

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 allow storage container as permanent storage on the premises described as:

SEE EXHIBIT A
City of Marshall, County of Lyon, State of Minnesota
516 A East Main Street

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 Monte Buntjer for a Variance Adjustment Permit to allow storage container as permanent storage on the premises described herein subject to the following conditions:

- 1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with.
- 2) That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default, and allow the applicant a reasonable time in which to cure any such default.
- 3) That the conditions contained in this permit shall be binding upon the successors and assigns of the applicant.

ADOPTED: January 26, 2021.

ATTEST:

Mayor

City Clerk

(SEAL)

This Instrument Drafted By:
Jason R. Anderson, P.E.
City Engineer/Zoning Administrator
File No. 1141

EXHIBIT A

TRACT I

That part of the Northeast Quarter (NE $\frac{1}{4}$) of section Nine (9), Township One Hundred Eleven (111), Range Forty-one (41), West of the Fifth Principal Meridian, bounded and described as follows: Beginning on the Southwesterly line of East Main Street extended in the City of Marshall at a Point 1229.7 feet Northwesterly from the intersection of said street line with East line of said Section Nine (9); running thence in a Southwesterly direction at right angles to said street line, a distance of 314 feet to the true point of beginning; continuing thence in a Southwesterly direction along said line, and at right angles to said street line, a distance of 233 feet more or less to the former right of way of Winona and St. Peter Railway and designated as Point "A"; beginning again at the true point of beginning and running in a Northwesterly direction parallel with East Main Street a distance of 75 feet; thence at right angles and in a Southwesterly direction to the former right of way of Winona and St. Peter Railway; thence in the Southeasterly direction along said railway right of way to Point "A", Lyon County, Minnesota, as shown by instrument recorded in Book 141 of Deeds, Page 293, in the Office of the County Recorder of Lyon County, Minnesota, subject to highways and easements of record.

AND

TRACT II

That part of the Northeast Quarter (NE $\frac{1}{4}$) of Section Nine (9), Township One Hundred Eleven (111), Range Forty-one (41), West of the Fifth Principal Meridian, bounded and described as follows: Beginning on the Southwesterly line of East Main Street extended in the City of Marshall at a Point 1304.7 feet Northwesterly from the intersection of said street line with East line of said Section Nine (9); running thence in a Southwesterly direction, at right angles to said street line, a distance of 314 feet to the true point of beginning, continuing thence in a Southwesterly direction along said line, and at right angles to said street line, to the former right of way of Winona and St. Peter Railway and designated as Point "A"; beginning again at the true point of beginning and running in a Northwesterly direction parallel with East Main Street a distance of 75 feet; thence at right angles and in a Southwesterly direction a distance of 219.5 feet more or less to the former right of way of Winona and St. Peter Railway; thence in a Southeasterly direction along said railway right of way of Point "A", Lyon County, Minnesota, as shown by instrument recorded in Book 141 of Deeds, page 292, in the Office of the County Recorder of Lyon County, Minnesota, subject to highways and easements of record.

CONNECTEXPLORER



map: Auto (Oblique) - Apr 2020 - May 2020 - < image 1 of 6 > 04/11/2020

Marshall Planning Commission
Findings of Fact – Request for Variance Permit
516A East Main Street, City of Marshall, Lyon County, Minnesota

1. Mr. Buntjer is the owner of a parcel of land located at 516A East Main Street.
2. The subject property is legally described as found on Exhibit A.
3. Mr. Buntjer has applied to the City for a variance to install a 40 foot shipping container as a permanent storage building.
4. The proposal would vary from Ordinance in that it requests using a shipping container as a permanent storage which is explicitly prohibited by Ordinance 86-163(b)(10).
5. 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.
 - c. Economic considerations alone shall not constitute practical difficulties.
6. City Ordinance allows variances if “(t)he 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” according to Section 86-29 (e). The practical difficulties are further defined according to the State Statutes as presented in Item 5 above.
7. City Ordinance Section 86-163 (b) (10) states that “Trailers, semi-trailers, and storage containers (including, but not limited to, cargo and shipping container and PODS or any structures made of the above components) must not be used as accessory buildings in all classes of residential or business districts.” Additionally, Section 86-248 (f) states that “Storage containers, including, but not limited to, trailers, semi-trailers, cargo and shipping containers, PODS, and dumpsters, are not allowed as permanent storage structures in all classes of residential or business districts.” Storage and shipping containers do not meet building code and do not fit into typical city environment, which may lead to reduction in surrounding properties’ values.
8. Below is analysis of the Minnesota Statute Section 462.357, subd. 6 applicability:

- a. The requested variance is not in harmony with the purpose and intent of the ordinance because it will deviate from the purpose of uniformity and maintaining property values.
 - b. The requested variance is unrelated to the comprehensive plan.
 - c. The property owner does not propose to use the property in a reasonable manner because conventional storage building may be built to comply with the Ordinance.
 - d. There are not unique circumstances to the property not created by the landowner because its size and location is not remarkable.
 - e. The variance will not maintain the essential character of the locality because there are no other storage containers in the neighborhood.
9. Based on the above information, staff concluded that there are no practical difficulties in this case and recommended that the variance request be denied.
 10. A public hearing was conducted at the special January 20, 2021, Planning Commission meeting. Notice of that hearing was published and was mailed pursuant to provisions of Marshall Ordinance Sec. 86-47 and in compliance with Minnesota Statutes.
 11. Following a public hearing on the application, the Planning Commission has recommended approval of the variance based on the fact that there are already several such containers around town that are a lot more of an eye sore than this one, which is barely visible from the street.

At the conclusion of the public hearing, motion was made by Commission Member Lee, seconded by Commission Member Knieff to recommend approval of the variance permit to the City Council.