

ORDINANCE #11-_____

CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISION OF LAND CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.

AN ORDINANCE AMENDING SECTION 117-349 (ACCESSORY USES AND BUILDINGS) OF THE RAMSEY CITY CODE.

The City of Ramsey ordains:

SECTION 1 AUTHORITY

This ordinance is adopted pursuant to and under the authority of the City Charter of the City of Ramsey.

SECTION 2 AMENDMENTS

City Code Section 117-53 is amended as follows (additions indicated as underline, deletions indicated as ~~strike-through~~)

Sec. 117-53. - Variances.

(a) *Purpose.* The purpose of this section is to provide for deviations from the ~~literal provisions of this chapter in instances where their strict enforcement would cause undue hardship or practical difficulty because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter~~terms of this chapter 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 terms of the variance 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 this chapter. 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.

(b) *General provisions and standards.*

(1) The planning commission shall serve as the board. However, any action of the board may be appealed to the council by any affected person if notice of such an appeal is received by the zoning administrator within ten days of the final action of the board.

(2) Review criteria. Conditions governing considerations of variance requests:

a. In considering all requests for a variance and in taking subsequent action, the city staff, the board and the council shall make a finding of fact that the proposed action will not:

1. Impair an adequate supply of light and air to adjacent property.
2. Unreasonably increase the congestion in the public street.
3. Have the effect of allowing any uses prohibited in the applicable zoning district, permit a lesser degree of public health, safety, and general welfare protection than established by this chapter, or permit standards which are lower than those required by state law.
4. Increase the danger of fire or endanger the public safety.
5. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this chapter.
6. Violate the intent and purpose of the comprehensive plan.
7. Violate any of the terms or conditions of subsection (b)(2)b of this section.

b. A variance from the terms of this chapter shall not be granted unless it can be demonstrated that that the conditions for granting a variance under Minn. Stats. § 462.357, subd. 6(2) have been satisfied.

c. Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.

d. Should the board find that the conditions outlined in this division apply to the proposed parcel, the board may grant a variance from the ~~strict application terms~~ of this chapter so as to relieve such practical difficulties ~~or hardships~~ to the degree considered reasonable, provided such relief may be granted without impairing the intent of this chapter. The board, in the case of variances, based upon a report and recommendation by the city staff, shall have the power to impose such conditions related to the variance regarding the location or structure, as it may deem advisable in the interest of the intent and purpose of this chapter.

(c) *Variance procedures; processing.*

(1) Request for variances, as provided within this chapter, shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee and deposit as provided for in section 117-48. Such application shall also be accompanied by a sufficient number of copies as required by city staff of detailed written and graphic materials fully explaining the requested variance and related development. The request shall be considered as being officially submitted when all the information requirements have been met. The information required for variance applications generally consists of the following items, and shall be submitted when applicable or requested by the city:

- a. Location of all buildings on parcels including both existing and proposed structures.
- b. Location and elevations of all adjacent buildings located within 150 feet of the exterior boundaries of the parcel in question.
- c. Location and number of existing and proposed curb cuts, driveways, number of parking spaces.

- d. Affected parcel dimensions and area.
- e. Dimensions of proposed and existing structures.
- f. Current and proposed setbacks of all buildings located on property in question.
- g. Existing contours at two-foot intervals.
- h. Proposed grading elevations.
- i. Drainage configuration. Storm sewer catchbasins, invert elevations, and storage areas.
- j. Proposed road profile.
- k. Location of all existing trees, type, diameter, and which trees will be removed.
- l. Requests for variance in nonresidential areas must submit site plan information in accordance with section 117-54

(2) Proof of ownership or authorization. If the applicant is other than the fee title owner, the fee title owner must join in the application.

(3) Upon the request for a variance being officially submitted, a public hearing before the board shall be scheduled following proper hearing notification.

(4) Notice of a hearing for a variance request shall consist of the following:

- a. The address and a legal description of the parcel;
- b. Description of request; and
- c. Time, place and purpose of the hearing.

The notice shall be published in the official newspaper at least ten days prior to the hearing and written notification of the hearing shall be mailed at least ten days prior to all parcel owners within 350 feet of the boundary of the parcel for which a variance is being sought. For the purpose of written notification, and in the absence of more accurate information, the parcel owner of record at the county shall be used. Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this section provided a good faith attempt has been made to comply with the notice requirements of this section.

(5) For properties within the floodway or flood fringe overlay district, the city shall submit to the commissioner of natural resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing.

(6) The zoning administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate, and provide general assistance in preparing a recommendation on the request to the board.

(7) At any time during the consideration of the request for a variance, the council, board, and/or city staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant, the information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter. Failure on the part of the applicant to supply all necessary supportive information shall be grounds for denial of the request or rejection of the

application as incomplete.

(8) The applicant or the applicant's representative shall appear at the board public hearing in order to answer questions concerning the request for a variance.

(9) After receiving the reports and recommendations of the city staff and, receiving any additional information referred to in this subdivision, and considering the criteria listed in this section, the board shall with a majority vote decide whether to approve or deny a request for variance.

a. To approve, the board must adopt by resolution findings of fact and conclusions that support approval of the requested variance and by resolution authorize the issuance of a variance. The resolution should list any condition or conditions that the board considers necessary to ensure compliance and to protect adjacent properties.

b. To deny, the board must adopt by resolution findings of fact and conclusions that support denial of the requested variance and by motion deny the issuance of a variance. This motion shall be the board's final action on the request for a variance.

(10) In accordance with section 117-187, a copy of all decisions granting variances for properties in the floodway or flood fringe shall be forwarded to the commissioner of natural resources within ten days of such action.

(11) Whenever an application for a variance has been considered and denied by the board, a similar application for a variance affecting substantially the same parcel shall not be considered again by the board for at least one year from the date of its denial. The board may permit the submittal of a new request for a variance within one year of denial if it finds that the new request or circumstances surrounding the new request have changed significantly.

(12) If a request for variance receives approval of the board, at the applicant's expense, city staff shall record such with the county recorder's office no sooner than ten days following the final action of the board.

(d) *Lapse of variance.* Unless otherwise specified by the board at the time it is authorized, a variance shall become null and void one year after the final action of the board if not initiated or utilized. The city shall notify the variance holder of such a lapse of variance at time of issuance. A variance holder may petition for an extension of time in which to complete or utilize the variance. Such extension shall be requested in writing and filed with the city at least 30 days before the expiration of the original variance. The request for extension shall state facts showing a good faith attempt to complete or use the variance. Such petition shall be presented to the council board for decision.

(e) *Performance security.*

(1) Upon approval of a variance, the city shall be provided, where deemed necessary by the board, with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. This security shall guarantee conformance and compliance with the conditions of the variance and the provisions of this Code.

(2) The security shall be in the amount equal to the city engineer's or building official's estimated costs of labor and materials for the proposed improvements or development.

(3) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the provisions of the variance and this Code has been issued by the building official.

(4) Failure to comply with the conditions of the variance or appeal and the provisions of this Code shall result in forfeiture of the security.

(5) Whenever a performance guarantee is imposed by the city, the applicant shall be required to enter into a performance agreement with the city. This agreement is to provide authorization to the city to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the city for completion of the work and address other matters as may be determined by the city attorney.

(Code 1978, § 9.03.07; Ord. No. 73-05, 5-21-1973; Ord. No. 86-2, 8-25-1986; Ord. No. 03-20, 8-25-2003)

State law reference— Variances, Minn. Stats. § 462.357, subd. 6(2).

SECTION 3 SUMMARY

The following official summary of Ordinance #11-__ has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent and effect of Ordinance #11-__ to amend Ramsey City Code Chapter 117 (Zoning and Subdivision of Land) Section 117-53 (Variances) to reflect amendments to Minnesota Statute Section 462.357 to remove the definition of undue hardship and replace with a new definition of practical difficulty as it relates to the interpretation of reasonable use.

SECTION 4 EFFECTIVE DATE

The effective date of this ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 5.07.

Adopted by the Ramsey City Council the ___ day of _____, 2011.

Mayor

ATTEST:

City Administrator

Introduction Date: _____

Posting Dates: _____

Adoption Date: _____

Publication Date: _____

Effective Date: _____