

**AGENDA**  
**MEETING OF THE MARSHALL PLANNING COMMISSION**  
**WEDNESDAY – JANUARY 20, 2021**  
**MERIT CENTER 1001 WEST ERIE ROAD**  
**5:30 P.M.**

- 1) *Call to Order*
- 2) *Election of Chairperson*
- 3) *Consider the approval of the minutes of the December 9, 2020, regular meeting of the Marshall Planning Commission.*
- 4) *Conduct Public Hearing on the request of Monte Buntjer for a Variance Adjustment Permit to allow storage container as permanent storage which is not allowed by the City Ordinance at 516A Main Street East.*
- 5) *Other Business*
- 6) *Adjourn*

*NOTE: Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Administration Office (537-6760) in advance of the meeting to make any necessary arrangements.*

**--UNAPPROVED --**

**MINUTES OF THE  
MARSHALL PLANNING COMMISSION MEETING  
DECEMBER 9, 2020**

**MEMBERS PRESENT:** Edblom, Schroeder, Carstens and Fox

**MEMBERS ABSENT:** Lee and Knieff

**OTHERS PRESENT:** Glenn Bayerkohler, Jason Anderson and Ilya Gutman,

1. The meeting was called to order by Chairman Edblom. He asked for the approval of the minutes of the November 4, 2020, regular meeting of the Marshall Planning Commission. Carstens MADE A MOTION, SECOND BY Fox, to approve the minutes as written. ALL VOTED IN FAVOR OF THE MOTION.
  
2. Gutman explained this is a request by the Owner and Verizon Wireless to build a wireless communication tower taller than allowed by the City Ordinance. This tower is proposed to be 139 feet tall and will be located in an I-2 General Industrial. The Ordinance permits towers up to 75 tall in that district and all towers taller than that require a conditional use permit. Article VI Supplemental Regulations, Division 6 Towers and antennas describes requirements for new towers. This tower seems to comply with all requirements. Staff recommends to recommend to City Council an approval of the request to grant a conditional use permit for a 139' tall communication tower in an I-2 General Industrial District with the following 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 in the event that 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. That the tower meets all requirements of, and receives all required approval from, FAA or MnDOT Aeronautics. 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 Schroeder to recommend to City Council to approve as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION
  
3. A MOTION WAS MADE BY Schroeder, SECOND BY Carstens to adjourn the meeting. ALL VOTED IN FAVOR. Chairman Edblom declared the meeting adjourned.

Respectfully submitted,  
Chris DeVos, Recording Secretary



**TO:** Members of the Marshall Planning Commission  
Sharon Hanson, City Administrator  
Jason R. Anderson, P.E., City Engineer/Zoning Administrator

**FROM:** Ilya Gutman, Assistant Planning & Zoning Administrator

**DATE:** January 13, 2020

**SUBJECT:** REQUEST FOR A VARIANCE ADJUSTMENT PERMIT  
516A East Main Street

**Action Recommendation**

Close public hearing.

Recommend denial to the City Council of the request by Monte Buntjer for a Variance Adjustment Permit to allow a 40 foot storage container as permanent storage.

**Background**

The owner desires to use a shipping container as a permanent storage next to his building at the address listed above. The Ordinance prohibits using shipping containers as accessory buildings (Sec. 86-163 (10) or permanent storages (Sec. 86-248 (f).

To grant a variance, City Ordinance and State Statutes require the presence of practical difficulties. The term "practical difficulties," as used in connection with granting 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 (usually something related to physical characteristics of the property not allowing to comply with the Ordinance) to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. The State Statutes essentially forbid granting variances if those conditions are not met. The Findings of Fact, based on the League of Minnesota Cities template, is attached to this memo and explains each item listed above in detail.

Shipping containers do not meet building codes and do not fit into typical city environment, which may lead to reduction in surrounding properties' values. Based on the above information, staff does not believe that there are any practical difficulties in this case and therefore recommends that the variance be denied. It is the opinion of City Staff that allowing this variance will set a precedent for the entire city.

The variance regulations and procedures are found in Section 86-29. A League of Minnesota Cities informational memo and a property aerial photo are attached for reference.

**Fiscal Impact**

None known.

**Alternatives / Variations**

None recommended.

IG: cld

**Marshall Planning Commission**  
**Findings of Fact – Request for Variance Permit**  
**516A East Main Street, City of Marshall, Lyon County, Minnesota**

1. Mr. Buntjer is the owner of a parcel of land located at 516A East Main Street.
2. The subject property is legally described as found on Exhibit A.
3. Mr. Buntjer has applied to the City for a variance to install a 40 foot shipping container as a permanent storage building.
4. The proposal would vary from Ordinance in that it requests using a shipping container as a permanent storage which is explicitly prohibited by Ordinance 86-163(b)(10).
5. 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.
6. 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 5 above.
7. City Ordinance Section 86-163 (b) (10) states that “Trailers, semi-trailers, and storage containers (including, but not limited to, cargo and shipping container and PODS or any structures made of the above components) must not be used as accessory buildings in all classes of residential or business districts.” Additionally, Section 86-248 (f) states that “Storage containers, including, but not limited to, trailers, semi-trailers, cargo and shipping containers, PODS, and dumpsters, are not allowed as permanent storage structures in all classes of residential or business districts.” Storage and shipping containers do not meet building code and do not fit into typical city environment, which may lead to reduction in surrounding properties’ values.
8. Below is analysis of the Minnesota Statute Section 462.357, subd. 6 applicability:

- a. The requested variance is not in harmony with the purpose 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 conventional storage building may be built to comply with the Ordinance.
  - d. There are not unique circumstances to the property not created by the landowner because its size and location is not remarkable.
  - e. The variance will not maintain the essential character of the locality because there are no other storage containers in the neighborhood.
9. Based on the above information, staff concluded that there are no practical difficulties in this case and recommended that the variance request be denied.
10. A public hearing was conducted at the special January 20, 2021, 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.
11. Following a public hearing on the application, the Planning Commission has recommended \_\_\_\_\_ of the variance.

At the conclusion of the public hearing, motion was made by Commission Member \_\_\_\_\_, seconded by Commission Member \_\_\_\_\_ to recommend \_\_\_\_\_ of the variance permit to the City Council.

Marshall Planning Commission

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By:  
Its: Chair



CONNECTEXPLORER

