

**PLANNING & ZONING COMMITTEE
MEETING AGENDA
THURSDAY, JULY 12, 2012 @ 7:00 PM
ARLINGTON COMMUNITY CENTER**

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Approve the June 7, 2012 Meeting Minutes
5. Public Hearings
 - A. Variance Request for 216 East Clinton Street
 - B. Ordinance 274: Providing for Guidelines for Temporary Structures
6. Unfinished Business
7. New Business
 - A. Resolution 05-2012 – Recommending Approval/Denial of Variance for 216 East Clinton Street
 - B. Resolution 06-2012 – Recommending Approval/Denial of Ordinance 274
8. Review Reports
 - A. June 2012 Building Permit Report
 - B. Compliance Matrix
9. Other Business
10. Adjourn

**ARLINGTON PLANNING & ZONING BOARD
MEETING MINUTES
JULY 12, 2012**

The meeting was called to order at 7:00 p.m. by Vice Chairperson Kreft.

Members Present: Grabitske, Haggemiller, Kreft, Mielke, Pinske, Councilmember Reetz

Members Absent: Nagel

Also Present: PZ Adm. Smith-Strack, Donald Smith

Motion by Mielke, seconded by Pinske, and passed by unanimous vote to approve the agenda as presented.

Motion by Grabitske, seconded by Reetz, and passed by unanimous vote to approve the minutes from the June 7th meeting as presented.

Vice Chairperson Kreft recessed the regular meeting to hold a public hearing.

Variance - Denise Smith, 216 East Clinton Street:

Vice Chairperson Kreft called to order the public hearing regarding the application from Denise Smith for a variance at 216 East Clinton Street. Smith-Strack stated the purpose of the public hearing was to review and consider a variance from Section 5, Subd. 4(B)(2) of the Zoning Ordinance relating to encroachment into the side yard setback for a handicap access ramp. She stated that under the American's with Disabilities Act (ADA), the law requires that we find that encroachment of a side yard setback due to the fact that a handicap ramp is needed is a reasonable accommodation and will allow the property to become handicap accessible. It was noted that the ramp was already in place and in use at the time of the meeting. It was also noted that one written comment in favor of the ramp had been received. It was noted that Donald Smith was present and questioned why a variance was needed. Smith-Strack explained the setback issue.

Vice Chairperson Kreft adjourned the public hearing and reconvened the regular meeting.

Reetz introduced the following resolution and moved for its adoption:

RESOLUTION NO. 5-2012

**A RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE TO REDUCE THE SIDE YARD
SETBACK FOR A CORNER LOT AT 216 CLINTON STREET IN THE CITY OF ARLINGTON**

WHEREAS, Denise Smith (Applicant) has submitted a request for a variance to allow the construction of an handicapped accessible ramp at 216 East Clinton Street in the City of Arlington (PID #31.0544.000); and legally described as Lots 1 and 2, Bock 4, Luff's Addition, City of Arlington; and

WHEREAS, the variance request is to allow encroachment into the side yard (east) setback along a public right of way; and

WHEREAS, notice of a public hearing to accept input on the variance request was published in the official newspaper on June 28, 2012 and sent to property owners within 350 feet of the property; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on the variance request on July 12, 2012; and

WHEREAS, the Planning and Zoning Commission has reviewed the variance request and has made the following findings:

Potential findings for approval:

1. The proposed ramp is a reasonable accommodation under the American's With Disabilities Act and will allow the property to become handicapped accessible.
2. Practical difficulties exist with the subject parcel based on the existing layout of the property. Specifically, in order to make the house handicapped accessible, a variance would be needed to add the ramp onto the house. A practical difficulty arises without the variance approval. The practical difficulty is not the result of action taken by the property owner.
3. The variance request is consistent with the Comprehensive Plan and does not alter the essential character of the locality.

Potential findings for denial:

1. The proposed project is not reasonable in that the side yard setback along a street is reduced to approximately 8 feet.

NOW, THEREFORE, BE IT RESOLVED BY THE ARLINGTON PLANNING AND ZONING

COMMITTEE THAT: The Planning Committee does hereby recommend the City Council of the City of Arlington approve a variance to provide for the construction of a handicapped accessible ramp at 216 East Clinton Street subject to the following:

1. The handicapped accessible ramp shall be placed a minimum of 8 feet from the east property line of the subject property.
2. The handicapped accessible ramp shall be twenty-six feet long and forty-four inches wide.
3. The variance does not excuse the property owner from obtaining required building permits or complying with building code requirements.
4. This variance is in effect for the property at 216 East Clinton Street, and limited to the handicapped accessible ramp. The variance is assigned to the current and/or any future owner of the property.
5. If approved a resolution executed by the City Council related to the variance request shall be recorded at the Sibley County Recorder's Office.

The motion for the adoption of the foregoing resolution was duly seconded by Mielke and upon poll being taken thereon the following voted in favor thereof: Grabitske, Kreft, Mielke, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: Haggemiller; and the following were absent: Nagel.

Adopted by the Planning & Zoning Committee of the City of Arlington this 12th day of July, 2012

Signed: /s/ Arden Kreft
Vice Chairperson Arden Kreft

Attested: /s/ Cynthia Smith-Strack
Planning & Zoning Administrator

Vice Chairperson Kreft recessed the regular meeting to hold a public hearing.

Ordinance 274 – Guidelines for Temporary Structures:

Vice Chairperson Kreft called to order the public hearing regarding the amendment to Ordinance 169, the Zoning Ordinance, relating to temporary structures. The proposed ordinance was reviewed in detail.

Vice Chairperson Kreft adjourned the public hearing and reconvened the regular meeting.

Mielke introduced the following resolution and moved for its adoption:

RESOLUTION NO. 6-2012

A RESOLUTION RECOMMENDING THE CITY COUNCIL APPROVE ORDINANCE 274, AN ORDINANCE AMENDING SECTION 13 OF ORDINANCE 169, THE ARLINGTON ZONING

ORDINANCE BY ADDING SUBSECTION 9 PROVIDING FOR GUIDELINES FOR TEMPORARY STRUCTURES

WHEREAS, the City of Arlington placed Ordinance 169 into effect several years ago; and

WHEREAS, the Arlington Planning and Zoning Commission finds a need to establish guidelines for temporary structures throughout the city; and

WHEREAS, the City of Arlington initiated an amendment to Ordinance 169, the Arlington Zoning Ordinance to provide for certain guidelines for temporary structures; and

WHEREAS, the Arlington Planning and Zoning Commission has reviewed and studied the issue and developed text to be included in Ordinance 274, entitled “An Ordinance Amending Section 13 of Ordinance 169, the Arlington Zoning Ordinance by Adding Subsection 9 Providing for guidelines for temporary structures”; and,

WHEREAS, a public hearing was properly noticed and held on July 12, 2012 by the City of Arlington Planning and Zoning Commission; and

WHEREAS, the proposed ordinance is itemized in Exhibit A which is attached to this resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Arlington Planning and Zoning Commission recommends the City Council approve Ordinance 274, a copy of which is attached as Exhibit A.

The motion for the adoption of the foregoing resolution was duly seconded by Pinske and upon poll being taken thereon the following voted in favor thereof: Grabitske, Haggemiller, Kreft, Mielke, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Nagel.

Adopted by the Planning & Zoning Committee of the City of Arlington this 12th day of July, 2012

Signed: /s/ Arden Kreft
Vice Chairperson Arden Kreft

Attested: /s/ Cynthia Smith-Strack
Planning & Zoning Administrator

EXHIBIT A
ORDINANCE NO. 274

AN ORDINANCE AMENDING SECTION 13 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE BY ADDING SUBSECTION 9 PROVIDING FOR GUIDELINES FOR TEMPORARY STRUCTURES

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the following shall be added to Section 13 of Ordinance 169:

SUBDIVISION 9. TEMPORARY STRUCTURES

- A. Purpose. The purpose of this section is to provide for the regulation of the erection of temporary structures, and structures needed for emergency purposes or for temporary use during the construction of a permanent structure.
- B. Intent. The intent of this Section is to protect and provide for the public’s health, safety, and welfare and to protect adjacent property values from being negatively impacted.
- C. Temporary Structure Defined. A temporary structure is defined any structure erected or placed on site for less than a total of 180 days from the date of installation. These structures may include, but are not limited to: camping tents, portable shelters, wedding/party tents, facilities in conjunction with construction or emergency activities, and storage pods. Any structure not considered a temporary structure shall be considered a permanent structure and treated as such.
- D. Removal of Temporary Structure: Temporary structures are to be removed when the designated time period, event, or use for which the temporary structure has been created has ceased.
- E. Procedure. Temporary structures governed by this Ordinance shall be allowed by an Administrative Permit, as may be issued by the Zoning Administrator, in all zoning districts except as otherwise provided by this section.

F. Site Plan Required. A site plan as defined in this Ordinance is required in conjunction with the application for an administrative permit in conjunction with the establishment of new or remodeled temporary structures.

G. Special Requirements for Temporary Structures.

1. There shall be a time limit established for temporary structures to remain on a site as a part of the administrative permit. Temporary structures allowed by administrative approval shall be limited to a total of 180 days in duration within a 12 month period. Applicants shall acknowledge and certify the temporary structure shall be in place for 180 days or less. The Planning Commission may extend the 180 day time limit if a *practical difficulty* ~~special circumstance~~ exists for a one time additional term not to exceed 180 additional days. The Applicant bears the burden of proving a practical difficulty exists. Any structure in place over 180 days within a twelve month period is not considered a temporary structure.
2. Temporary structures shall follow the required building setbacks of the zoning district it is located in. The temporary structure is to be located to the interior side yard or rear yard of the site and its proposed location will be reviewed as a part of the Administrative Permit process and site plan review.
3. No temporary structure shall be allowed to be serviced by water, sewer, electric, gas or any other type of utility.
4. All applicable requirements of the State Building Code shall be met.
5. There can be no more than one (1) temporary structure per parcel.
6. The structure must be sufficiently anchored to withstand overturning, uplifting, or sliding from a 80 mile-an-hour wind.
7. The structure must be able to withstand a snow load of 20 pounds per square foot if the structure will be in place at any time during the months of November through April.
8. No temporary structure shall be placed on a right-of-way or utility easement without receiving prior approval from the City Council.
9. Temporary structures shall have exterior material accepted by the Zoning Administrator and should be reasonably similar to the principal structure upon the parcel in the underlying zoning district. NOTE: hoop sheds?
10. Party tents or tents for promotional sales shall be allowed up to ten (10) calendar days per year without having to obtain an Administrative Permit.
11. Temporary structures larger than 120 square feet shall require an Interim Use Permit.
12. If a dispute arises between the City and a property owner over a particular use of a structure, a representative of the City has the right to inspect the structure to determine the proper use of the structure.
13. Temporary structures shall not be used for habitation purposes.

H. Special Requirements for Construction Trailers or Emergency Purposes.

1. Construction trailers and temporary structures used for emergency purposes shall be allowed administratively.
2. No Administrative Permit shall be issued for construction trailers or structures used for emergency purposes unless a site plan has been approved, if applicable, or unless a building permit has been issued for a new structure, addition, or remodeling of an existing structure on the property.
3. No trailers shall be allowed to be used as temporary sales offices.
4. The Administrative Permit shall terminate twelve (12) months from its date of issuance or within thirty (30) days after a certificate of occupancy has been issued by the Building Official for the permanent structure replacing the temporary emergency structure, whichever occurs first, unless a different time schedule is approved as part of the permit.

5. Construction trailers and temporary structures used for emergency purposes shall follow the required building setbacks of the zoning district it is located in.
 6. All applicable requirements of the State Building Code shall be met.
 7. Provisions for utilities shall be subject to the review and approval of the Building Official.
 8. Off-street parking, signage, and security measures such as lighting shall be implemented subject to the review and approval of the Zoning Administrator
- I. Practical difficulty. The City Council may issues an Interim Use Permit for temporary structures, including manufactured homes, when a determination of practical difficulties exists upon the property. An Interim Use Permit may be issued for the following practical difficulties:
1. Reconstruction. During the reconstruction of a home or business that has been damaged or destroyed and is uninhabitable. The City Council may grant a permit for a period not to exceed one (1) year in any zoning district.
 2. The City Council may grant an Interim Use Permit with stipulated time limitations for the temporary utilization of manufactured homes or other temporary structures as living quarters when a practical difficulty is found to exist. ~~Such practical difficulty shall be generally a result of age or a physical handicap of a blood relative.~~ This standard applies only to the use of temporary structures as living quarters. The following conditions shall apply in such situations:
 - a. Any person requiring such temporary habitation shall make application to the City Council for an Interim Use Permit. The request shall state the location, type of structure, length of time the structure will be used, and the reason for the need of such structure.
 - b. The Zoning Administrator and Building Official shall review each proposal and report their findings and recommendations to the City Council.
 - c. If the City finds that the public health, safety, and general welfare will not be impaired and will not be affected adversely, it may grant a temporary habitation permit, provided that the person so applying shall enter into a written agreement with the City as to when such use is to cease. No permit for temporary habitation shall be granted for a period longer than one year, and the City may revoke such permit upon 90 days written notice if and when it finds:
 - i. That the public health, safety, and general welfare are being impaired by such habitation.
 - ii. That the continued existence of such use conflicts with the City's Comprehensive Plan.
 - iii. The temporary habitation structure has been abandoned or put to any use other than that stated in the application as the reason for the need of such habitation.
 - iv. That the value of public or private property is being affected adversely thereby.
 - d. The utilities serving temporary habitation shall comply will all applicable city, county, and state rules.
 - e. Any material used to insulate around the exterior of or underneath such temporary habitation shall be noncombustible and nontoxic
- J. Right of Appeal. Any property owner who disagrees with the denial of a permit under this subdivision, or disagrees with conditions imposed for the issuing of a permit, shall have the right to appeal the decision of the zoning administrator to the Board of Zoning Appeals and Adjustments, as set out in city ordinance.
- K. Effective Date. This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Arlington on the ____ day of _____, 2011.

James R. Kreft, Mayor

Attest: _____
Matthew Jaunich, City Administrator

Smith-Strack commented that she would put some sample language together regarding handicap ramps and bring it to the next regular meeting for the Committee to review/consider.

The June Building Permit Report was reviewed.

The Compliance Matrix (as put together by PZ Adm. Smith-Strack) was reviewed. Smith-Strack gave an update on the properties listed.

Brief discussion was held on the elevator and the demolition thereof. Smith-Strack stated that a demolition permit had been issued by the City; which was also approved by the MPCA. She stated that Police Chief Rovinsky had stopped the individual who was in charge of taking down the large grain bin under the Nuisance Ordinance, as he was just going to pull it over onto Main Street/1st Avenue with his vehicle and was told to come up with another plan to remove same. It was noted that because Main Street is also considered a 'county' road an Obstruction Permit must be obtained from the County.

Motion by Pinske, seconded by Mielke, and passed by unanimous vote to adjourn the meeting at 7:35 pm.

PZ Adm. Cynthia Smith-Strack

Vice Chairperson Arden Kreft