

VARIANCE ADJUSTMENT PERMIT
City of Marshall, Minnesota

WHEREAS, The Planning Commission of the City of Marshall has held a Public Hearing for a Variance Adjustment Permit to have reduced yards, on the premises described as:

**Lot 16, Block 4, Eatros Place
City of Marshall, County of Lyon, State of Minnesota
710 South Bend Avenue**

and; in accordance with and pursuant to the provisions Chapter 86 of City Code of Ordinances related to zoning; and has written findings that the establishment, maintenance or conducting of the use for which the permit is sought will not under the circumstances be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the area adjacent to the use, or to the public welfare, or injurious to property or improvements in the area adjacent to such use, and;

WHEREAS, The Planning Commission has designated certain conditions in the granting of such permit.

NOW THEREFORE, be it resolved by the Common Council of the City of Marshall, Minnesota, that a variance adjustment permit be granted to build a garage with five-foot rear yard and ____-foot side yard, subject to 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 owner shall obtain all relevant and required permits prior to beginning any work and meet all applicable codes.
4. 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.

ADOPTED: JULY 25, 2023

ATTEST:

Mayor

City Clerk

(SEAL)

This Instrument Drafted By:
Jason R. Anderson, P.E., City Engineer/Zoning Administrator
File No. 1155

**FINDING OF FACTS
A VARIANCE ADJUSTMENT PERMIT
FOR 710 SOUTH BEND AVENUE
WITHIN THE CITY OF MARSHALL, MINNESOTA**

WHEREAS, an application has been submitted by Bradin Wyffels, (“Applicant”) to the City Council requesting approval of a variance adjustment permit under the Zoning Code, Article 86-II, Section 86-29, in the City of Marshall for the following location:

LOCATION: 710 South Bend Avenue.

LEGAL DESCRIPTION: Eatros Addition, Block 4, Lot 16.

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A variance adjustment permit to install an accessory garage building within required yards on the property located at 710 South Bend Avenue and legally described above, and

WHEREAS, notice required pursuant to Minnesota Statutes Section 462.357 including the time, place and purpose of the hearing was published in the official newspaper at least ten days prior to the day of the hearing; and

WHEREAS, notice required pursuant to Minnesota Statutes Section 462.357 was mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the variance adjustment permit relates; and

WHEREAS, the Planning Commission has held a public hearing as required by the city Zoning Code on July 12, 2023, and

WHEREAS, Zoning Ordinance requires 12 feet rear yard and five feet side yard for all accessory buildings, and

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, and

WHEREAS, staff presented the Planning Commission with information that the applicant wants to install a garage with five feet rear yard and two feet side yard, and

WHEREAS, staff believe this proposal meets the practical difficulties test for a rear yard variance for the following reasons:

- There are numerous structures in this neighborhood and area that do not meet minimum setbacks so the new garage will fit with the essential character of the locality.
- There is a garage located here today.
- The lot is unique due to the orientation of the lot. The rear yard of this lot aligns with the side yard of 604 W. Southview Drive. In a more typical lot orientation, the neighbor at 604 W. Southview Drive could expect a structure within 5-FT of the lot line, and

WHEREAS, staff believe this proposal does not meet the practical difficulties test for a side yard variance, specifically placing a larger structure so close to the side lot line. The existing building is smaller than the proposed building, and the proposed detached garage will be quite close to the neighboring structure. Staff believe there is nothing unique to the property that makes it so the property owner could not construct the new detached garage in a manner that meets the required 5-FT side yard setback, and

WHEREAS, the applicant indicated he is requesting the variance mainly for the side yard to decrease setback in order to make the garage more accessible to pull into for both stalls because of the uniqueness of the lot. The lot is such that the house is about 13' away from the property line and with the City setback of 5' plus an additional 2' bump out of garage and door, there is practical difficulties for the property owner to access the garage as well as second stall with vehicles if required to follow that setback. The applicant states that he had talked to neighbors to south and north and they do not have a problem. Additionally, the proposed new garage would still sit 10' away from the neighbor's house, and

WHEREAS, the Planning Commission has discussed the above findings and, after discussion, held a vote on the request, and

WHEREAS, the Planning Commission, based on the above findings, has recommended to the City Council to approve a request for a variance adjustment permit to build a garage with five feet rear yard and two feet side yard, arising out of the motion offered by Pieper and seconded by Doom, and declared carried on the following vote Ayes: 7 Nays: 0 , and

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 July 25, 2023, Council meeting,

NOW THEREFORE, THE COUNCIL HAS RESOLVED, that the City Council accepts and adopts the following findings:

1. Because of the nature of the proposed use and its location, the 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.

FURTHER, THE COUNCIL HAS RESOLVED, that the City Council of the City of Marshall hereby approves the request for a variance adjustment permit to build a garage with five-foot rear yard and side 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 owner shall obtain all relevant and required permits prior to beginning any work and meet all applicable codes.
4. 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.

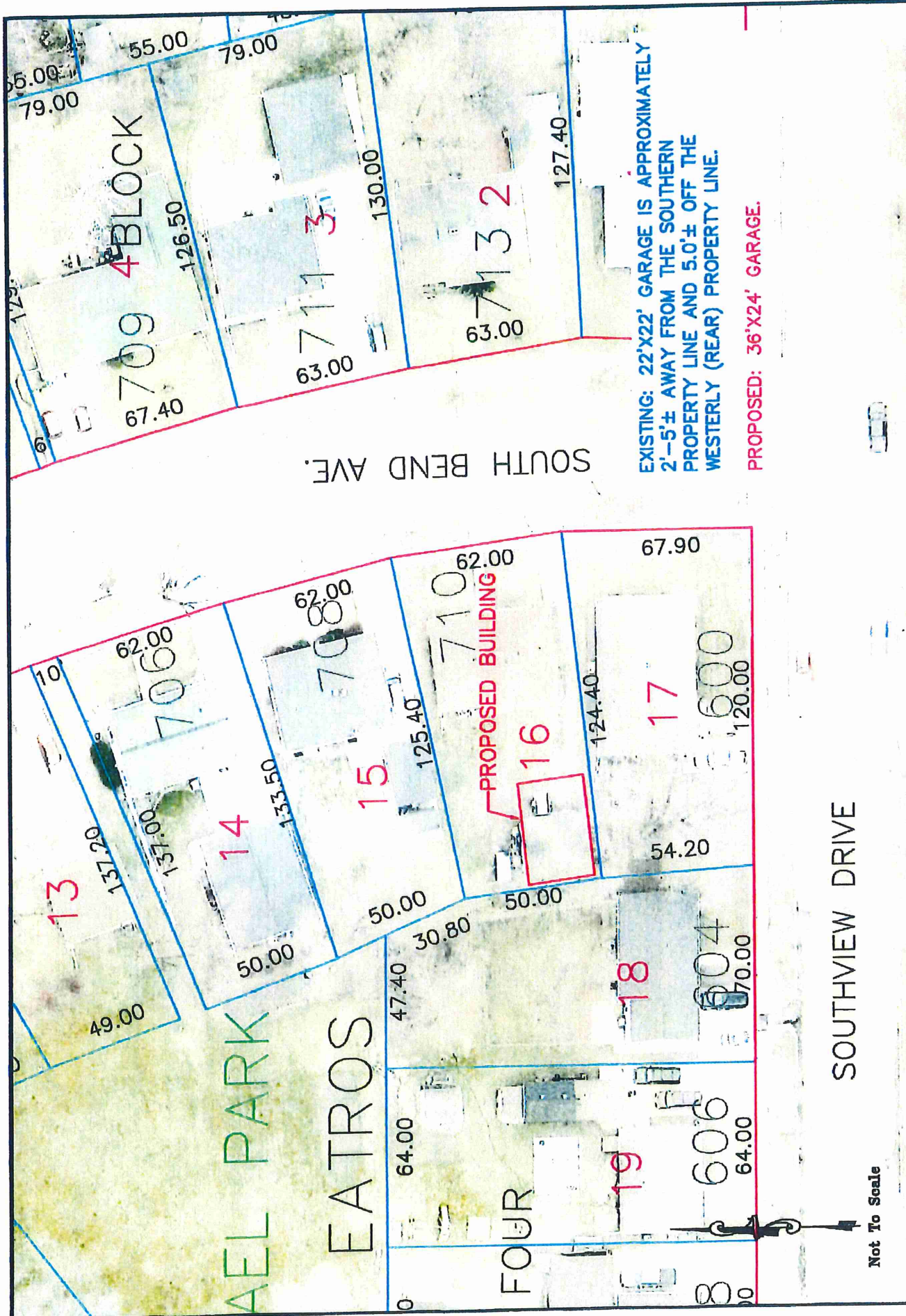
The decision arising out of the motion offered by _____ and seconded by _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:


Approval is contingent upon execution and return of this document to the City Planning Office. I have read and agree to the conditions of this resolution as outlined above.

Property Owner / Applicant

Date



Not To Scale

 MARSHALL	ENGINEERING DEPARTMENT 344 WEST MAIN STREET MARSHALL, MINNESOTA 56258	EXHIBIT A	6/29/2023
	SETBACK VARIANCE 710 SOUTH BEND AVE.		