

**Marshall Planning Commission**  
**Findings of Fact – Request for Variance Permit**  
**702 East Southview Drive, City of Marshall, Lyon County, Minnesota**

1. The office of the City of Marshall Zoning Administrator received an application for a variance related to property located at 702 East Southview Drive for reduced parking count from required 15 spaces to 11 spaces.
2. The owners are building an addition to their existing daycare facility which will require full compliance with the parking regulations of the Zoning Ordinance since the addition is larger than 50% of the existing building. Parking requirements for daycare facilities are based on the number of employees and children receiving services at the facility (1 per employee and 1 per 10 children). Based on the numbers provided by the owner, Marshall Zoning Ordinances requires that 15 off street parking spaces be provided.
3. Eleven parking spaces may be accommodated in front of the building with some minor adjustments (no parking may be located within 10 feet of the front property line). Even when the State requirements for outside playground area are taken into consideration, it seems that it would be possible to fit remaining four spaces in the back yard.
4. The Zoning Ordinance, consistent with the State Statute, states that a variance 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 Zoning Ordinance explains that 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.” It further clarifies that “Economic considerations alone shall not constitute practical difficulties if reasonable use for the property exists under the terms of this chapter.”
5. Staff concluded that, considering that the site can accommodate all required parking spaces, there are no practical difficulties in this case, and recommended that the variance request be denied.
6. A public hearing was conducted on July 10, 2019 to consider the request for a variance at 702 East Southview Drive. Notice of that hearing was published and was mailed pursuant to provisions of Marshall Ordinance Sec. 86-47 and in compliance with Minnesota Statutes.
7. The public hearing meeting was attended by the applicant, Brian Swalboski, City Attorney Dennis Simpson, and Councilmember James Lozinski. Councilmember Lozinski observed the proceedings but did not participate in the discussions or deliberations of the Commission. During the meeting, Mr. Swalboski stated that he would like to reserve the use of the entire back yard for present or future playground.
8. The Commission Members addressed questions to City Attorney Simpson related to the applicability of the “practical difficulties” standard. The Commission was advised that the applicant had the burden to verify the applicability of the practical difficulties standard if the variance request was to be granted. The Commission was further advised that economic considerations could not be the sole determination of practical difficulties, but economic

considerations could be considered along with other factors in deliberating as to whether the applicant had met his burden to justify the granting of the request for parking variance.

9. The Planning Commission Members then brought up several “practical difficulties” considerations: the parking spaces will be fully utilized only at the times of drop off (about two hours in the morning, according to the applicant) and pick up; there are presently no complaints from the parents about limited parking and there are no complaints from the neighbors about parking on the streets where employees currently park, according to the owner; the parking lot at the back, if it is built, will look silly and will not be utilized because it’s far away from the entrance and there will be nowhere to move the snow from it; and a parking lot at the back will make it easier for an unauthorized person to enter the facility.

At the conclusion of the public hearing, motion was made by Commission Member Fox, seconded by Commission Member Knieff to recommend approval of the variance permit to the City Council. Motion was approved by unanimous votes of all Planning Commission Members.

Marshall Planning Commission

  
By: Don Edblom  
Its: Chair