



## **PLANNING COMMISSION MEETING AGENDA**

Monday, August 19, 2024

Council Chambers, 705 Parkway Avenue

6:00 p.m.

### **CALL TO ORDER:**

### **APPROVAL OF THE AGENDA:**

### **APPROVAL OF MINUTES:**

### **NEW BUSINESS:**

1. Public Hearing for Variance Application Received from 401 LeRay Avenue

### **OTHER**

1. Monthly Building and Zoning Permit Activity

### **ADJOURNMENT**

If you have any comments, questions or information that has not yet been presented or discussed regarding an agenda item, please ask to be recognized by the Chairman during the agenda item.

Please state your name and address for the record. All comments are appreciated.

If you have any questions, please feel free to contact City Hall at 507.257.3218 or email [jbromeland@eaglelakemn.com](mailto:jbromeland@eaglelakemn.com).

**CITY OF EAGLE LAKE**  
**PLANNING COMMISSION MEETING MINUTES**

**July 15, 2024**

**CALL TO ORDER:**

Commissioner Talle called the meeting to order at 6:00 p.m.

**MEMBERS PRESENT:**

• Ray Beckel, Richard Garvey, Trent Talle, Jan Hughes, Michael McCarty, Aaron Stubbs and Tom David Barna.

**MEMBERS ABSENT:**

Michael Hughes

**STAFF PRESENT:**

• Olivia Adomabea, Community Development Coordinator & Jennifer Bromeland, City Administrator.

**PUBLIC PRESENT:**

Troy Dawn & Ania Janssen

**APPROVAL OF THE AGENDA:**

Commissioner Beckel moved, seconded by Commissioner Garvey, to approve the amended agenda to add an item to 'other'. A roll call was taken with all in favor. Motion carried.

**APPROVAL OF MINUTES:**

Commissioner Jan moved, seconded by Commissioner Beckel, to approve the minute. A roll call was taken with all in favor. Motion carried.

## **NEW BUSINESS:**

### **1. Variance Application received for 401 LeRay Ave.**

- Community Development Coordinator Adomabea explained to the planning commission that a variance application request was received for 401 LeRay. She explained that the applicant is requesting a 5-foot variance from the property's 8-foot left side yard required setback to accommodate the construction of a hard surface to have a proper slope for the flow of water away from his house and to also use that surface for motor vehicle parking. The property is zoned single-family residential (R-1) on 0.15 Acres of land. Coordinator Adomabea indicated that the applicant has a reasonable motive to apply for a variance based on Section 6.100, Subd 9 of Chapter 6 of the zoning code. She also recommended that the commission give attention to the second half of the request to use the surface for motor vehicle parking since the city code does not allow for parking in the required side yard hence the applicant will need a second variance approval to be able to use the surface for parking.
- The applicant was called forward to explain why a variance has been requested. The applicant shared their plight with the commission. Discussions ensued and a motion was made by Commissioner McCarthy and seconded by Commissioner Stubbs with all in favor of scheduling a public hearing for the variance request. Motion carried.

### **2. Discuss Fox Meadows PUD-Phase 2**

- Coordinator Adomabea shared with the planning commission that city staff have had several discussions with Fox Meadows regarding phase 2 of the project and that before the commencement of phase 2, the developer is requesting an amendment of the recorded plat and development plans. According to Coordinator Adomabea, the developer is proposing an administrative split, amendment to the plat, and change of the development plans and design.
- Discussions ensued and the Commission highlighted some concerns ranging from density, access to utility, N-S road connections and addressing. Coordinator Adomabea noted that all the Commission's questions and concerns will be discussed with the developer and will be included in the staff's report after the necessary documents have been submitted by the developer and reviewed by staff. Discussions ended.

**OTHER:**

1. Commissioner Jan Hughes brought to the attention of the Commission to be an Alternate Commissioner while Commissioner Barna become a full time Commissioner. Discussions ensued and a motion was made by Commissioner Garvey and seconded by Commissioner Beckel to accept Commissioner Hughes's request. All voted in favor and motion carried.
2. Resignation of Community Development Coordinator: Administrator Bromeland informed the Planning Commission of Coordinator Adomabea's resignation from her position as the Community Development Coordinator.
3. Monthly Building and Zoning Permit Activity
  - The Monthly Building and Zoning Permit Activity was presented by Coordinator Adomabea. The meeting was adjourned at 6:45 p.m.

Submitted by: Olivia Adomabea, Community Development Coordinator.

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Planning Chairman Talle

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Community Development Coordinator Adomabea



705 Parkway Ave, PO Box 159, Eagle Lake, MN 56024  
(507) 257-3218 Phone (507) 257-3220 Fax

August 19, 2024

To: Planning Chair Talle and Commission  
From: Jennifer J. Bromeland, City Administrator  
Re: August 19, 2024 Planning Commission Meeting

#### New Business

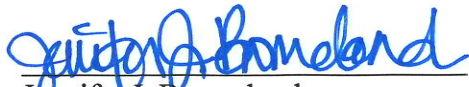
1. Public Hearing for Variance: 401 LeRay Avenue. Attached is an application received from 401 LeRay Avenue for a variance to encroach five feet into the required eight-foot side yard setback. Also attached is an excerpt from City Code related to the required side yard regulations and parking in the required side yard setback. When contemplating whether to grant a variance, the Planning Commission must apply the legal standard of practical difficulties to the facts presented by the applicant. "Practical Difficulties" is a three-factor test including reasonableness, uniqueness, and essential character (see attached summary sheet defining each of the three tests). A public hearing has been scheduled to consider the variance application. Notice of the public hearing was published in the newspaper and mailed to all property owners within 350 feet of the subject property. A letter in support of the variance application was received from Steve and Janice Regert at 409 LeRay Avenue and is attached to this memo. Also attached to this memo you will find a memo to the Planning Commission dated July 15, 2024 from the former Community Development Coordinator on this topic. In that memo, it was noted that the applicant included in their application that the proposed hard surface would allow for additional parking. Parking is not allowed in a required yard setback. Other reference materials attached include an excerpt from Eagle Lake City Code related to variances, and an informational sheet on variances and a model findings of fact resolution from the League of Minnesota Cities. We will discuss the variance request in detail and walk through findings of fact.

- Action Needed: If there is an interest in approving the variance request, then a motion is needed to recommend to the City Council that the variance be approved at its upcoming regularly scheduled meeting on September 9, 2024.

#### Other

1. Building and Zoning Permit Activity. A summary of building and zoning permit information will be distributed at the meeting. No action is needed as this is included for informational purposes.

2. Community Development Coordinator Hiring Update. A first review of applications will be conducted on August 23. Applications are being received at this time.



Jennifer J. Bromeland  
City Administrator

## **PUBLIC HEARING NOTICE**

**AUGUST 8, 2024**

### **PLANNING COMMISSION OF EAGLE LAKE**

Notice is hereby given that the Planning Commission of the City of Eagle Lake, Blue Earth County, Minnesota, will hold a public hearing on Monday, August 19, 2024, at 6:00 p.m. in the Council Chambers at City Hall (705 Parkway Avenue, Eagle Lake, MN). The purpose of this hearing is to consider a request for a variance to pour concrete to level up the slope in the required side yard of the property located at 401 LeRay Ave (parcel ID # R121018201019), which is zoned R-1 One Family Residential. All interested persons are invited to attend the public hearing and express their opinions with respect to this request.

The Planning Commission shall, within a reasonable time, pass upon the variance application as originally submitted or modified. If approved, the Planning Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its reasons, therefore. Such approval or disapproval shall be transmitted to the Council and the Council shall approve or disapprove the variance request.

You are receiving this notice because your property is located within 350 feet of the proposed variance.

Jennifer J. Bromeland  
City Administrator  
City of Eagle Lake  
[jbromeland@eaglelakemn.com](mailto:jbromeland@eaglelakemn.com)  
507-257-3218

Included for  
Reference  
Purposes

July 12, 2024

To: Planning Chair Talle and Commission  
From: Olivia Adomabea, Community Development Coordinator  
Re: 7-15-2024 Planning Commission Meeting

**New business 1: Variance Application Request**

A request for a variance has been submitted for the property located at 401 LeRay Ave by Troy Janssen, who is the applicant. The applicant is requesting a 5-foot variance from the property's 8-foot left side yard required setback to accommodate the construction of a hard surface to have a proper slope for the flow of water away from his house and to also use that surface for motor vehicle parking. The property is zoned single-family residential (R-1) on 0.15 Acres of land. Staff believes that the applicant has a reasonable motive to apply for a variance and recommend approval based on Section 6.100, Subd 9 of Chapter 6 of the zoning code and the findings of fact and applicant's narrative attached as Appendix A.

Staff will also recommend that the commission give attention to the second half of the request to use the surface for motor vehicle parking since the city code does not allow for parking in the required side yard. Staff believes the applicant will need a second variance approval to be able to use the surface for parking.

Discussion should ensue.

City staff recommend that if the Planning Commission schedules a public hearing for the variance, that a motion also be made.

Sincerely,

Olivia Adomabea

Community Development Coordinator.



8-14-24

TO WHOM IT MAY CONCERN:

I AM WRITING THIS LETTER  
IN SUPPORT OF TROY & DAWN,  
AT 401 LERAY AVE, IN REGARDS  
TO THEM WANTING A VARIANCE FOR  
INSTALLING A CONCRETE SLAB BETWEEN  
OUR 2 DRIVEWAYS.

THANKS

STEVE & JANICE RIEBERT  
409 LERAY AVE.

A handwritten signature in cursive script, appearing to read "Steve & Janice Riebert".

# APPLICATION FOR VARIANCE



**\$100.00 fee, plus \$2.00/notice sent to properties within 350 feet of property for which the variance is being sought. Recording Fee of \$46.00. Applicant must pay all fees in advance of the public hearing.**

705 Parkway Ave., PO Box 159  
Eagle Lake, MN 56024  
(507)257-3218  
(507)257-3220 fax

Applicant Name Troy Janssen  
 Day Phone 507-382-7472 Email Address troy.janssen@gmail  
 Applicant's Address 401 LeRay Ave, Eagle Lake  
 Address Requesting Variance 401 LeRay Ave, Eagle Lake  
 Legal Description \_\_\_\_\_  
 Parcel ID \_\_\_\_\_  
 Current Zoning  A-1  R-1  R-2  R-3  R-4  B-1  L-1  H-1

**In detail, describe the proposed variance and the practical difficulty in making the variance necessary. Also, furnish a site plan on 8 1/2 x 11" paper showing size of lot, size of structure, and distance from lot lines.**

*The sidewalk and grass on the NW corner of our house has sunk over time and has been an ongoing issue prior to us buying the house. Water drains towards the house from 15' to the west and 25' from the North. Since the sidewalk has sunk away from the house + needs to be redone we wish to add to it with the proper slope for water to correctly flow away from the house, and at the same time allow for a better place to park!*

Applicant's Signature [Signature] Date 7-1-24  
Clear Form

**Office Use Only**-----

Date of Application Notification: \_\_\_\_\_  
 Date Fee Paid: \_\_\_\_\_

- |  |   |
|--|---|
| <b>Planning Commission Action</b>                    | <b>City Council Action</b>                        |
| <input type="checkbox"/> Recommended                 | <input type="checkbox"/> Approved                 |
| <input type="checkbox"/> Recommended with conditions | <input type="checkbox"/> Approved with conditions |
| <input type="checkbox"/> Not recommended             | <input type="checkbox"/> Disapproved              |
| <input type="checkbox"/> Tabled                      | <input type="checkbox"/> Tabled                   |

City Administrator \_\_\_\_\_ Date \_\_\_\_\_

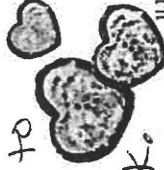


stjude.org/wemissyou

We are proposing a paved extension on the west side of our garage. This would be a <sup>non running</sup> ~~extension~~ of the rock garden. continuation

from the end corner of the house to the driveway

Severe drainage problem is ~~evident~~ evident with rain as the area needs to be built up. Currently water runs toward the foundation and sump pump runs constantly trying to keep up due to flawed groundwork.



111

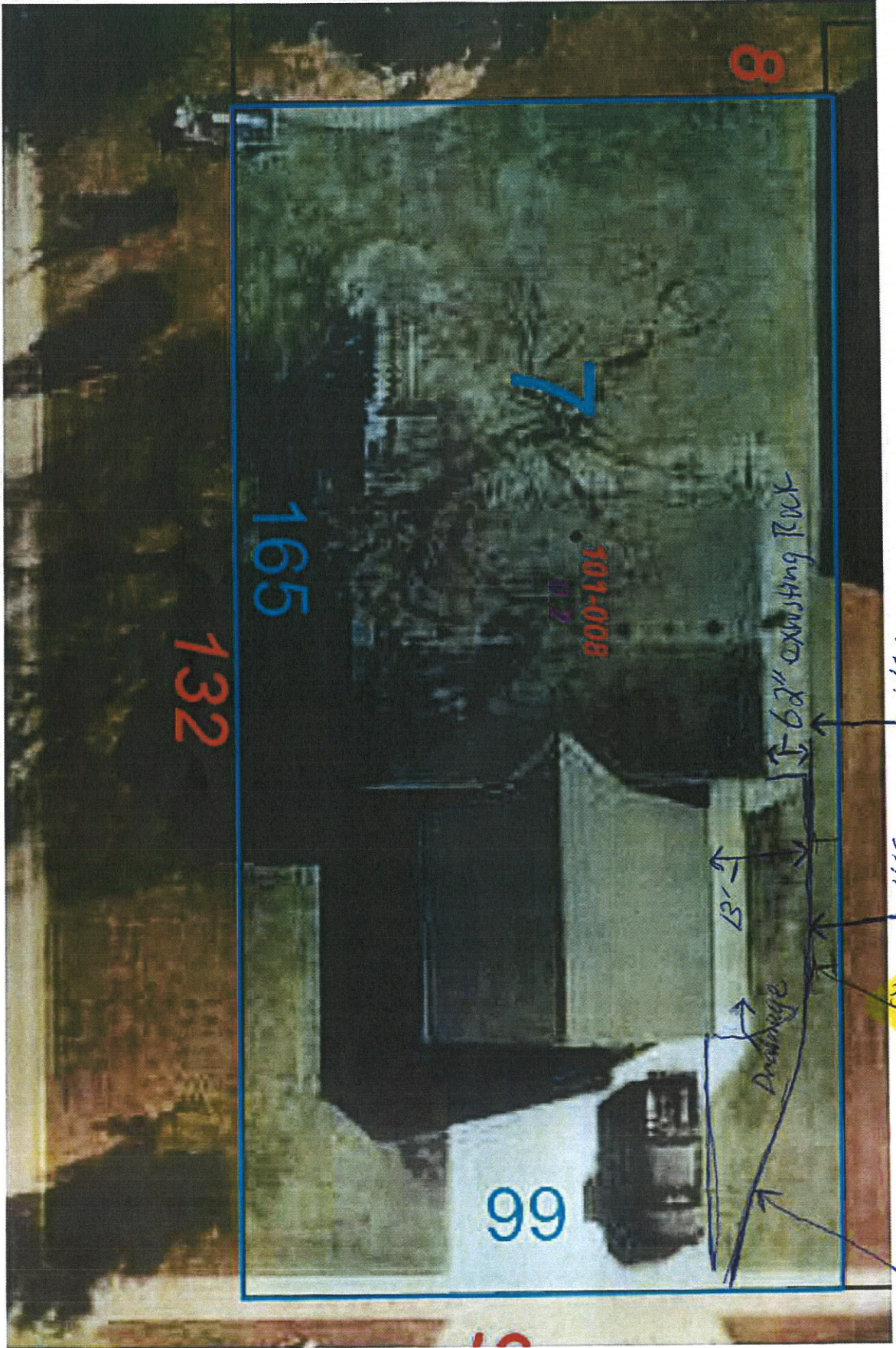
It is apparent that over time the ground ~~has~~ sank and sidewalk have sank on that side of our home. This was an issue prior to our purchase of the home and we will have the expense of correcting.

The requested dimensions of the paved built up area would be



Please see marking on plot ~~attached~~ picture.

Steve & Janice are fine with this plan & Steve even helped me measure it out.



neighbors driveway  
Steve & Janice Regent  
neighbors Garage

Proposed concrete edge,  
to match up to existing rocks.

## What is a variance?

A variance is a way that cities may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Sometimes a landowner seeks a variance to allow a use of their property that is not permissible under the zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota. State law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located ([Minn. Stat. § 462.357, subd. 6](#)).

## Granting a variance

Minnesota law provides for a body called the board of adjustment and appeals to hear requests for variances ([Minn. Stat. § 462.357, subd. 6](#)). In many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council.

A city may grant a variance if enforcement of a zoning ordinance provision, as applied to a particular piece of property, would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties ([Minn. Stat. § 462.357, subd. 6](#)). If the applicant does not meet all three factors of the statutory test, the city should not grant the variance. Also, variances are only permitted when:

- They are in harmony with the general purposes and intent of the ordinance, and
- The terms of the variance are consistent with the comprehensive plan.

## Legal standards

When considering a variance application, a city exercises “quasi-judicial” authority. This means the city acts like a judge in evaluating the facts against the legal standard. The city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. If the applicant meets the standard, then the city may grant the variance.

In contrast, when the city writes the rules in the zoning ordinance, the city is exercising “legislative” authority and has much broader discretion.

## Practical difficulties

“Practical difficulties” is a legal standard that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied.

## Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner.

This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance.

It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

## Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner.

The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.

When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

## Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality.

Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

## Undue hardship

“Undue hardship” was the name of the three-factor test prior to a May 2011 change of law (2011 Minn. Laws, ch. 19, amending Minn. Stat. § 462.357, subd. 6).

The 2011 law restored municipal variance authority in response to a Minnesota Supreme Court case (Krummenacher v. City of Minnetonka, 783 N.W.2d 721 (Minn. June 24, 2010)). The law now does both of the following:

- Provides consistent statutory language between city land use planning statutes (Stat. § 462.357, subd. 6) and county variance authority (Minn. Stat. § 394.27, subd. 7).
- Clarifies that conditions may be imposed on granting of variances if those conditions are directly related to, and bear a rough proportionality to, the impact created by the variance.

The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retained the familiar three-factor test of

- reasonableness
- uniqueness
- essential character

(12) consecutive months, unless a Building Permit is issued and the conditional use commenced within that period of time.

- A. Except when otherwise provided in the resolution approving the conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such lot.

**Subd. 13. Other Requirements.** Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued, shall require an amended Conditional Use Permit and all procedures apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council. Also, time limits, review dates, and such other information as may be appropriate.

- A. No application for a conditional use permit shall be resubmitted for consideration by the Planning Commission for a period of one-year following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or change of circumstances warrant it.

**Subd. 14. Fees.** An applicant for a conditional use permit shall pay a non- refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

Excerpt from Eagle  
Lake Zoning Code,  
chapter 6

**SECTION 6.100 VARIANCES**

**Subd. 1. Authority.** In accordance with the procedures and standards set forth in this Section, the City Council shall have the authority to grant variances from the provisions of this Ordinance in instances where their strict enforcement would cause a practical difficulty because of circumstances unique to the individual property.

**Subd. 2. Purpose.** The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Ordinance that create practical difficulties to a particular property.

**Subd. 3. Parties Entitled to Seek Variances.** Applications for variances may be filed by the owner of, or any person having contractual interest in, the property.

**Subd. 4. Procedure.** An application for a Variance shall be filed with the Zoning Administrator on a form provided by the City and shall contain at least the following information: To defray administrative costs of processing of requests for variances, a fee as set by the City Council from time to time, to include postage for each public hearing notice sent out, shall be paid by the petitioner.

- A. The applicant's name, address, and proof of interest in the property.

- B. The owner's name and address, if different than the applicant, and owners signed consent to the filing of the application.
- C. The street address and legal description of the property.
- D. The present use and zoning classification of the property.
- E. A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets and private right-of-ways bordering and adjacent to the site, the use and location of all adjacent property.
- F. The specific feature or features of the proposed use, construction, or development that requires a variance.
- G. The specific provisions of this Ordinance from which a variance is sought and the precise variance there from being sought.
- H. Statement of the characteristics of the property that prevent compliance with the provisions of this Ordinance.

**Subd. 5. Action of Zoning Administrator.** Upon receipt of a properly completed application for a variance, the Zoning Administrator shall forthwith transmit to the Planning Commission the application with all documents attached thereto.

**Subd. 6. Public Hearing.** Upon receipt of a properly completed application for a variance, the Planning Commission shall set a date for a public hearing.

**Subd. 7. Public Hearing Notice.** The Planning Commission shall hold a public hearing on the variance application within sixty (60) days after receiving the application by the Zoning Administrator. Notice of said public hearing shall be given in the City's official newspaper a minimum of ten (10) days prior to the hearing date and a maximum of thirty (30) days prior to the hearing. Notice shall be given by first class mail to all owners of property within three hundred fifty (350) feet from the proposed location of the conditional use.

The Planning Commission may require notice be given to property owners of an area greater than three hundred fifty (350) feet. The notice shall describe the particular variance and shall contain a brief description thereof. County records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

**Subd. 8. Action of City Council.** Upon considering the Planning Commission's recommendation, the City Council may grant the variance, grant the variance subject to conditions, or deny the variance.

**Subd. 9. Standards.** In considering an application for a variance, the City Council may approve such variance only upon the finding that the application complies with the following



standards:

- A. No variance shall be granted unless the applicant establishes that conforming to the strict letter of the provisions of this Ordinance would create a practical difficulty. Practical difficulties as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner that is not permitted by the zoning ordinance: the plight of the landowner is due to circumstances that are unique to the property and that were not created by the landowner; and the variance if granted will not alter the essential character of the neighborhood. The practical difficulty shall amount to more than a mere inconvenience to the owner and the practical difficulty shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot. Economic conditions alone do not constitute a practical difficulty.
- B. The unique physical condition and hardship shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Ordinance.
- C. The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by the owners of other property subject to the same provisions.
- D. The practical difficulty shall not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted.
- E. There are no means other than the requested variance by which the practical difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot.
- F. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- G. The variance would not result in a development on the lot that:
  - 1. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use development, or value of property or improvements permitted in the vicinity.
  - 2. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
  - 3. Would substantially increase congestion in the public streets due to traffic or parking.
  - 4. Would unduly increase the danger of flood or fire.

5. Would unduly tax public utilities and facilities in the area.
6. Would endanger the public health or safety.
7. Would not be in harmony with the general and specific purposes of this Ordinance and the comprehensive planning policies and objectives of the City.

**Subd. 10. Conditions on Variances.** The City Council may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this Ordinance. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this Ordinance and shall be expressly set forth in the resolution granting the variance.

Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the variance pursuant to Section 6.200.

**Subd. 11. Effect of Grant of Variance.** The approval of a proposed variance by the City Council shall not authorize the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the City, including, but not limited to, a Building Permit.

**Subd. 12. Limitations on Variance.** Subject to an extension of time granted by the City Council, no variance shall be valid for a period longer than twelve (12) months unless a Building Permit is issued, and a use commenced within that period of time.

**Subd. 13. Prohibited Variances.** Notwithstanding any other provision in this Section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located.

**Subd. 14. Fees.** An applicant for a variance shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

## **SECTIONS 6.110 MINNESOTA STATE BUILDING CODE**

**Subd. 1. Code Adopted by Reference.** The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota State Statutes Chapter 326B, including all the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Code and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

The site plan shall be drawn to a scale of one (1) inch equals twenty (20) feet or larger and shall include at a minimum the following information:

- A. The applicant's name, address, and interest in the property.
- B. The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the site plan.
- C. The street address and legal description of the property.
- D. The zoning classification and the required setback for the property.
- E. A complete description of the proposed use.
- F. The actual dimensions of the parking lot and exact sizes and location of all proposed buildings or other structures.
- G. The actual dimensions and location of all driveways, parking spaces, safety curbs, and loading areas.
- H. A depiction of all drainage features and any environmental features.
- I. Any other such information or documentation as the zoning administrator may deem to be necessary or appropriate to the full and proper consideration and disposition of the particular site plan.

**Subd. 8. Location of Parking Spaces.**

- A. Parking spaces required for one- and two-family dwellings shall be located on the same lot as the dwelling being served or on an abutting lot.
- B. Except for the property's driveway, all parking surfaces shall be set back a minimum of three (3) feet from any property line and parking surfaces shall not be allowed in the required side yard setback (8-5-13).
- C. The paved driveway shall not exceed a width of thirty-two (32) feet measured at the curb line (08-06-2018).
- D. Not more than thirty-five percent (35%) of the front, corner side yard, or rear yard setbacks shall be hard surfaced or used for driveways and/or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback. An approved zoning permit is required before any hard surface can be constructed.
- E. Off-street parking spaces required for all non-one- and two-family dwellings shall be located on the same lot as the land use activity; provided, however, that when four (4) or more parking spaces are required, off-premise parking may be provided on a lot located not

## Resolution Adopting Findings of Fact, LMC Model Resolution

League staff thoughtfully develops models for a city's consideration. Models should be customized as appropriate for an individual city's circumstances in consultation with the city's attorney. Helpful background on this model may be found in League information on "[Land Use Variances](#)."



**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

RESOLUTION NO. \_\_\_\_\_

### A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR \_\_\_\_\_ FOR VARIANCE APPLICATION OF \_\_\_\_\_ AT \_\_\_\_\_



*Insert either "approval" or "denial" in the first blank. Insert the applicant's name and address in the second and third blanks.*

#### FACTS

1. \_\_\_\_\_ is the owner of a parcel of land located at \_\_\_\_\_; and,



*Insert the applicant's name in the first blank, and the address including city and state in the second blank.*

2. The subject property is legally described as found on Exhibit A; and,

3. \_\_\_\_\_ has applied to the City for a variance to build \_\_\_\_\_ as described on Exhibit B



*Insert the applicant's name in the first blank and the proposed project in the second blank.*

4. The proposal would vary from (Ordinance Requirement) in that it would (Deviation Sought).



*Insert the ordinance requirement in the first blank and the deviation sought in the second blank.*

5. Following a public hearing on the application, the \_\_\_\_\_ Planning Commission has recommended (approval/denial) of the variance on (date).



*Insert the city's name in the first blank; either "approval" or "denial" in the second blank and the date of the Commission's action in the last blank.*

6. The City Council of the City of \_\_\_\_\_ reviewed the requested variance at its Meeting of \_\_\_\_\_.





*Insert the city's name in the first blank and the month, day and year of the council meeting in the next blank.*








*Add more facts about the project using additional numbers as may be necessary and relevant.*

**APPLICABLE LAW**

7. 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.
8. City Ordinance allows variances if \_\_\_\_\_  
 *Cite to relevant city variance standard, if applicable.*
9. City Ordinance requires \_\_\_\_\_  
 *Cite to applicable ordinances, including that being varied from.*

**CONCLUSIONS OF LAW**

10. The requested variance \_\_\_\_\_ in harmony with the purposes and intent of the ordinance because \_\_\_\_\_  
 *Insert either "is" or "is not" in the first blank, and your reasons in the second blank.*
11. The requested variance \_\_\_\_\_ consistent with the comprehensive plan because \_\_\_\_\_  
 *Insert either "is" or "is not" in the first blank, and your reasons in the second blank.*
12. The property owner \_\_\_\_\_ propose to use the property in a reasonable manner because \_\_\_\_\_  
 *Insert either "does" or "does not" in the first blank, and your reasons in the second blank.*
13. There \_\_\_\_\_ unique circumstances to the property not created by the landowner because \_\_\_\_\_  
 *Insert either "are" or "are not" in the first blank, and your reasons in the second blank.*
14. The variance \_\_\_\_\_ maintain the essential character of the locality because \_\_\_\_\_  
 *Insert either "will" or "will not" in the first blank, and your reasons in the second blank.*

**NOW THEREFORE,** BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, MINNESOTA AS FOLLOWS:

The application to issue a variance to allow \_\_\_\_\_ to build \_\_\_\_\_ so as to deviate from \_\_\_\_\_ is hereby \_\_\_\_\_.



*Insert the applicant's name in the first blank, the proposed project in the second blank, the ordinance requirement in the third blank, and either "approved" or "denied" in the last blank.*

Passed by the City Council of \_\_\_\_\_, Minnesota this \_\_\_\_\_ day of Month, Year.

\_\_\_\_\_  
Mayor

Attested:

\_\_\_\_\_  
City Clerk