

--UNAPPROVED --

**MINUTES OF THE
MARSHALL PLANNING COMMISSION MEETING
MAY 12, 2021**

MEMBERS PRESENT: Schroeder, Knieff, Carstens, Lee, Fox, and Muchlinski

MEMBERS ABSENT:

OTHERS PRESENT: Jason Anderson, Ilya Gutman and Don Edblom

1. The meeting was called to order by Chairman Carstens. He asked for the approval of the minutes of the March 24, 2021, meeting of the Marshall Planning Commission. Schroeder MADE A MOTION, SECOND BY Fox, to approve the minutes with one change. ALL VOTED IN FAVOR OF THE MOTION.

2. Gutman explained the existing deck is projecting 4 feet from the house front entry porch. The front porch is already projecting about 6 feet into the required front yard. The overall projection of the structure is 10 feet into required front yard, while the Ordinance allows only 8-foot projections for decks. The owners want to rebuild the deck to make it 6 feet deep and have the steps down going in the direction of the street rather than along the house. The overall projection of the structure would be 12 feet, plus the length of the stairs. Only a 4-foot square landing, not including the stairs, is always permitted at the main entrance of the existing residential structures if replacing an existing landing. To grant a variance, City Ordinance would require the presence of practical difficulties. 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. Based on that information, staff does not believe that there are practical difficulties and therefore recommends that the variance be denied. Todd Raske, the applicant, said he does not see this being an issue. Gutman explained that it is not about being an issue; it is the law that we are going by. Todd Raske said that is why people get a variance - to go against the law. Gutman explained that it needs to meet certain criteria for a variance to be approved. Todd Raske said this should not be an issue because the house next to them is up further. He said this is just a deck, and it is not an issue to put a deck on the front of the house. Gutman stated that he understood the frustration, but this is not about this being an issue, it is about the law and meeting the criteria to grant a variance. Gutman added that the city received a letter from a neighbor that does not want this variance granted but explained that the letter should not be a significant factor in making a decision about the variance request. Todd Raske said someone moved this house in and now he bears the brunt of where they put the house. He said that there was a larger deck there before, but he took it down. He said he was not a happy camper here. He said there is no issue with line of sight at the intersection. Anderson informed that the setback ordinances are not regarding the line of sight. Knieff inquired how much different the new deck would be. Gutman said 2 feet wider. Anderson also explained the steps' location in front towards street. Lee MADE A MOTION, SECOND BY Muchlinski to close the public hearing. ALL VOTED IN FAVOR OF THE MOTION. Muchlinski said there are a lot of front porches. Gutman said he is not aware of how those porches came about and explained that the City is going by current statutes and the ordinance. Anderson explained that they are projecting into the 25-foot setback by 10 feet. Schroeder asked if existing deck is already in the required front yard setbacks. Gutman said that is correct. Fox questioned if the owner took away 2 feet of the new deck, would that be alright. Gutman said that

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would be the same as the existing deck, minus the stairs' projection. Knieff ask if the neighbors complained. Anderson said yes, we did receive the one letter. Gutman reminded everyone there is a deck there already. Barb Raske questioned the letters mailed out from the people on Donita. Gutman explained the City received the letter, so it had to make everyone aware of it. Carstens explained that Gutman and Anderson lay out the facts and the commission makes a recommendation. Edblom inquired about existing conditions. Todd Raske said there is a landing. Edblom asked if that is called a deck. Gutman said the ordinance does not distinguish between a deck and landing. Muchlinski asked what is stopping us from helping them out. Anderson said the commission can make any recommendation and the City just asks to consider that there may be future similar questions. Muchlinski asked if they could build the same as the old one. Gutman said according to the ordinance the old deck does not matter. Muchlinski said he is willing to go with the recommendation to build back. Muchlinski MADE A MOTION, SECOND BY Knieff to recommend to City Council to grant the variance as requested. Edblom asked to stop and asked about current projection into required setback. Gutman explained the existing porch and deck together project 10 feet and the ordinance allows 8 feet. Motion failed with 3 - 3 with Knieff, Carstens and Muchlinski in favor and Lee, Fox, and Schroeder against. Fox proposed a that is 2-foot shorter, in essence, building same size deck but allowing the stairs to project towards the front sidewalk. Muchlinski MADE A MOTION, SECOND BY Fox to recommend to City Council that new deck is 2 feet shorter than asked but the stair goes to the street. ALL VOTED IN FAVOR OF THE MOTION.

3. Gutman said this request by the Church of the Holy Redeemer is for a Conditional Use Permit to operate a daycare facility serving 57 individuals at 501 South Whitney Street. The daycare facility is in the Holy Redeemer school building, which is in an R-1 One Family Residence District. A daycare facility serving more than 14 individuals is a conditional use in this district. This daycare has been located there for some time, possibly before the current Ordinance took effect. The Department of Human Services requested that the City confirms the daycare's compliance with the Ordinance, so a Conditional Use Permit is required for full compliance. To avoid a need for more Conditional Use Permits in the future in case the number of kids increases, the staff suggested a reference to permitted number of kids rather than specific number. There have never been any complaints on file for current operations. Staff recommends approval to the City Council of the request of the Church of the Holy Redeemer for a Conditional Use Permit for a daycare facility at 501 South Whitney Street with the following conditions applied in addition to the three standard 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 Conditional Use Permit if any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default. 3.) That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties. 4.) The use must be licensed by the State of Minnesota. 5.) The use is limited to serving no more than the number of individuals permitted by State Licensing Agency. Fox MADE A MOTION, SECOND BY Schroeder to close the public hearing. ALL VOTED IN FAVOR OF THE MOTION. Fox MADE A MOTION, SECOND BY Knieff to recommend approval to City Council as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.
4. Gutman informed this request of the Church of the Holy Redeemer is for a Conditional Use Permit

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to operate a school at 501 South Whitney Street. The building is in an R-1 One Family Residence District and the Ordinance requires a Conditional Use Permit for schools there. This school has been located there for long time before the current Ordinance took effect. The school is grandfathered in but if an addition or significant remodeling will take place, a Conditional Use Permit will be required. Since they are applying for a Conditional Use Permit for a daycare, it made sense to run a Conditional Use Permit for a school concurrently. Staff recommends approval to the City Council of the request of the Church of the Holy Redeemer for a Conditional Use Permit to have a school in an R-1 One Family Residential District with the following standard 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 Conditional Use Permit if any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default. 3.) That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties. Muchlinski said the school is a natural part of neighborhood and has been there since built. Schroeder MADE A MOTION, SECOND BY Muchlinski to close the public hearing. ALL VOTED IN FAVOR OF THE MOTION. Schroeder MADE A MOTION, SECOND BY Lee to recommend approval to City Council as recommended by staff. ALL VOTED IN FAVOR OF THE MOTION.

5. Gutman explain this is the May meeting and all terms expire the end of May, so new chair and vice chair should be elected. Carstens said his first term is up and after much consideration he will not be doing a second term. Chairman Carstens asked for nominations for 2021/2022 officers. Schroeder nominated Lee for Chairperson, seconded by Fox. ALL VOTED IN FAVOR. Lee nominated Schroeder for Vice Chairperson; seconded by Knieff. ALL VOTED IN FAVOR
6. Gutman said in other business we would like to thank Carstens for his service. And thank Fox for agreeing to stay until we find a replacement. He also asked if anyone is available for a special meeting on June 2nd if it will be required for business development. All said they were available.
7. A MOTION WAS MADE BY Knieff, SECOND BY Schroeder to adjourn the meeting. ALL VOTED IN FAVOR. Chairman Carstens declared the meeting adjourned.

Respectfully submitted,
Chris DeVos, Recording Secretary