

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION 2014-52

A RESOLUTION DENYING A VARIANCE TO ALLOW A REDUCED RIPARIAN DEDICATION AND ORDINARY HIGH WATER LEVEL STRUCTURE SETBACK AROUND THE SOUTHERN CHANNEL OF GOOSE LAKE.

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Hammes West, LLC, 36 Moonlight Bay, Stillwater, MN, (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a variance to allow a reduced riparian dedication and structure setback from the Ordinary High Water Level of the southern channel of Goose Lake; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.109; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on June 23, 2014; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated July 1, 2014; and

WHEREAS, the City Council considered said matter at its July 1, 2014 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.109.
- 2) That all the submission requirements of said Section 154.109 have been met by the Applicant.
- 3) That the proposed variance includes the following components:
 - a) A variance to allow a reduction from the 150-foot riparian dedication requirement around the southern channel of Goose Lake; and

- b) A variance to allow reduced structure setbacks to the Ordinary High Water Level around the southern channel of Goose Lake for Lots 1-6, Block 10 and Lots 1-5 and 11-12, Block 9 of the Hammes Estates Preliminary Plat.
- 4) That the Variance will be located on property legally described as follows: South ½ of the NE ¼, Section 34, Township 29, Range 21, except the East 60 feet of the North 967 feet and except Parcel 3 of Washington County Right of Way Plat 49-19B, Washington County, Minnesota. PID 34.029.21.13.0001.
- 5) Required finding for a variance: That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. ***Specific findings: That the proposed use of additional residential lots within the required riparian dedication area along the southern channel of Goose Lake does not represent a reasonable use not permitted by an official control.***
- 6) Required finding for a variance: That the plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific findings: That the creation of the southern channel of Goose Lake is a circumstance created by the landowner.***
- 7) That the Minnesota Department of Natural Resources (DNR) has recommended denial of the variance.
- 8) That the applicant is able to achieve an alternate solution to maintain the current configuration or design of the proposed Preliminary Plat by separating the southern channel from Goose Lake with fill as recommended by the DNR.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is denied.

Passed and duly adopted this 1st day of July 2014 by the City Council of the City of Lake Elmo, Minnesota.

Michael Pearson, Mayor

ATTEST:

Adam Bell, City Clerk