

RESOLUTION NO. 24-099

**RESOLUTION APPROVING
VARIANCE AND INTERIM USE PERMITS
WITHIN THE CITY OF MARSHALL, MINNESOTA**

WHEREAS, the office of the City of Marshall Zoning Administrator received an application for a Variance Adjustment Permit and an Interim Use Permit dated October 8, 2024, for a storage unit (semi-trailer) on the property located at:

LOCATION: 1507 East College Drive.

LEGAL DESCRIPTION: F J MCLAUGHLIN 2ND SUBDIVISION LOTS 26 & 27

WHEREAS, the applicant was the property owner Brennan Clark;

WHEREAS, City staff representatives from the Community Planning Department reviewed the application for the Variance and Interim Use Permits;

WHEREAS, Zoning Ordinance Section 86-248 (f) states that “in Business districts, the 30 days limit [on storage unit placement] may be extended for longer by an Interim Use Permit, provided such unit is painted to match the building with no signage, lettering, or advertising of any sort and is not placed in the front yard or required side or rear yards.”

WHEREAS, the storage unit (semi-trailer) in question is located in the front yard, as it is defined by the Zoning Ordinance, Section 86-1, between the building and McLaughlin Drive, in a B-3 General business district;

WHEREAS, Zoning Ordinance provides for considerations for granting a variance as follows: the applicant shall prove that the literal enforcement of the provisions of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and the granting of the variances will be in keeping with the spirit and intent of this chapter. The term "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 not permitted by the zoning ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality;

WHEREAS, staff suggests the following in regards to Variance Permit considerations: the proposed use is reasonable; the problem is caused by the conditions unique to this property and not created by the landowner because it is a double frontage lot, with McLaughlin Drive in the rear serving mostly as a back service road for businesses facing East College Drive and Birch Street; and that granting the variance will not change the character of the area because this trailer has been there for a very long time and is not visible from East College Drive;

WHEREAS, Zoning Ordinance Sec. 86-49 outlines the following Standards for Hearing when an Interim Use Permit is considered:

- (1) Whether the proposed use is compatible with the existing neighborhood environment and use.
- (2) The adequacy of the access to roads and rights-of-way.
- (3) The additional traffic generated by facility.
- (4) The landscaping, fencing and/or screening plan.
- (5) The outside storage provisions.
- (6) The accessory buildings provisions.
- (7) The facility size.
- (8) The area of site.
- (9) The off-street parking facilities.
- (10) The density of the population and structures.
- (11) The duration of proposed Interim Use.
- (12) The natural features of the area.
- (13) The availability of existing utility and public service facility.
- (14) The future maintenance provisions.
- (15) Whether the proposed use will be injurious to the property or improvements in the area adjacent to such proposed use and the community as a whole.

WHEREAS, staff offered the following information for relevant items in regards to the above Standards for Hearing:

- (1) The lot in question is located in a B-3 General business district and semis and trucks are delivering goods there on a regular basis.
- (2) Not applicable.
- (3) Not applicable.
- (4) The standard B-3 general business district landscaping requirements are applicable.
- (5) The standard B-3 general business district outside storage provisions are applicable, which generally prohibit any outside storage.
- (6) This is not considered an accessory building.
- (7) The semi-trailer is of standard size, or about 300 SF.
- (8) The lot area is adequate.
- (9) The standard B-3 parking requirements are applicable, and 8 parking spaces are required for a building of this size.
- (10) Not applicable.
- (11) It will expire when the property changes owner.
- (12) Not applicable.
- (13) Not applicable.
- (14) The standard B-3 general business district maintenance provisions are applicable.
- (15) This should not be injurious to the adjacent area because this trailer has been there for very long time and is not visible from College Drive.

WHEREAS, a public hearing was scheduled for November 13, 2024, to consider the request for Variance and Interim Use Permits and notice of that hearing was published and was mailed pursuant to provisions of Ordinance Sec. 86-47, Sec. 86-29, and further in compliance with Minnesota Statutes;

WHEREAS, the public hearing was held as scheduled and the Planning Commission considered the above information and presentation by staff with a recommendation for the Planning Commission to recommend approval to the Council;

WHEREAS, the Planning Commission has evaluated all applicable considerations and finds and determined that granting requested Variance and Interim Use Permits will not be injurious to the adjacent properties and that all standards for hearing are satisfied.

WHEREAS, the Planning Commission has unanimously recommended to the City Council approving of both Variance and Interim Use Permits.

WHEREAS, the City Council reviewed the Minutes of the Planning Commission and heard from staff, and

WHEREAS, Staff reiterated its findings to the Council at the November 26, 2024, Council meeting,

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Marshall that the City Council accepts and adopts the findings of the Planning Commission.

FURTHER, BE IT RESOLVED, that the City Council accepts and adopts the following findings:

- (1) Because of the nature of the proposed use, the variance request meets the practical difficulties test:
 - a. 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.
 - c. The variance, if granted, will not alter the essential character of the locality.
- (2) Because of the nature of the proposed use and its location, the requested interim use:
 - a. Will not unreasonably diminish or impair established property values within the neighborhood or in any way violate the Ordinance provisions.
 - b. Will be in harmony with the general purpose and intent of the City Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

FURTHER, BE IT RESOLVED, that the City Council of the City of Marshall hereby approves the request for a variance adjustment permit for a storage unit (semi-trailer) on the property in a B-3 General business district to be located in the front yard, subject to on-going compliance with all of the following conditions:

- (1) Pursuant to Marshall Code Article 86-II, Division 86-II-1, Section 86-29, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of a variance adjustment permit approval or from when circumstance sufficiently change to justify a review.
- (2) The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
- (3) The City reserves the right to revoke the variance if the applicant, or if the ownership of the property has changed, then the current owner, has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.

FURTHER, BE IT RESOLVED, that the City Council of the City of Marshall hereby approves the requested Interim Use Permit for a storage unit (semi-trailer) on the property in a B-3 General business district, subject to on-going compliance with all of the following conditions:

- (1) Pursuant to Marshall Code Article 86-II, Division 86-II-2, Section 86-49, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of an Interim Use Permit approval or from when circumstance sufficiently change to justify a review.
- (2) The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
- (3) The semi-trailer shall be painted to match the building with no any signage or writing and shall have current registration tabs.
- (4) This interim use permit expires when the property owner is changed.

Mayor

ATTEST:

City Clerk