

**FINDING OF FACTS
A VARIANCE ADJUSTMENT PERMIT
FOR 304 EAST MARSHALL STREET
WITHIN THE CITY OF MARSHALL, MINNESOTA**

WHEREAS, an application has been submitted by Denise Strosahl, (“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: 304 East Marshall Street.

LEGAL DESCRIPTION: See Exhibit A.

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A variance adjustment permit to build an addition within required side yard on the property located at 304 East Marshall Street 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 November 8, 2023, and

WHEREAS, Zoning Ordinance requires five feet side yard for main structures in R-1 Single Family residence district but allows an up to two-foot roof overhang into that required side yard, 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 build an addition that includes a garage with three feet side yard, and

WHEREAS, staff believe this proposal meets the two of three conditions for practical difficulties test for the following reasons:

- Building an addition with garage is reasonable.
- There are numerous structures in this neighborhood and area that do not meet minimum setbacks so the addition will fit with the essential character of the locality, and

WHEREAS, an applicant made a presentation where he argued for uniqueness of the property:

- The lot may be considered unique due to the fact that this house was built in the late 1930’s

- as the first one on the block, before Zoning Ordinance, with the house centered on the lot,
- The setback currently in place in the Zoning Ordinances was adopted in 1967, and

WHEREAS, the Planning Commission discussed the variance request, including how the situation of the house on the property was unique and created practical difficulties for the property owner for the use and enjoyment of her property as a result of the house's location before the current zoning went into place; and

WHEREAS, the Planning Commission discussed how the variance aligns with the spirit and intent of the neighboring properties, including hearing from members of the public at the hearing in support of the project; and

WHEREAS, the Planning Commission has designated specific conditions to mitigate potential negative effect on the neighbor, whose house is separated from the property line with a driveway, 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 an addition with three feet side yard, arising out of the motion offered by Doom and seconded by Pieper, and declared carried on the following vote Ayes: 4 Nays: 0 , Passed: Y

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

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 of the property and the location of the structure which predates the current zoning, 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 an addition with garage with three-foot 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 wall located three feet away from the property line is 1-hr fire rated and does not have windows.
5. There is no roof overhang at the wall located three feet away from the property line.
6. 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