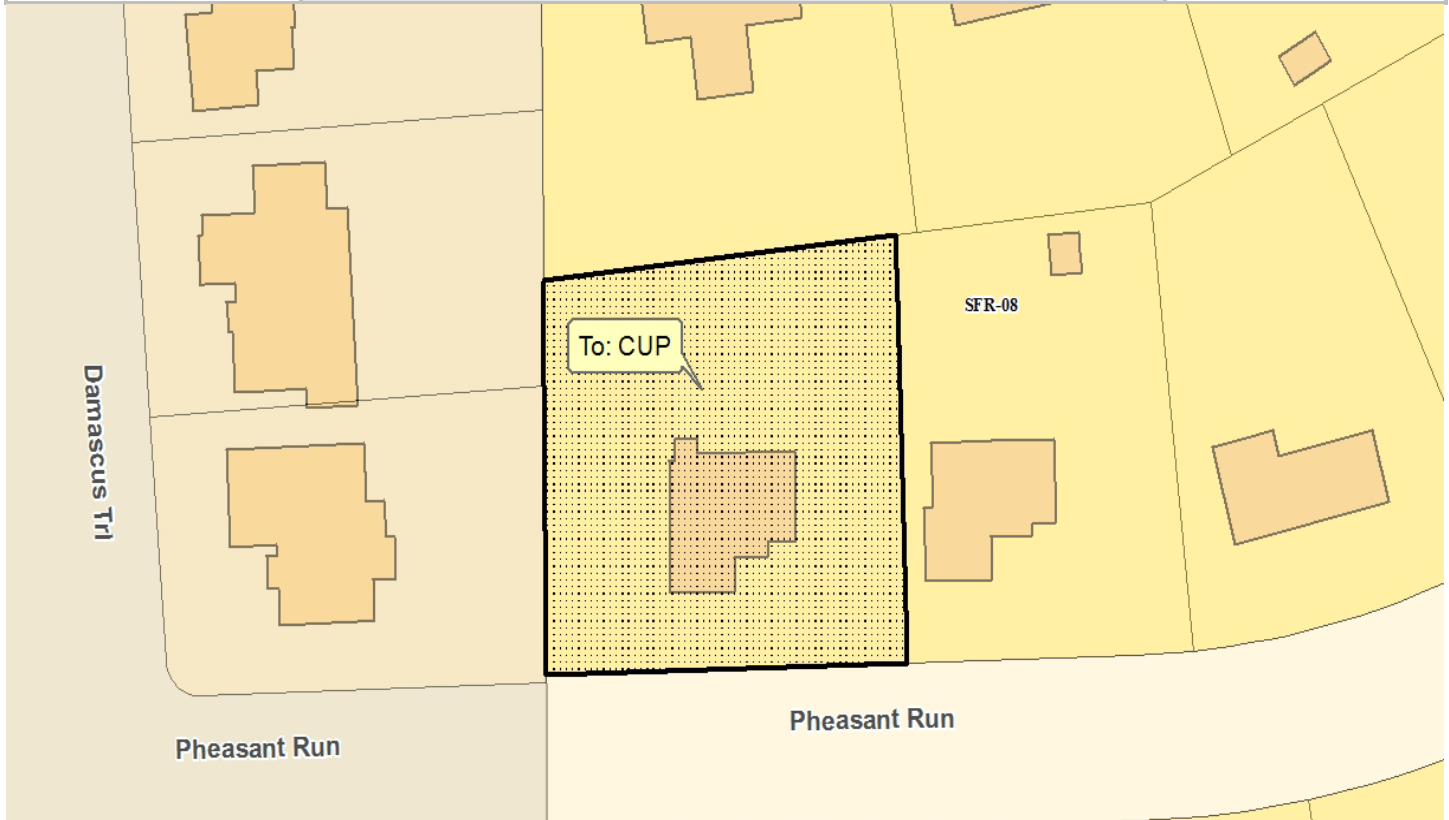


Staff Report  Zoning and Land Regulation Committee Questions? Contact: Pam Andros: 261-9780	<u>Public Hearing:</u> November 26, 2019	CUP 02482	
	<u>Zoning Amendment Requested:</u> TO CUP: RESIDENTIAL ACCESSORY BUILDING BETWEEN 12'-16' IN HEIGHT.	<u>Town/Section:</u> COTTAGE GROVE, Section 5	
	<u>Size:</u> 0.59 Acres	<u>Survey Required.</u>	<u>Applicant</u> JASON R BREE
	<u>Reason for the request:</u> RESIDENTIAL ACCESSORY BUILDING BETWEEN 12'-16' IN HEIGHT.	<u>Address:</u> 2764 PHEASANT RUN	



DESCRIPTION: The applicant wishes to build a residential accessory building with a mean roof height of 14.5 feet, to be used as a woodshop.

OBSERVATIONS/FACTUAL INFORMATION:

The property is part of the Ravenwood Estates subdivision which was as platted in 1978. Covenants and restrictions were placed on the subdivision prohibiting the construction of outbuildings; however, the covenants had an expiration date of 15 years.

TOWN PLAN: The subject property is in the *Neighborhood Development Area*.

RESOURCE PROTECTION: There are no environmentally sensitive features on this site.

TOWN: The town approved with the condition that the proposed building will only have a mean roof height of 14.5 feet, not the maximum 16 feet that a CUP in the SFR-08 district allows. *See Town Action Report.*

CONDITIONAL USE PERMIT PROCESS: Conditional uses are those uses, which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special

consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. Substantial evidence means, *“facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- b. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;
- c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the conditional use is consistent with the adopted town and county comprehensive plans.
- h. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

STAFF: The zoning district allows for the construction of an accessory building up to 12 feet in mean elevation (middle of the roof). The landowner may construct an accessory building up to 16 feet in mean height if a conditional use permit is obtained. The applicant has requested a CUP for the maximum 16 feet in mean height which would place the peak of the building at 21 feet. The Town is requiring the applicant to reduce the height of the building to 14.5 feet or a peak elevation of 19.8 feet.

Suggested Condition:

1. The accessory building shall be constructed up to a maximum height of 14.5 feet mean elevation with a peak height of 19.8 feet.

NOV 27th ZLR MEETING: The Committee postponed action on the conditional use permit due to public opposition from an adjacent neighbor. Mrs. Rathgeber stated that the building will impact her view from her kitchen window.

STAFF UPDATE: The construction of an accessory building is permitted by right in residential zoning districts. Without a conditional use permit, the peak height for the accessory building could be 15 feet (12 feet mean). The requested peak height is 19 feet 8 inches (14.5 feet mean), an increase of 4 feet 8 inches. There are large deciduous trees on the property line which act as a buffer between the accessory building and the neighbor in opposition. Given reduced height approved by the Town, the modest height difference, and the existing landscape buffer, Staff feel that the granting of the conditional use permit would not significantly impact neighboring property owners.