

**RESOLUTION NO. 26-023**

**RESOLUTION APPROVING  
A VARIANCE ADJUSTMENT PERMIT  
FOR 1301 CANOGA CIRCLE  
WITHIN THE CITY OF MARSHALL, MINNESOTA**

**WHEREAS**, the office of the City of Marshall Zoning Administrator received an application for a Variance Adjustment Permit dated March 21, 2025, for a reduced rear yard on the property located at:

**LOCATION:** 1301 Canoga Circle.

**LEGAL DESCRIPTION:** WILKE-MILLER-BUESING 6TH ADDITION BLOCK ONE LOT 1, LOT 2, LOT 3, LOT 4, and LOT 5, City of Marshall, County of Lyon, State of Minnesota.

**WHEREAS**, the applicant for the Variance Adjustment Permit is the property owner Greg Taylor, and

**WHEREAS, THE APPLICANT SEEKS THE FOLLOWING:** A Variance Adjustment Permit to reduce a rear yard for buildings from required 25 percent of the lot depth to 10 feet and allow extending decks to the rear property line, 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**, a written request for a variance is subject to the Minnesota 60-day rule as codified in Minnesota Statutes §15.99. The 60-day rule requires an approval or denial of a variance within 60 days of the time request is submitted. However, the applicant submitted a written approval of the time extension that was caused by delays in plat development; and

**WHEREAS**, City staff representatives from the Community Planning Department reviewed the application for the Variance Adjustment Permit; and

**WHEREAS**, the owner proposes to build several duplexes (after rezoning the property to an R-2 one to four family residence zoning district) and wants to push buildings back as much as possible in order to be able to attach decks extending to the water line along the existing pond, and

**WHEREAS**, Zoning Ordinance requires a rear yard of twenty five percent of the property depth in an R-3 district. Considering that the lot depth varies from 114 feet to 147 feet due to the irregular rear property line that follows the pond edge, and that, according to preliminary plat, there will be a 20 feet wide access drive along northwestern line of the lot, the required rear yard depth will vary from 23.5 feet to 32 feet. Ordinance allows decks to project 8 feet into the required rear yard, so effective required rear yard for decks would vary from 15.5 feet to 24 feet, 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 believe this proposal meets all three conditions for practical difficulties test for the following reasons:

- Building twin townhomes with decks is reasonable.
- The lots are located along the existing pond, which is placed there for area drainage and, therefore, will have to stay there; as a result, the lots in question do not and will not have any adjacent occupiable lots on the back.
- Pushing buildings and decks closer to the pond should not affect the character of the area which is defined by a pond.

**WHEREAS**, the public hearing was scheduled for April 9, 2025, and was held as scheduled. Staff presented the above facts, and the Planning Commission discussed the variance request and heard from the applicant; and

**WHEREAS**, the Planning Commission has evaluated all applicable considerations and finds and determines that granting a requested Variance Adjustment Permit will not be injurious to the adjacent properties and that all conditions for granting a variance are satisfied, and

**WHEREAS**, the Planning Commission has unanimously recommended to the City Council approving the Variance Adjustment Permit, and

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

**WHEREAS**, Staff reiterated their findings to the Council at the March 10, 2026, Council meeting,

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Marshall that the City Council accepts and adopts the findings of the Planning Commission.

**FURTHER, BE IT RESOLVED**, that the City Council accepts and adopts the following findings:

Because of the nature of the proposed use, the variance 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 and not created by the landowner.
- c. The variance, if granted, will not alter the essential character of the locality.

**FURTHER, BE IT RESOLVED**, that the City Council of the City of Marshall hereby approves the request for a Variance Adjustment Permit to reduce a rear yard for buildings from required 25 percent of the lot depth to 10 feet and allow extending decks to the rear property line, 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 shall meet all applicable codes.
- (4) 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.

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Mayor

**ATTEST:**

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City Clerk