

## ORDINANCE NO. 263

### AN ORDINANCE AMENDING SECTION 16, SUBD. 3 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING TO FINDINGS OF FACT FOR APPROVAL OF VARIANCES

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS SECTION 16, SUBD. 3 (FINDINGS OF FACT) OF ORDINANCE 169 RELATED TO THE BOARD OF ZONING ADJUSTMENT SHALL BE AMENDED AS FOLLOWS:

#### SUBDIVISION 3. FINDINGS OF FACT.

A variance shall not be recommended for approval by the Board or granted by the Council unless the Board first considers the following standards.

- A. The variance is consistent with the adopted Comprehensive Plan.
- B. The variance is in harmony with the general purposes and intent of the ordinance.
- C. The Applicant 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:
  1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
  2. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  3. The variance, if granted, will not alter the essential character of the locality.

~~A. An 'undue hardship' exists. "Undue hardship" as used in connection with the granting of a variance shall mean all three of the following conditions exist: the property in question cannot be put to a reasonable use if used under conditions allowed by this 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. The Board/Council shall make a written finding of fact that supports each of the aforementioned conditions exist.~~

- D. Economic considerations alone shall not constitute **practical difficulties** an ~~undue hardship if reasonable use for the property exists~~ under the terms of the Ordinance.
- E. **Practical difficulties shall** ~~Undue hardship~~ also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- F. Variances shall be granted for earth sheltered construction as defined in MN. Stat. 216C.06, Subd. 14 as may be amended, when in harmony with the zoning ordinance.

II. **EFFECTIVE DATE.** This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Arlington on the 6<sup>th</sup> day of September, 2011.

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James R. Kreft, Mayor

Attest:

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Matthew Jaunich, City Administrator

First Reading: August 15, 2011  
Second Reading: September 6, 2011  
Adopted: September 6, 2011  
Published: September 8, 2011