

**PLANNING & ZONING COMMITTEE MEETING AGENDA**  
**THURSDAY, AUGUST 11, 2011 @ 7:00 PM**  
**ARLINGTON COMMUNITY CENTER**

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Approve the Minutes
  - A. July 7, 2011
5. Public Hearings
  - A. Conditional Use Permit – Roger Schatz
  - B. Variance Request – Roger Schatz
  - C. Variance Request – Josh Novosad
  - D. Rezoning Request – Sibley East School District
  - E. Ordinance 262 – Accessory Structure Size
  - F. Ordinance 263 – Variance Approval Criteria
6. Unfinished Business
  - A. None
7. New Business
  - A. None
8. Review Building Permit Report
9. Other Business
  - A. Next meeting date: September 1, 2011
10. Adjourn

**ARLINGTON PLANNING & ZONING BOARD  
MEETING MINUTES  
AUGUST 11, 2011**

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

Members Present: Grabitske, Haggemiller, Chairperson Nagel, Mielke, Pinske, Councilmember Reetz

Members Absent: Kreft

Also Present: PZ Adm. Smith-Strack, Jim Kreft, Galen Wills, Joshua Novosad, Brandi Lilleska, Richard Luepke, Charlie & LeaAnn Novosad, Faye Ryan, Alan & Jane Ihrke

Motion by Mielke, seconded by Grabitske, and passed by unanimous vote to approve the agenda with the following addition:

9B) Wetland Information.

Motion by Reetz, seconded by Pinske, and passed by unanimous vote to approve the minutes from the July 7<sup>th</sup> meeting as presented.

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**Conditional Use Permit: Roger Schatz 103 7<sup>th</sup> Avenue NW**

Chairperson Nagel called to order the public hearing regarding the application from Roger Schatz for a Conditional Use Permit to allow for the construction of a 26'x30' detached garage at 103 7<sup>th</sup> Avenue NW. Smith-Strack explained that the proposed garage would replace an existing non-conforming (as to size, lot coverage and setbacks) detached accessory structure; and that the proposed detached garage and existing dwelling together exceed the maximum size as a percent of lot size. She stated that the zoning standard allows a detached accessory structure to be up to 10% of the lot size, which the lot in question is 3,900 sq. ft. She reviewed the yard setbacks for the proposed garage. It was noted that a CUP is necessary because the proposed detached structure is greater than 10% of the lot size and the combined structural coverage of the house and garage exceed 40%. There was no public comment. It was noted that the Schatz's were not present.

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Discussion continued on Roger Schatz's proposed detached garage, more specifically yard setbacks and structure size. Smith-Strack noted that the property pins had been located. Concern was expressed that the drawing was not to scale and there were many discrepancies (various dimensions) with same. Mielke commented that he would be more comfortable with a 24x24 garage. Pinske also expressed concern about the proposed structure size.

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**Structural Coverage Variance: Roger Schatz 103 7<sup>th</sup> Avenue NW**

Chairperson Nagel called to order the public hearing regarding the application from Roger Schatz, 103 7<sup>th</sup> Avenue NW for a Variance to allow greater than 40% structural coverage, allow rear yard setback encroachment, and/or placement of structure closer than 10' to the principal structure. Smith-Strack commented that the Planning Board can require that a survey be done, restrict the size of the structure and/or change the setback requirements. She was recommending approval of the CUP and Variance with the following conditions attached:

1. The garage shall be placed a minimum of 5 feet from the rear lot line and 10 feet from the existing residential dwelling on the property.
2. The garage shall not exceed 576 square feet (24'x24') in area.
3. No other accessory structures shall be permitted on the subject property.
4. The Variance and/or CUP issuance does not excuse the property owner from obtaining required building permits or complying with building code requirements.
5. The Variance and CUP are in effect for the property subject property (103 7<sup>th</sup> Avenue NW).
6. If approved, the Variance and CUP are recorded.

There was no public comment.

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Discussion continued on the proposed Schatz detached garage. Concern was expressed about the existing structure only being 6 inches from the property line and placing the new structure within the same footprint. The Planning members favored a reduced size of 24'x24'.

Motion by Mielke, seconded by Pinske, and passed by unanimous vote to have the Schatz's to provide a Certificate of Survey, meet side and rear yard setbacks and allow a 24'x24' (576 sq. ft.) garage.

Reetz introduced the following resolution and moved for its adoption:

**RESOLUTION NO. 5-2011**

**A RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE AND CONDITIONAL USE PERMIT FOR A GARAGE AT 103 7<sup>TH</sup> AVENUE NW IN THE CITY OF ARLINGTON**

**WHEREAS**, Karen and Roger Schatz (Applicants) have submitted a request for a variance and a conditional use permit to allow the construction of a garage at 103 7th Avenue NW in the City of Arlington (PID #310324000); and legally described as: *The North 52' of Lot 5, Block 9, Streissguth's Subdivision, City of Arlington*; and

**WHEREAS**, the Applicants have submitted a variance request for relief of a lot coverage restriction and relief of rear yard setback and required separation between principal and accessory structure; and

**WHEREAS**, the Applicants have submitted a conditional use permit request to allow an accessory structure to be greater than 10% of the subject lot size under Section 13, Subd. 6(G) of Ordinance 169; and

**WHEREAS**, the Applicants have submitted a variance request to allow additional lot coverage under Section 5, Subd. 4, Subs. 5(E) of the Zoning Ordinance and to potentially allow encroachment into the rear yard setback under Section 5, Subd. 4, Subs. 4(A) and/or to allow the construction of an accessory structure closer than ten feet from a principal structure as required under Section 13, Subd. 6(B) of Ordinance 169; and

**WHEREAS**, notice of a public hearing to accept input on the CUP and variance requests were published in the official newspaper on July 28, 2011 and sent to property owners within 350 feet of the property; and

**WHEREAS**, the Planning and Zoning Commission conducted individual public hearings on the CUP and variance requests on August 11, 2011; and

**WHEREAS**, the Planning and Zoning Commission has reviewed the variance and CUP requests and has made the following findings:

1. The proposed project will replace a non-conforming structure that has exceeded its useful life which will positively impact the architectural appearance and functional design of the building and site. As a result, the new garage shall positively affect the subject parcel's value and shall remove a structure that has a blighting influence on the vicinity. All sides of the principal and accessory structures will have essentially the same or coordinated, harmonious exterior finish materials and treatment.
2. Practical difficulties exist with the subject parcel based on the lot size of 3,900 square feet as compared to a typical base lot of 6,038 sf. The practical difficulty is not the result of action taken by the property owner.
3. The CUP and variance requests are consistent with the Comprehensive Plan.

**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 and a CUP to allow the construction of a garage at 103 7th Avenue NW subject to the following:

1. Require a Certificate of Survey.
2. The garage shall be placed a minimum of five (5) feet from the rear lot line and ten (10) feet from the existing residential dwelling on the said property.
3. The garage shall not exceed 576 square feet in area.
4. No other accessory structures shall be permitted at the subject property.
5. The variance and/or conditional use permit issuance does not excuse the property owner from obtaining required building permits or complying with building code requirements.
6. This variance and conditional use permit are effect for the property at 103 7th Avenue NW and assigned to the current and/or any future owner of the property. The conditional use permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained. The conditional use permit will expire if/when the use of the property is changed.
7. If approved a resolution executed by the City Council related to the variance request and conditional use permit herein 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, Haggemiller, Mielke, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Kreft.

Adopted by the Planning & Zoning Committee of the City of Arlington this 11<sup>th</sup> day of August, 2011

Signed: /s/ Lowell Nagel  
Chairperson Lowell Nagel

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

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**Side Yard Setback Variance: Josh Novosad 107 East Clinton Street**

Chairperson Nagel called to order the public hearing regarding the application from Joshua Novosad for a Variance to allow encroachment into side yard setback for the purpose of erecting a 32'x36.5' attached garage. Smith-Strack noted that the applicant represents:

- 1) Demolition of existing detached garage.
- 2) Expansion of the existing single family dwelling unit by 384 ft., for a total square footage of 1,176 sq. ft.
- 3) Construction of a 1,168 sq. ft. attached garage within two feet from the side yard.
- 4) Certificate of Survey has been presented.
- 5) Total structural coverage on the lot will be 2,344 sq. ft., total lot square footage is 7,150 resulting in 33% lot coverage. The accessory structure limitation of 10% of the lot size is not relevant due to the structure being attached.
- 6) Proposed garage will not exceed 16 feet in height and will have a shingled roof with a 4:12 pitch.
- 7) Garage will be setback so it is even with the house on the east side, 30' from the south (front) property line and 2' from the west side property line.

Faye Ryan (neighbor to west) was in favor of the project as it will improve the property/neighborhood. Dick Luepke expressed concern about the 16' height. Josh Novosad commented that was the overall height to the peak of the structure, the side walls would be about 9' (similar to house).

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Discussion continued on the Novosad garage. Haggemiller noted that he would be abstaining from voting (conflict of interest). Pinske expressed concern about the overall size of the garage as being too large; Mielke agreed. It was noted that the setback on the north side (alley) was over 10 ft. and that the

size of the proposed garage was allowable under the zoning ordinance because it was attached. Smith-Strack reviewed the “practical difficulties” standards and how they applied to this project. She stated that some possible findings for approval were:

- 1) The project will replace a non-conforming structure that is outdated and currently encroaches into the side yard setback. This act will positively impact the architectural appearance.
- 2) Practical difficulties exist because the property has a property line that isn’t perpendicular to the curb, but rather runs at an angle.
- 3) The variance request is consistent with the Comprehensive Plan.

She stated that some findings for denial were:

- 1) The proposed project is not reasonable in that the 1,168 sq. ft. attached garage is well over the typical garage size and is close to the 1,176 sq. ft. of the principal structure meaning it is not clearly subordinate to the house.
- 2) Certain practical difficulties exist with the subject parcel based on the existing layout of the property, specifically, the house is situated on the property west of center and the existing driveway is to the west of the existing house and the existing driveway is shared with the neighbor to the west. However, the property owner is proposing a larger than typical attached accessory structure which results in the further need for encroachment into the side yard. The larger than typical attached accessory structure is the result of proposed action on the part of the property owner.

Haggenmiller suggested shortening the west wall a bit and pitching it back 5 degrees (making it somewhat parallel to the property line and reducing the encroachment), versus square with the house. He thought it would be easier to drive into and would give more room. Mielke suggested possibly shortening the length of the garage by a couple of feet.

Mielke introduced the following resolution and moved for its adoption:

#### **RESOLUTION NO. 6-2011**

#### **A RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE FOR AN ATTACHED GARAGE AT 107 EAST CLINTON STREET IN THE CITY OF ARLINGTON**

**WHEREAS**, Josh Novosad (Applicant) has submitted a request for a variance to allow the construction of an attached garage at 107 East Clinton Street in the City of Arlington (PID #31.0532.000); and legally described as Lot 5 and east 5’ of Lot 6, Block 2, Luff’s Addition, City of Arlington; and

**WHEREAS**, the variance request is to allow encroachment into the side yard (west) setback; and

**WHEREAS**, notice of a public hearing to accept input on the variance request was published in the official newspaper on July 28, 2011 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 August 11, 2011; and

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

1. The proposed is reasonable because the project will replace a non-conforming (setback) structure that is outdated and currently encroaches into the side yard setback. This act will positively impact the architectural appearance and functional design of the building and site. As a result, the new garage shall positively affect the subject parcel’s value. All sides of the principal and accessory structures will have essentially the same or coordinated, harmonious exterior finish materials and treatment.
2. Practical difficulties exist with the subject parcel based on the existing layout of the property. Specifically, the house is situated on the property west of center and the existing driveway is to the west of the existing house. The existing driveway is shared with the neighbor to the west. The existing layout is further compromised by the fact the westerly lot line is not perpendicular to the street resulting in further encroachment as the property line extends northward. The practical difficulty is not the result of action taken by the property owner.
3. The variance request is consistent with the Comprehensive Plan.

**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 an attached garage at 107 East Clinton Street subject to the following:

1. No other accessory structures shall be permitted at the subject property.
2. The garage will be not be used for commercial purposes.
3. If the garage is placed in a public or private utility easement it is the sole responsibility of the property owner to remedy the situation at no cost to the City.
4. The variance does not excuse the property owner from obtaining required building permits or complying with building code requirements.
5. This variance is in effect for the property at 107 East Clinton Street, and limited to the attached garage. The variance is assigned to the current and/or any future owner of the property.
6. 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 Grabitske and upon poll being taken thereon the following voted in favor thereof: Grabitske, Mielke, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: Haggemiller; and the following were absent: Kreft.

Adopted by the Planning & Zoning Committee of the City of Arlington this 11<sup>th</sup> day of August, 2011

Signed: /s/ Lowell Nagel  
Chairperson Lowell Nagel

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

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**P/I District Rezoning: Sibley East School District 202 3<sup>rd</sup> Avenue NW**

Chairperson Nagel called to order the public hearing regarding the application from the Sibley East School District to rezone the property at 202 3<sup>rd</sup> Avenue NW from R-1 One and Two Family Residence District to P/I Public Institutional District. Smith-Strack noted that the request was subsequent to a suggestion from the Planning Committee earlier in the year when they reviewed a CUP for an accessory structure (High Tunnel/Greenhouse). She stated that by rezoning the property, the greenhouse structure would be allowed to stay as a permanent structure, which would remove the possibility of a greenhouse structure like it anywhere in a residential district through a prior action; current zoning does not allow this type of structure. Smith-Strack commented that the impact of the rezoning would be minimal (if any) to neighboring properties. She added that the rezoning would also make the school a conforming structure and that setbacks would be greater. Galen Wills expressed concern about the current plastic covered structure as a permanent structure. Smith-Strack explained that the rezoning will not have any impact on the current greenhouse structure until language within the Zoning Ordinance (P/I District and/or the Accessory Structure District) is changed; it will stay as a temporary structure that must be taken down for a couple months each year. Al Ihrke was concerned how the rezoning would affect property taxes for homes in the area. Smith-Strack stated that taxes are calculated on the use of the property not zoning classifications.

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Discussion continued on the rezoning of the school property. Concern was expressed about the current greenhouse structure not being completed/maintained, quality of (plastic) covering, and being allowed as a permanent structure once the rezoning is done and not being able to set conditions for it. Smith-Strack re-iterated that the language within the Zoning Ordinance would have to be amended to allow for

permanent structures of this type; the current structure is still temporary and must be taken down in winter.

Mielke introduced the following resolution and moved for its adoption:

**RESOLUTION NO. 7-2011**

**A RESOLUTION RECOMMENDING APPROVAL OF ORDINANCE 264 ENTITLED “AN ORDINANCE AMENDING SECTION 4, SUBDIVISION 1, OF ORDINANCE 169, THE OFFICIAL ZONING MAP TO REZONE THE PROPERTY AT 202 3<sup>RD</sup> AVENUE NW (PID #310012010, SIBLEY EAST SCHOOL DISTRICT PROPERTY) FROM R-1, ONE AND TWO FAMILY RESIDENCE TO P/I PUBLIC INSTITUTIONAL DISTRICT”**

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

**WHEREAS**, Ordinance 169, Section 4, Subd. 1 established an Official Zoning Map; and

**WHEREAS**, the Sibley East Public School District has requested amendment of the Official Zoning Map to rezone the property at 202 3<sup>rd</sup> Avenue NW (PID #310012010) from R-1 One and Two Family Residence District to P/I Public Institutional District; and

**WHEREAS**, a public hearing was properly noticed and held on August 11, 2011 by the City of Arlington Planning 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 Commission recommends the City Council approve Ordinance 264, rezoning the subject property to P/I Public Institutional District and causing the updating of the City’s Official Zoning Map.

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, Mielke, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Kreft.

Adopted by the Planning & Zoning Committee of the City of Arlington this 11<sup>th</sup> day of August, 2011

Signed: /s/ Lowell Nagel  
Chairperson Lowell Nagel

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

**EXHIBIT A  
ORDINANCE NO. 264**

**AN ORDINANCE AMENDING SECTION 4, SUBDIVISION 1, OF ORDINANCE 169, THE OFFICIAL ZONING MAP TO REZONE THE PROPERTY AT 202 3<sup>RD</sup> AVENUE NW (PID # 310012010, SIBLEY EAST SCHOOL DISTRICT PROPERTY) FROM R-1, ONE AND TWO FAMILY RESIDENCE TO P/I PUBLIC-INSTITUTIONAL DISTRICT.**

- I. The City Council of the City of Arlington, Minnesota to Promote the Public Safety, Health, and Welfare, Hereby Ordains the Property at 202 3<sup>RD</sup> Avenue NW shall be Rezoned from R-1 to Public/Institutional District and Section 4, Subdivision 1 of Ordinance 169, The Official Zoning Map shall be Updated to Reflect the Change.
- II. 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

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**Zoning Ordinance Amendment: Ordinance 262 - Accessory Structure Size**

Chairperson Nagel called to order the public hearing regarding the amendment to Ordinance 169, the Zoning Ordinance relating to Accessory Structures. Smith-Strack explained that the language is being amended to accommodate the maximum accessory structure size for smaller lots. She stated that the new language would read: maximum size of 576 sq. ft. or 10% of the lot size, whichever is greater, unless a CUP is issued. It was noted that there was no one present either for or against the proposed amendment.

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Mielke introduced the following resolution and moved for its adoption:

**RESOLUTION NO. 8-2011**

**A RESOLUTION RECOMMENDING APPROVAL OF ORDINANCE 262 ENTITLED "AN ORDINANCE AMENDING SECTION 13, SUBDIVISION 6(G) OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING TO THE MAXIMUM SIZE OF ACCESSORY STRUCTURES WITHIN THE CITY"**

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

**WHEREAS**, the Arlington Planning Commission finds portions of Ordinance 169 relating to accessory structures in residential zones are in need of updating; and

**WHEREAS**, the Planning Commission initiated an amendment Ordinance 169 relating to the maximum size of detached accessory structures; and

**WHEREAS**, the Arlington Planning Commission has reviewed and studied the issue and developed text to be included in Ordinance 262; and

**WHEREAS**, a public hearing was properly noticed and held on August, 2011 by the City of Arlington Planning 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 Commission recommends the City Council approve Ordinance 262, a copy of which is attached as Exhibit A.

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

Adopted by the Planning & Zoning Committee of the City of Arlington this 11<sup>th</sup> day of August, 2011

Signed: /s/ Lowell Nagel  
Chairperson Lowell Nagel

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

**EXHIBIT A  
ORDINANCE NO. 262**

**AN ORDINANCE AMENDING SECTION 13, SUBDIVISION 6(G) OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING TO THE MAXIMUM SIZE OF ACCESSORY STRUCTURES WITHIN THE CITY**

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS SECTION 13, SUBD. 6(G) OF ORDINANCE 169 SHALL BE AMENDED AS FOLLOWS:

SECTION 13 GENERAL STANDARDS.

SUBDIVISION 6. ACCESSORY STRUCTURES.

- G. Size Limit. Accessory structures shall be clearly and reasonably subordinate to the principal structure in terms of both scale and bulk. Total accessory structure square footage, excluding attached garages shall not exceed **the greater of 576 square feet or ten (10) percent of the lot area within the R-1, R-2, Manufactured Home or any commercial district unless a conditional use permit is issued.** Total accessory structure square footage within the Agricultural



Residence District or any industrial district shall not exceed fifteen (15) percent of the lot area unless a conditional use permit is issued. In addition, aggregate square footage of building coverage per lot shall not exceed the maximum allowed within the applicable zoning classification.

II. 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

Chairperson Nagel recessed the regular meeting to hold a public hearing.

**Zoning Ordinance Amendment: Ordinance 263 - Variance Criteria**

Chairperson Nagel called to order the public hearing regarding the amendment to Ordinance 169, the Zoning Ordinance relating to Variances. Smith-Strack commented on the language being changed and/or added to Section 16, Subd. 3-Findings of Fact, more specifically changing ‘undue hardship’ to ‘practical difficulties’.

Chairperson Nagel adjourned the public hearing and reconvened the regular meeting.

Reetz introduced the following resolution and moved for its adoption:

**RESOLUTION NO. 9-2011**

**A RESOLUTION RECOMMENDING APPROVAL OF ORDINANCE 263 ENTITLED “AN ORDINANCE AMENDING SECTION 16, SUBD. 3 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING FINDINGS OF FACT FOR APPROVAL OF VARIANCES”**

**WHEREAS**, Minnesota Statutes regarding consideration of variances by municipalities in Minnesota has been changed; and

**WHEREAS**, the Arlington Planning Commission finds portions of Ordinance 169 relating to the criteria for approving variances is in need of updating so as to be consistent with state law; and

**WHEREAS**, the Planning Commission initiated an amendment Ordinance 169 relating to the necessary findings of facts related to variance approval; and

**WHEREAS**, the Arlington Planning Commission has reviewed and studied the issue and developed text to be included in Ordinance 263; and

**WHEREAS**, a public hearing was properly noticed and held on August, 2011 by the City of Arlington Planning 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 Commission recommends the City Council approve Ordinance 263, a copy of which is attached as Exhibit A.

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

Adopted by the Planning & Zoning Committee of the City of Arlington this 11<sup>th</sup> day of August, 2011

Signed: /s/ Lowell Nagel  
Chairperson Lowell Nagel

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

**EXHIBIT A  
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 (FINDING OF FACTS) 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.

- III. 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

Mielke gave an update on the wetland information he was asked to obtain at the last meeting. He suggested waiting for the Lidar results from the State before making any decisions on wetlands. It will help with figuring out slopes and contours. He also suggested using aerial photography to help identify wetlands. Mielke commented that the information could be tied into the City's GIS (mapping) system. It was agreed to postpone further discussion on wetlands until such time as the new technology was available (Lidar).

The July Building Permit Report was reviewed.

Motion by Pinske, seconded by Grabitske, and passed by unanimous vote to adjourn the meeting at 8:15 pm.

\_\_\_\_\_  
PZ Adm. Cynthia Smith-Strack

\_\_\_\_\_  
Chairperson Lowell Nagel

