

**WILLMAR PLANNING COMMISSION  
CITY OF WILLMAR, MN  
WEDNESDAY, JULY 25, 2012**

**MINUTES**

1. The Willmar Planning Commission met on Wednesday, July 25, 2012, at 7:00 p.m. at the Willmar City Offices Conference Room #2.

**\*\* Members Present:** Charlie Oakes, Gary Geiger, Randy Czarnetzki, Nick Davis, and Bob Poe.

**\*\* Members Absent:** Mark Klema, Andrew Engan, Scott Thaden, and Virgilio Aguirre.

**\*\* Others Present:** Bruce D. Peterson- Director of Planning & Development Services, and Megan M. Sauer- Planner/Airport Manager.

2. MINUTES: The minutes of the June 27, 2012 meeting were approved as submitted.

3. SECTION 9 VARIANCE STANDARDS TEXT AMENDMENT- FILE NO. 12-1: The public hearing opened at 7:07 p.m. Staff presented the proposed Planning Commission initiated text amendment to Section 9 regarding variance standards. State Statute legislation was changed and the text amendment mimics those changes. The old term for determining variances was “undue hardships” and the new standard is “practical difficulties” in determining the validity of granting a variance. The Comprehensive Plan is also referenced now in variance decisions whereas in the past they were not. The Board of Zoning Appeals, who acts on variance requests, will follow the amended findings that coincide with Statute Language (see Attachment A).

With no one to speak for or against the matter, the public hearing closed at 7:09 p.m.

Mr. Geiger made a motion, seconded by Mr. Davis, to approve the text amendment and forward it to the City Council for Ordinance public hearing and adoption.

The motion carried.

4. SECTION 7 NONCONFORMING STRUCTURES DAMAGE OR DESTRUCTION TEXT AMENDMENT- FILE NO. 12-2: The public hearing opened at 7:10 p.m. Staff presented the Planning Commission initiated text amendment to Section 7 regarding nonconforming structures damage or destruction. The State Statute recently changed regarding damage or destruction to beyond 50% of its assessed value to a nonconforming building. Legislation added that if a building permit is applied for within 180 days the structure can be rebuilt (see Attachment B). This change in the regulation will help pre-existing nonconforming structures continue to be saleable and usable in their legal non-conforming state. Mortgage companies and underwriters are more comfortable processing a loan for a structure that has been damaged and can be rebuilt

and used as it currently is. The Planning Commission will not have the same kind of rezoning issues as it has in the past due to this change in State Statute language.

With no one to speak for or against the matter, the public hearing closed at 7:13 p.m.

Mr. Poe made a motion, seconded by Mr. Czarnetzki, to approve the text amendment and forward it onto the City Council for ordinance public hearing and adoption.

The motion carried.

5. GARAGE SALES DISCUSSION CONTINUED: Staff shared with the Commission that the League of Minnesota Cities and several other MN Cities websites were consulted in search of garage sale standards or regulations. None were found. After discussion about reoccurring disruptive commercial enterprise type sale situations in residential areas, the Commission directed staff to inquire with the League of MN Cities research division and see what suggestions they may have.
6. There being no further business to come before the Commission, the meeting adjourned at 7:37 p.m.

Respectfully submitted,



Megan M. Sauer, AICP  
Planner/Airport Manager

Attachment A

Subd. 6. **Appeals and adjustments.** Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. 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 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. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Subd. 1e. **Nonconformities.** (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.