

**Marshall Planning Commission**  
**Findings of Fact – Request for Variance Permit**  
**1000 Country Club Drive, City of Marshall, Lyon County, Minnesota**

1. Mr. Aufenthie is the owner of a parcel of land located at 1000 Country Club Drive.
2. The subject property is legally described as found on Exhibit A.
3. Mr. Aufenthie has applied to the City for a variance to build a 26' x 40' detached garage that is placed about 20 feet closer to Country Club Drive than the front wall of the existing attached garage.
4. The proposal would vary from Ordinance Section 86-163 (b) (6) stating that “(i)n the R-1 one-family residence district and the R-2 one- to four-family residence district, an accessory building must not be located a lesser distance to a front property line than the main building...” in that it would build a garage closer to the street than the house.
5. The property is of significant size and there does appear to be sufficient space to construct garage to the side of the main building in a compliant manner by shifting its location 20 feet back.
6. A significant portion of the rear and front yards on the property is located within the regulatory floodway as identified by the most current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, Map Number 27083C0309D, Panel 0309D, effective 11/26/2010.
7. 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.
8. 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 7 above.
9. City Ordinance requires that “(i)n the R-1 one-family residence district and the R-2 one- to four-family residence district, an accessory building must not be located a lesser distance to a front property line than the main building...” according to Section 86-163 (b) (6). In stuff’s

view, this provision's goal is to provide uniformity and avoid often unsightly accessory buildings, which may be storage sheds with cheap finishes, being the focus of a property, which may reduce surrounding properties' values.

10. Below is analysis of the Minnesota Statute Section 462.357, subd. 6 applicability:
  - a. The requested variance is not in harmony with the purposes 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 there is an alternative which would be in compliance with the Ordinance.
  - d. There are not unique circumstances to the property not created by the landowner because properties next to it are very similar and all include large backyards and wide sideyards.
  - e. The variance will not maintain the essential character of the locality because no other house next to this one has a detached garage in front and one of the nearby houses has a garage located in the rear yard. All lots, including the golf club, have open spaces in front with a lot of tree cover.
11. Based on the above information, staff concluded that there are no practical difficulties in this case and recommended that the variance request be denied.
12. A public hearing was conducted at the regularly scheduled October 14, 2020 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.
13. Following a public hearing on the application, the Planning Commission has recommended approval of the variance. Planning Commission members justify this recommendation by existence of a deep front yard, absence of a negative effect on the neighbors, and their desire to let people control their properties without city's interference to increase property values.

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 present Planning Commission Members.

Marshall Planning Commission

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By: Don Edblom  
Its: Chair