

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

RESOLUTION 2016-84

*A RESOLUTION APPROVING A VARIANCE FROM THE MINIMUM LOT SIZE
REQUIREMENTS OF THE RURAL SINGLE FAMILY ZONING DISTRICT AND FROM THE
MAXIMUM TIME FOR WHICH A VARIANCE IS VALID*

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

WHEREAS, Suzanne Horning, 8991 Jane Road North, (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a variance from the minimum lot size requirements of the RS – Rural Single Family Residential zoning district and to waive the one-year deadline for completion of the work proposed under the variance for the property described as Lot 9 of Krause’s Addition to the City of Lake Elmo, Washington County, Minnesota (the “Property”); and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on September 12, 2016; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 4, 2016, 2016; and

WHEREAS, the City Council considered said matter at its October 4, 2016 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 from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district. The subject lot is 0.785 acres in size and the minimum required size to be buildable is 0.9 acres.
 - b) A variance to waive the one-year deadline for completion of the work proposed under the variance.
- 4) That the Variance will be located on property legally described as follows: Lot 9 of Krause's Addition to the City of Lake Elmo, Washington County, Minnesota. PID 09.029.21.11.0015.
- 5) 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: The lot is very close to meeting minimum size requirements for an existing lot to be used as a single-family detached dwelling. It is 0.785 acres, only 0.115 acres short of the minimum required 0.9 acres. The lot was originally platted as, and was bought at a time during which it was, of a buildable lot size. To deem that it is now of an unbuildable lot size, and requiring that a variance be renewed every certain number of years unless construction begins, causes difficulty for the Applicant. The Applicant would like to use the Property as open space now and convey the Property to her children in the future, as inheritance, to eventually be used for a single-family dwelling in the future. The Rural Single Family zoning district permits both of these uses. Placing a time period for which the variance is valid would incent the Applicant to sell or construct on the lot much sooner than is so desired, as continual renewal of the variance is not guaranteed. The Property is separated by road right-of-way and is not adjacent to others under common ownership, so it is not practical for the owner to be expected to use it as open space indefinitely. The variance request is a variance from minimum lot size requirements; all other requirements and standards will need to be met before a building permit will be issued.***
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific findings: The Applicant's Property is unique due to former platting and continued classification of the Property as a buildable lot, up until the City adopted new zoning regulations. The Applicant purchased the Property with the understanding that a house could someday be built on the Property; City records have been verified and indicate this to be true. Other homes on neighboring smaller lots were constructed prior to the adoption of the City's zoning regulations and therefore are legal non-confirming uses.***
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. ***Specific findings: The Applicant's lot is larger than several riparian lots in the surrounding neighborhood and is close to the minimum size needed to be considered buildable. All other surrounding lots within 1000 feet have***

houses on them. Therefore, constructing a house on this lot would not alter the essential character of the locality in which the Property is located. It should also be noted that because the variance will expire within about two and a half years, a house would need to be built on the lot sooner than if a variance from the time requirements to build was granted. Allowing the variance to be granted in perpetuity, with the outlined conditions would allow adjacent Property owners more time to enjoy the open space the lot provides.

- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. ***Specific findings: No impacts above and beyond those considered normal for any other single-family lot in the surrounding neighborhood would be expected should the variance be granted. Granting the variance in perpetuity with conditions would protect the subject Property's value for the future while allowing neighbors to enjoy the open space in the interim. Additionally, granting the variance in perpetuity with conditions will better inform future potential buyers that the lot is potentially buildable. They will not be surprised when/if a variance is granted from the minimum lot size standards in the future.***

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted, subject to the following conditions:

- 1) The driveway for the future home of the lot shall access Jane Road North. Driveway access to Jamaca Avenue North shall be prohibited.
- 2) The Applicant shall provide a drainage easement for the portion of the lot that collects storm water runoff from the subject Property and adjacent parcels before a building permit is issued for the site. The specific location of the drainage easement shall be approved by the City Engineer.
- 3) The variance shall be valid until any one of the following events occurs, whichever occurs first: the Property's Planned Land Use changes in the City's Comprehensive Plan; the Property is rezoned; any changes are made to the City's zoning regulations for the RS – Rural Single Family zoning district that would make the lot more non-conforming including but not limited to an increase in minimum lot size requirements; or an increase in minimum lot width requirements.
- 4) A grading, erosion control, and storm water management plan shall be submitted in conjunction with a building permit for the Property and approved by the City Engineer.
- 5) The Applicant shall secure any required permits from the Valley Branch Watershed District prior to commencing any grading or construction activity on the site.
- 6) The Applicant shall submit a letter from Washington County that an approved septic system can be located on the site prior to the issuance of a building permit for the site.
- 7) The Applicant shall submit a Right of Entry Agreement to the City so that it may access the Property for repairs to the drainage pipe on the Property if need be.

- 8) All other City, zoning, and development regulations must be satisfied before a building permit is issued.
- 9) The owner shall pay a fee comparable to the assessments levied against other homes in the neighborhood for the 2012 Jane Road North project if the City finds that this has not yet been done.

Passed and duly adopted this 4th day of October, 2016 by the City Council of the City of Lake Elmo, Minnesota.

Michael Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

