



STAFF REPORT

DATE: June 20, 2017
REGULAR
ITEM #: 16
MOTION

TO: City Council
FROM: Emily Becker, City Planner
AGENDA ITEM: Shoreland Variance Request to Allow Expansion of an Existing Non-Conforming Structure Which Does Not Meet Minimum Structure Setback from Ordinary High Water Level and Maximum Impervious Surface Standards - 9359 Jane Road North
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The City has received application from Scott and Julie Drommerhausen of 9359 Jane Road North for variances to allow expansion of a non-conforming structure which does not meet the required minimum structure setback from the Ordinary High Water Level (OHWL) and maximum impervious surface standards of the City's shoreland district.

ISSUE BEFORE THE COMMISSION:

The Planning Commission is being asked to hold a public hearing and make recommendation on the above-mentioned variance requests.

PROPOSAL DETAILS/ANALYSIS:

Applicant: Scott and Julie Drommerhausen
Property Owners: Scott and Julie Drommerhausen
Location: 9359 Jane Road North, PID# 10.029.21.24.0006, Lots 9 & 10, Berschen's Shores, Washington County, Minnesota
Request: Variance from Shoreland Standards – Expansion of a Non-Conforming Structure and Maximum Impervious Surface
Existing Land Use: Single-Family Detached Residential Dwelling
Surrounding Land Use: Surrounded by other single-family detached residential dwellings and abuts Lake Jane on the westerly side of the property
Existing Zoning: Rural Single Family/Shoreland Overlay District
Comprehensive Plan: Rural Single Family
History: A number of variance requests have been made for this property in the past:
1987: Permit for restoration and remodeling of home and install riprap to control shoreline erosion and floodproof home by raising home above 100 year issued by Minnesota Department of Natural Resources. Permit included a letter clarifying that a deck cannot be constructed so that it encroaches toward Ordinary High Water Level (OHWL).
1988: Permit transferred to new owner. New garage and lateral expansions not part of review for variance to raise home.

1988: Application for variance to build double garage, denied by City Council.

1989: Numerous MNDNR permit violations documented regarding unpermitted deck.

1990: Application for variance to build a deck not meeting OHWL setbacks. First approved by City Council, then appealed, then denied.

1991: Application for variance for emergency exit to lake.

1991: Agreement reached with MNDNR for four foot deck on side of the house, provided no more variances are allowed for any additional construction or development of any type.

2001: Valley Branch Watershed District permit for fill and grading to restore lot and raise above flood plain.

Variance Appeal: June 5, 2001 (denied June 19, 2001)

Deadline for Action: Application Complete – 5/9/2017

60 Day Deadline – 7/8/2017

Extension Letter Mailed – N/A

120 Day Deadline – N/A

Applicable

Article V – Zoning Administration and Enforcement

Regulations:

Article XIX – Shoreland Management Overlay District

Request Details. The applicant is proposing to construct an addition to his home which will allow all bedrooms to be on one level. There currently exists an 18' X 32' (576 square feet) deck on the southeast side of the house that will be removed, along with a tree as indicated in the attached survey. This will be replaced by an approximate 24' X 26' (685 square feet) addition. The deck was allowed to be built through the variance process, explained in further detail later in this report. Staff cannot find the Resolution granting this variance; the meeting minutes do not indicate that a Resolution was passed. These minutes are attached to this report. The proposed addition is setback 45.4 feet from the OHWL, and the required setback within the City's shoreland district for an unsewered property on Lake Jane, a Recreational Development lake, is 100 feet. The proposed addition is also within the Shore Impact Zone, which is defined as the land located between the OHWL of a public water and a line parallel to it at a setback of 50% of the structure setback (50 foot setback from the OHWL of a Recreational Development lake).

Additionally, the lot currently has an impervious surface percentage of 26.9%. The proposed addition increases the lot's impervious surface to 29.7%. The maximum impervious surface allowed within the City's shoreland district per the Zoning Code is 15% for unsewered properties within a Recreational Development shoreland.



Lot Details. The property meets all setbacks for the Rural Single Family Zoning district but does not meet the minimum lot size requirement of 1.5 acres.

- *Area:* 23,025 square feet (0.52 acres)
- *Front yard setback:* 41.5 feet
- *Proposed front yard setback:* 39.8 feet (30 feet required)
- *Side yard setback (west):* 13.7 feet (10 feet required)
- *Existing side yard setback (east):* Approximately 96 feet (10 feet required)

- *Proposed side yard setback (east):* Approximately 72 feet (10 feet required)
- *Proposed septic setbacks:* 17.2 from septic equipment and 20.6 feet from drainfield (10 and 20 feet required, respectively)
- *Septic Permit Needs.* The proposed addition will allow for all bedrooms to be on one level, but current downstairs bedrooms will be converted to living space and therefore no septic permit or inspection is required.

Nonconformities within a Shoreland. The City's Shoreland Ordinance states that all additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of the Shoreland Ordinance. Any deviation from these requirements must be authorized by a variance. There is an additional provision that states that where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or bluff impact zone. It should be noted that this provision in the ordinance was not drastically changed in the 2017 amendment to the Shoreland Section of the Zoning Code, as previously an improvement to a riparian substandard structure was allowed to extend laterally by a conditional use permit (as opposed to a variance), provided it was in compliance with all other dimensional standard. The proposed addition is within a shore impact zone, and so this provision may not be applied towards this expansion. As stated later on in this report, two properties adjacent to the subject property were granted variances to allow structures to be located nearer to the OHWL than is permitted by the Shoreland Ordinance. Both of these structures are setback around 40 feet from the OHWL.

Previous Variance Requests. In 1989, the Council denied a variance request by a previous property owner of the subject property. The variance request was for a deck that would further extend in to the OHWL than the home currently was. The Minnesota Department of Natural Resources (MNDNR) recommended denying this request based on lack of hardship. The Council had originally approved the variance, and then received an appeal from the MNDNR and denied the requested variance for a deck based on the following findings of fact:

1. The applicant had no hardship.
2. The applicant had a reasonable use of the property without a deck.
3. There were alternative locations for the deck which would not increase the substandard setback of the house.
4. The MNDNR stated in a permit issued to allow shoreland fill that no deck would be allowed.

Later, the property owner at the time had negotiated an agreement with the MNDNR that a portion of the deck could be constructed if this property owner at that time would never again seek an OHWL setback variance for this parcel. Based on this agreement, the City Council approved the variance, and a deck was constructed. This is the deck that now exists on the lake/southeast side of the home.

In 2001, that same property owner requested another variance to enlarge his home and again requested 550 more square feet of decking that further extended in to the OHWL (22 feet from the OHWL). The Planning Commission had approved the variance request originally, but then the Board of Adjustment and Appeals received a notice of appeal to the Planning Commission's decision from then City Administrator Kueffner. The basis for that appeal was insufficient findings by the Planning Commission to support the variance approval decision. The request was denied based on the following findings (in summary):

1. The literal interpretation of the zoning ordinance would not deprive the applicant of reasonable rights.
2. The degree of OHWL departure was more than what was previously granted.
3. No hardship had been demonstrated.
4. Since no hardship was demonstrated, granting the variance would not alleviate the hardship.
5. The area of OHWL was artificially created from lakebed in years past.

It should be noted that this (2017) variance request differs from the previously-denied variance requests in that the applicant is requesting an addition to the home that does not further encroach on the required setback from the OHWL than the existing home already does.

Adjacent Property Variances. The City granted similar variances to adjacent properties. This should not be a basis for granting an additional variance for the subject property, but it does show that the granting of the variance may not change the character of the surrounding area.

- In 2000, 9369 Jane Road North was granted a variance to place a structure 44.2 feet to 52.7 feet from the OHWL and to allow a lot width of 103.34 feet.
- 9287 Jane Road North was granted a variance, also in the year 2000, to permit two additions to the primary structure consisting of a 16' X 26' garage addition to the north side; and a 14' X 24' addition to the south side; both additions less than the required 100 foot setback from the OHWL.

Engineering Review. The City Engineer has reviewed the proposed variance and has indicated that he does not readily see any engineering matters to comment on regarding this application. It is not one of the original properties connected to the City 201 system, but it is adjacent to a property that is connected to a city system.

MNDNR Review. The Applicant's variance requests were sent to the MNDNR for review. The City received the MNDNR's comments on June 9, 2017. The MNDNR recommended denial of the variance request based on its proposed increase in impervious surface. The applicant is proposing an impervious surface coverage of almost twice that allowed within this shoreland district for an unsewered property, and the MNDNR stated that there is a strong correlation between increased impervious surface coverage and water quality degradation.

PLANNING COMMISSION/PUBLIC HEARING:

The Planning Commission held a public hearing and made recommendation on the proposed variance requests at its June 12, 2017 meeting. Prior to the public hearing, a resident of 9417 Jane Court North inquired about the variance request, raising no concern. As previously noted, the MNDNR was sent the public hearing notice and recommended denial or, at the very least, conditioning approval on mitigation of the increase in impervious surface. No one from the public spoke at the public hearing. The Planning Commission recommended the following amendments (in red, underlined text) be made to the Staff-recommended conditions of approval:

- 1) The Applicant shall secure any required permits and plan approvals from the City and other applicable jurisdictions.
- 2) The Applicant shall direct appropriate rain gutter discharges into a rain garden (infiltration basin designed to capture and infiltrate runoff) designed by a professional engineer or landscape architect and installed under their direction. The rain garden should mitigate the increased impervious surface of the entire addition to the home (685 square feet).
- 3) The Applicant shall identify an area for a secondary (backup) drainfield, in the event the existing drainfield fails. If it is identified that a mound system constructed on top of the existing drainfield is an option, this would be an acceptable alternative. The rain garden installed to mitigate the increased impervious surface shall not encroach the secondary (backup) drainfield area.

The Commission made a motion to recommend approval of the proposed variance requests to allow construction of the proposed addition to the home, with amended conditions of approval, with an affirmative vote of 5-0.

RECOMMENDED FINDINGS:

Recommended findings are outlined in the attached Resolution 2017-062.

FISCAL IMPACT:

None.

OPTIONS:

The Council may:

- Approve Resolution 2017-062, approving the variance requests, subject to conditions of approval as recommended by Staff and the Planning Commission.
- Amend conditions of approval as recommended by Staff and the Planning Commission and approve Resolution 2017-062, approving the variance requests, subject to amended conditions of approval.
- Deny the variance requests.

RECOMMENDATION:

Staff and the Planning Commission recommend that Council adopt Resolution 2017-062, approving shoreland requests by Scott and Julie Drommerhausen of 9359 Jane Road North for expansion of a non-conforming structure not meeting the minimum structure setback from the Ordinary High Water Level and maximum impervious surface standards for the property located at 9359 Jane Road North, subject to recommended conditions of approval. The suggestion motion for the recommended action is as follows:

“Move to adopt Resolution 2017-062, approving requests for shoreland variances from the minimum structure setback from the Ordinary High Water Level and maximum impervious surface standards, subject to conditions of approval as recommended by Staff and the Planning Commission.”

ATTACHMENTS:

- Application with narrative and survey
- Minutes approving the 1991 variance
- Past agreement with MNDNR
- 2001 Resolution denying variance request
- MNDNR review letter

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

RESOLUTION 2017-062

*A RESOLUTION APPROVING A VARIANCE FROM MINIMUM STRUCTURE SETBACK
FROM ORDINARY HIGH WATER LEVEL AND MAXIMUM IMPERVIOUS SURFACE
STANDARDS OF THE CITY'S SHORELAND DISTRICT*

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

WHEREAS, Scott and Julie Drommerhausen, 9359 Jane Road North, Lake Elmo, MN 55042 (“Applicant”), has submitted an application to the City of Lake Elmo (the “City”) for variances to allow construction of an approximately 685 square-foot addition, which will replace an existing deck, to the east of an existing home currently setback 45.4 feet from the Ordinary High Water Level (OHWL) and maximum impervious surface standards to increase the current impervious surface percentage from 26.9% to 29.7%.

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 12, 2017; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated June 12, 2017; and

WHEREAS, the City Council considered said matter at its June 20, 2017 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 for an addition to an existing single-family detached home that does not meet the minimum setback from the OHWL or maximum impervious surface requirements.
- 4) That the Variance will be located on property legally described as follows: Lots 9 & 10, Berschen's Shores, Washington County, Minnesota. PID# 10.029.21.24.0006.
- 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 subject property was platted prior to adjustment of the Ordinary High Water of Lake Jane and the adoption of Shoreland standards by the City, and therefore the lot is much wider than it is long. Because of the shape of the lot, the Applicant is proposing to expand the home laterally rather than further encroaching on the current setback of the Ordinary High Water Level. Additionally, the addition will not expand much more of the footprint of the principal structure, as a slightly smaller deck that will be torn down exists where the addition is being proposed. Additionally, although the City's ordinance does not treat decks as impervious, many do. If decks were considered impervious, the addition would only add 109 square feet of impervious surface, or an increase of about 0.46%.***
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific findings: The property is unique in that it is much wider than it is long, and the Applicant was not involved in the platting process of this property nor the adoption of the City's shoreland standards. The Applicant also was not involved in any previous variance requests for the subject property.***
- 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 proposed addition is in place of an existing deck and only slightly increases the footprint of the existing principal structure, including the existing deck, by 109 square feet. Additionally, the proposed addition does not further encroach on the existing setback of the principal structure from the OHWL of the property and has a setback from the OHWL similar to those of adjacent principal structures.***
- 8) That the proposed variance will not impair an adequate supply of light and air to properties 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: The proposed addition will not further encroach on the setback of the existing structure from the OHWL and therefore will not further impair lake views of neighboring properties and will not impair an adequate supply of light and air. It also will not increase congestion of public streets or substantially diminish or impair property values within the neighborhood. Adjacent properties, including the subject property, have been granted similar variances and are setback a similar distance from the OHWL.***

CONCLUSIONS AND DECISION

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

- 1) The Applicant shall secure any required permits and plan approvals from the City and other applicable jurisdictions.
- 2) The Applicant shall direct appropriate rain gutter discharges into a rain garden (infiltration basin designed to capture and infiltrate runoff) designed by a professional engineer or landscape architect and installed under their direction. The rain garden should mitigate the increased impervious surface of the entire addition to the home (685 square feet).
- 3) The Applicant shall identify an area for a secondary (backup) drainfield. If it is identified that a mound system constructed on top of the existing drainfield is an option, this would be an acceptable alternative. The rain garden installed to mitigate the increased impervious surface shall not encroach the secondary (backup) drainfield area.

Passed and duly adopted this 20th day of June 2017 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

LAND USE APPLICATION

MAY ¹⁵ ~~18~~ 2017

- Comprehensive Plan Zoning District Amend Zoning Text Amend Variance*(see below) Zoning Appeal
- Conditional Use Permit (C.U.P.) Flood Plain C.U.P. Interim Use Permit (I.U.P.) Excavating/Grading
- Lot Line Adjustment Minor Subdivision Residential Subdivision Sketch/Concept Plan
- PUD Concept Plan PUD Preliminary Plan PUD Final Plan Wireless Communications

Applicant: Scott Drommerhausen
Address: 9359 Jane Rd N Lake Elmo, MN 55042
Phone #: 612-325-2197
Email Address: scottdrommerhausen@gmail.com

Fee Owner: Scott Drommerhausen
Address: 9359 Jane Rd N Lake Elmo, MN 55042
Phone #: 612-325-2197
Email Address: scottdrommerhausen@gmail.com

Property Location (Address): 9359 Jane Rd N Lake Elmo, MN 55042
(Complete (long) Legal Description): _____

PID#: _____

Detailed Reason for Request: Please let us remove our deck on the side of our house and extend our house to that side.

Please let us do this even though the impervious surface is above guidelines.

*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:
we would like to add more bedrooms so we can all be on one level.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: [Signature] Date: 4/26/17

Signature of fee owner: [Signature] Date: 4/26/17

Scott & Julie Drommerhausen - 9359 Jane Rd N Lake Elmo, MN 55042

2 A. Owners: Scott & Julie Drommerhausen

2 B. Site: 9359 Jane Rd N, Lake Elmo, MN 55042. 1.03 Acres. Parcel # 1002921240006. Primary residence for Scott/Julie and family.

2 C.

2 D. We are looking to do an addition to the South side of our house. We are not going any closer to water. The addition is around 1000 square feet additional split between two levels. This varies from the Lake Elmo Code because the addition is closer to the water than allowed by current Lake Elmo codes but isn't closer to the water than our existing home. The other code it varies from is the impervious surface for un-sewered lots code. This code only takes into account from the original high water mark. Our lot is 1.03 acres total. The addition will increase the impervious surface by only 2.8%. The water level is lower than the original high water mark. With the built in over-flow system now put into place and eventually flowing into the St. Croix River, chances of the Lake Jane ever hitting the original high water mark is extremely, extremely, low.

2 E. I have had numerous conversations with people at the city and Stephen Wensman came out to my house from the city to assess the situation. We have an email from Stephen Wensman stating that a variance is not needed after meeting in person at City Hall and at our home with him. This has been quite a long and frustrating process as I was told before no variance was required. Now I am ready to start and I am told the process changed and it will cost me time and money. Due to the history with this process I have had, I am asking for a full or partial refund of our \$750. I am happy to discuss further if any questions.

2 F. Our family has grown since we moved in to our house in 2010, therefore we need additional room for our family. Currently

2 G. Our lot is large but narrow from road to waterfront. Therefore the only option we have to add on is to the south of our house. We know we can't go any closer to the lake and the proposed addition will show this.

2 H. We are trying to make a nicer home inside and outside for our family and our community. With the addition, we are going to re-do all of the siding/roof on our house to enhance curb appeal. Since we are adding to the side of the home, we are changing the height of the home blocking anyone neighbors view of the lake. From the lake side, the addition will not be any closer to the lake than our existing structure. Therefore, it will not impact the feel of the lake for people passing by.

LEGAL DESCRIPTION:

Lots 9 and 10, BERSCHEN'S SHORES, Washington County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.
- While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
- While we show the building setback lines per the City of Lake Elmo web site, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you use this survey to design anything for this site.

STANDARD SYMBOLS & CONVENTIONS:

● Denotes iron survey marker, set, unless otherwise noted.

GRADING & EROSION CONTROL NOTES:

BEFORE DEMOLITION AND GRADING BEGIN

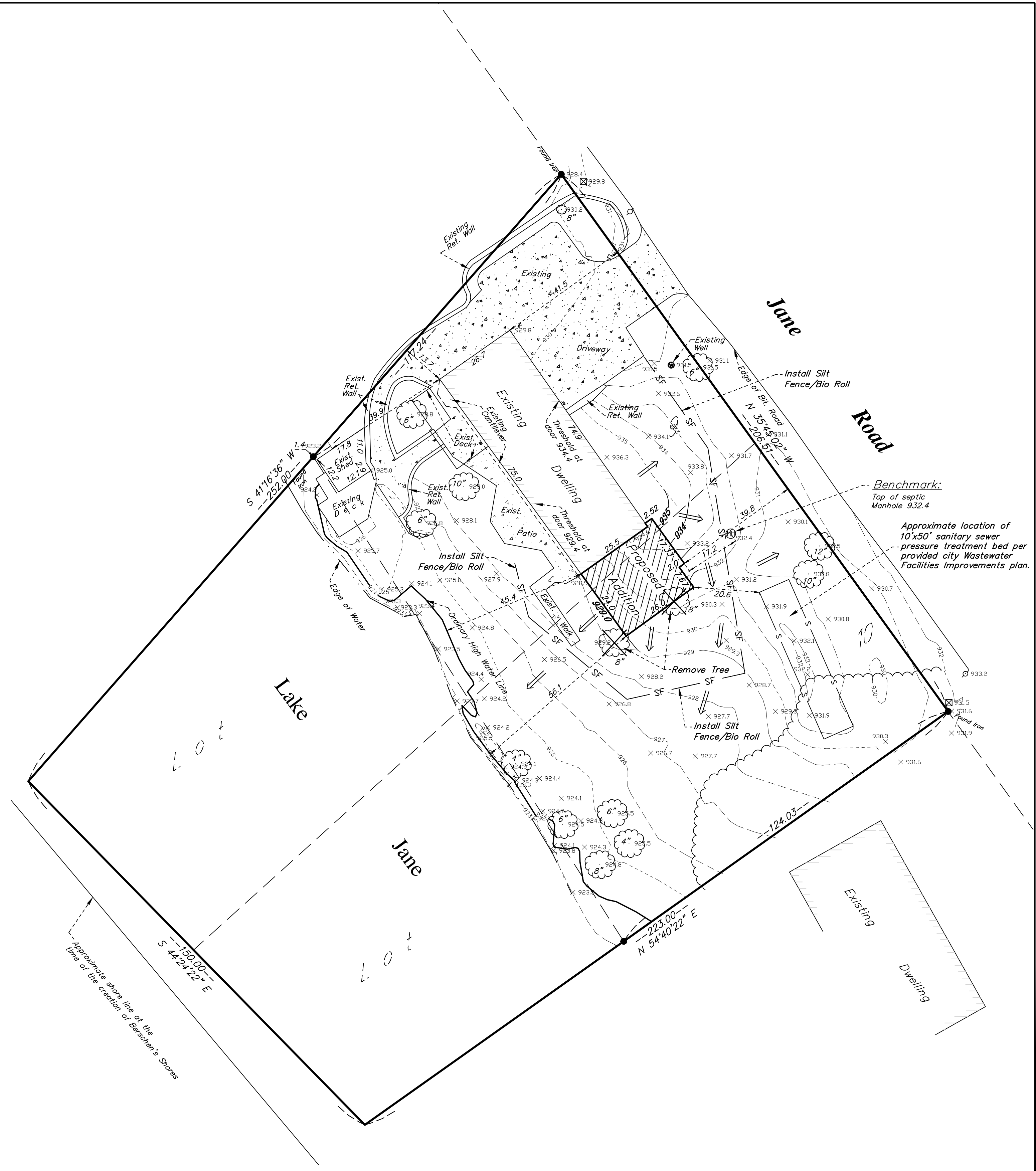
- Install silt fence/bio roll around the perimeter of the construction area.
- Sediment control measures must remain in place until final stabilization has been established and then shall be removed. Sediment controls may be removed to accommodate short term construction activity but must be replaced before the next rain.
- A temporary rock construction entrance shall be established at each access point to the site and a 6 inch layer of 1 to 2 inch rock extending at least 50 feet from the street into the site and shall be underlain with permeable geotextile fabric. The entrance shall be maintained during construction by top dressing or washing to prevent tracking or flow of sediments onto public streets, walks or alleys. Potential entrances that are not so protected shall be closed by fencing to prevent unprotected exit from the site.

DURING CONSTRUCTION:

- When dirt stockpiles have been created, a double row of silt fence shall be placed to prevent escape of sediment laden runoff and if the piles or other disturbed areas are to remain in place for more than 14 days, they shall be seeded with Minnesota Department of Transportation Seed Mixture 22-111 at 100 lb/acre followed by covering with spray mulch.
- A dumpster shall be placed on the site for prompt disposal of construction debris. These dumpsters shall be serviced regularly to prevent overflowing and blowing onto adjacent properties. Disposal of solid wastes from the site shall in accordance with Minnesota Pollution Control Agency requirements.
- A separate container shall be placed for disposal of hazardous waste. Hazardous wastes shall be disposed of in accordance with MPCA requirements.
- Concrete truck washout shall be in the plastic lined ditch and dispose of washings as solid waste.
- Sediment control devices shall be regularly inspected and after major rainfall events and shall be cleaned and repaired as necessary to provide downstream protection.
- Streets and other public ways shall be inspected daily and if litter or soils has been deposited it shall promptly be removed.
- If necessary, vehicles, that have mud on their wheels, shall be cleaned before exiting the site in the rock entrance areas.
- Moisture shall be applied to disturbed areas to control dust as needed.
- Portable toilet facilities shall be placed on site for use by workers and shall be properly maintained.
- If it becomes necessary to pump the excavation during construction, pump discharge shall be into the stockpile areas so that the double silt fence around these areas can filter the water before it leaves the site.
- Temporary erosion control shall be installed no later than 14 days after the site is first disturbed and shall consist of broadcast seeding with Minnesota Department of Transportation Seed Mixture 22-111 at 100 lb/acre followed by covering with spray mulch.

SITE WORK COMPLETION:

- When final grading has been completed but before placement of seed or sod an "as built" survey shall be done per City of Lake Elmo requirements to insure that grading was properly done.
- When any remedial grading has been completed, sod or seeding shall be completed including any erosion control blankets for steep areas.
- When turf is established, silt fence and inlet protection and other erosion control devices shall be disposed of and adjacent streets, alleys and walks shall be cleaned as needed to deliver a site that is erosion resistant and clean.



EXISTING HARDCOVER		PROPOSED HARDCOVER	
House	1,953 Sq. Ft.	House	2,609 Sq. Ft.
Existing Decks	628 Sq. Ft.	Existing Decks	628 Sq. Ft.
Shed	176 Sq. Ft.	Shed	176 Sq. Ft.
Concrete Surfaces	3,197 Sq. Ft.	Concrete Surfaces	3,197 Sq. Ft.
Ret. Walls	237 Sq. Ft.	Ret. Walls	237 Sq. Ft.
TOTAL EXISTING HARDCOVER	6,191 Sq. Ft.	TOTAL PROPOSED HARDCOVER	6,847 Sq. Ft.
AREA OF LOT TO OHW	23,025 Sq. Ft.	AREA OF LOT TO OHW	23,025 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	26.9%	PERCENTAGE OF HARDCOVER TO LOT	29.7%

LEGEND

EXISTING CONTOUR: --- 925 ---

EXISTING SPOT ELEVATION: X 925.5

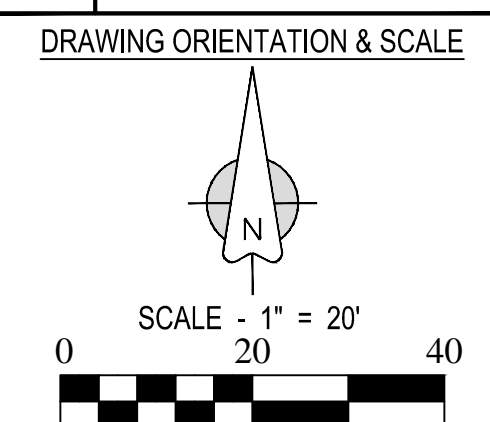
PROPOSED CONTOUR: — 925 —

DRAINAGE ARROW - FLOW: →

SILT FENCE/STRAW LOGS: — SF —

TREE REMOVAL: ✕

DATE	REVISION DESCRIPTION
5-8-17	ADDED DIMENSION FROM MH TO ADDITION
5-15-17	ADDED APPROXIMATE LOCATION FOR SEWER PRESSURE BED



CLIENT NAME / JOB ADDRESS

SCOTT DROMMERHAUSEN

9359 JANE ROAD NORTH
LAKE ELMO, MN

Advance
Surveying & Engineering, Co.

17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL CIVIL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Joshua S. Rinke
Joshua S. Rinke
#52716
LICENSE NO.
MAY 4, 2017
DATE

DATE SURVEYED: MAY 3, 2017

SURVEYED BY:
ADVANCED SURVEYING, & ENG., CO.

DATE DRAFTED: MAY 4, 2017

SHEET TITLE
PROPOSED SURVEY

DRAWING NUMBER
170379 JR

SHEET SIZE **22 X 34**

SHEET NO.
S1

SHEET 1 OF 1

M/S Hunt/Mottaz - to approve the variance to setback from Ordinary High Water Mark for Joe Kiesling, 9359 Jane Road, of the plan as presented to the Council with the stated hardship of providing emergency exit from two corners of the house.

M/ Williams/ - to amend the motion to approve variance in the spirit of minimizing the variance to change the locations of the stairway at the north end of the house onto the existing concrete and change the location of the stairway at the south end of the house either on the north end of the small deck off the double door, extending northerly, or at the southwest corner of the large deck so that the stairway would not extend beyond the existing concrete line, or the stairway at the northend of the house could be moved to the south end of that deck and extend southerly along the side of the house.

M/S/P Hunt/Mottaz - to amend the original motion that the DNR has no problems with this addition and has accepted the plans as presented to the City, and the DNR has stated that no further variances shall be granted on this piece of property for future lakeside construction of any type, and further that Mr. Kiesling be asked to sign an acknowledgement of this when his building permit is issued. (Motion carried 3-1, against: Williams - the variance was not the minimum reasonable variance which would allow relief for the hardship).

~~PUBLIC HEARING: Variance to setback from Ordinary High Water Mark: Stephen Bachman, 3141 Klondike.~~

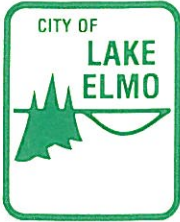
Mayor Johnson opened the public hearing at 8:25 p.m. in the City Council Chambers. The public hearing notice was published in the March 6, 1991 St. Croix Valley Press and adjoining property owners were notified.

The Bachman's are requesting a variance from structure setback to the Ordinary High Water Mark and are proposing an addition to the existing house. The number of bedrooms will remain the same; therefore, the septic system does not have to be increased. All setbacks from the property lines are met. The Bachmans also intend to do extensive landscaping as part of the entire improvement project. A grading and filling permit will be required. The DNR will not object to the project so long as hardship can be demonstrated.

Mrs. Bachman stated the addition will contain a different living room and dining room, and they're not adding any bedrooms, just changing the configuration.

Mayor Johnson closed the public hearing at 8:37 p.m.

Councilman Williams asked Mrs. Bachman what the hardship is. Mrs. Bachman stated the hardship is right now they have two bedrooms and they really need three bedrooms. When asked to clarify this, she stated there are two bedrooms upstairs and one downstairs. The addition would allow them to move the one from the main floor to the upstairs, then the main floor bedroom would become a den.



City of Lake Elmo

777-5510

3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

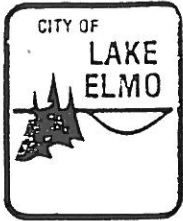
I, the undersigned, do hereby understand and agree that the property legally known as lots 9 and 10 Berschens Shores in Lake Elmo, Minnesota will be granted no further variances from the Minnesota Department of Natural Resources (DNR) or from the City of Lake Elmo for any additional construction or development of any type from this day forward.

Excluded from this agreement is the safety and legal operation of the existing septic system. If in the future the present septic system fails the parties involved (owner, DNR, City of Lake Elmo) must agree upon the corrective steps and variances (if any) necessary to provide the above property with a properly functioning sewage treatment system.

Joseph Keisling
Signature - Owner

Jim McNamara
Signature - City of Lake Elmo

3-22-91
Date of Agreement



City of Lake Elmo

777-5510

3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

April 4, 1991

Mr. Joe Kiesling
9359 Jane Road N.
Lake Elmo, MN 55042 ~

Dear Mr. Kiesling:

This letter is to officially advise you that at its March 19, 1991 meeting, the City Council granted the variance from the ordinary high water mark (OHWM) for the addition of a deck and stairway, as shown on the plan submitted to the City Council.

The DNR stated it would grant such a variance, but stated that no further variances shall be granted on this piece of property for future lakeside construction of any type. The Council concurred with this recommendation of the DNR, and made this provision a part of its motion to grant the variance.

An excerpt of the minutes from that meeting is attached for your records. Jim McNamara has advised me that you have signed a statement acknowledging this condition, and that you have obtained the necessary permit for this construction.

Please feel free to call me if you have any questions or concerns.

Sincerely,

Mary Kueffner
City Administrator

cc: Jim McNamara

enc.

b

Contour interval = 2 feet.

Ordinary High Water elevati

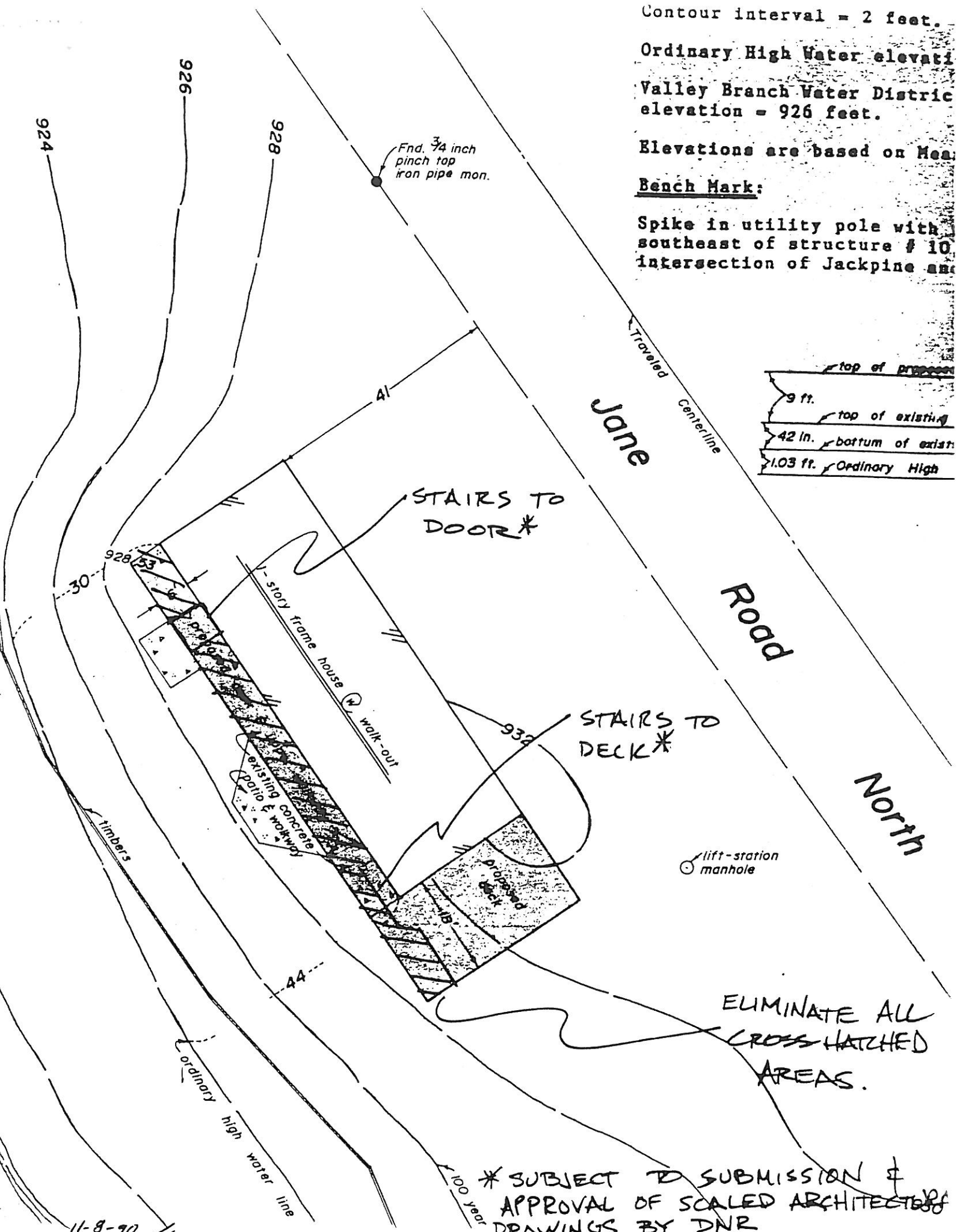
Valley Branch Water Distric
elevation = 926 feet.

Elevations are based on Mea

Bench Mark:

Spike in utility pole with
southeast of structure # 10
intersection of Jackpine an

top of proposed
9 ft.
top of existing
42 in.
bottom of existi
1.03 ft.
Ordinary High



Fnd. 3/4 inch
pinch top
iron pipe mon.

Travelled Centerline
Jane Road North

STAIRS TO DOOR*

STAIRS TO DECK*

Road

North

lift-station manhole

ELIMINATE ALL
CROSS HATCHED
AREAS.

* SUBJECT TO SUBMISSION &
APPROVAL OF SCALED ARCHITECTURAL
DRAWINGS BY DNR

11-8-90

CITY OF LAKE ELMO

WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2001- 043

AN ORDER ISSUED BY THE BOARD OF ADJUSTMENTS AND APPEALS

WHEREAS, Joseph Kiesling, 9359 Jane Road North, applied for variances to Section 325.06 ad Section 300.05 Subd 2 C. to enlarge his existing home at 9359Jane Road N.

WHEREAS, the variances requested by the applicant are to enlarge the existing structure 22 feet from the Ordinary High Water Level, where 100 feet is required; and a variance to alter a non-conforming structure,

WHEREAS, at its May 14, 2001 meeting, the Planning Commission held the Public Hearing required by Code and adopted Resolution No. 2001-30 approving the variance application of Joseph Kiesling to enlarge the existing structure 22 feet from the Ordinary High Water level and a variance to alter a non-conforming structure based on Findings stated in the Resolution.

WHEREAS, on May 15, 2001, the Board of Adjustment and Appeals received from City Administrator Kueffner, a notice of appeal to the Planning Commission's decision for approval within the 5 day appeal period.

WHEREAS, the Zoning Administrator notified the applicant, the Chairperson of the Planning Commission, and the abutting property owners of the time and date of the hearing.


WHEREAS, at the June 5, 2001 meeting, the Board of Adjustment of Appeals held the hearing and considered the applicant's appeal to the decision of the Planning Commission,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Adjustment and Appeals deny the requested variances on the Appeal by City Administrator Kueffner based on the following findings:

1. The literal interpretation of the zoning ordinance will not deprive the applicant of reasonable rights, similar to those enjoyed by other property owners with property in similar physical circumstances. The existing home is of substantial size, with lake side decks and a two-car garage.

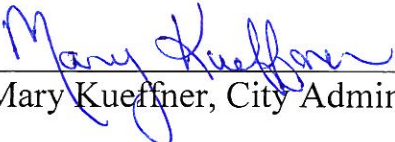
2. The degree of Ordinary High Water setback departure requested by the applicant, as a zoning variance, would be a special privilege that has not been accorded to other property owners in the Shoreland Overlay District. Lesser degrees of encroachment have been denied as variances.
3. No hardship, has opposed to the applicant's personal desire, has been demonstrated.
4. The requested variance is not the minimum that would alleviate the hardship, since no hardship as been demonstrated.
5. The area of this lot now above the Ordinary High Water level was, in part, was artificially created from lakebed in years past. By that action, encroachment in excess of most other lake front lots in the neighborhood has already taken place. Additional encroachment by approval of this variance would bestow a privilege to this property owner not enjoyed by other property owners in similar circumstances.

ADOPTED, by the Lake Elmo City Council this 19th day of June, 2001.



Lee Hunt, Mayor

ATTEST:



Mary Kueffner, City Administrator

6/9/2017

Emily Becker
Lake Elmo City Planner
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Shoreland Variance Request at 9359 Jane Road North, Lake Elmo (Lake Jane - 82010400)

Emily –

The primary goal of limiting impervious surfaces within shoreland districts is to reduce the amount of runoff directed into Minnesota waters. Runoff from impervious surfaces travels over the land and carries pollutants such as nutrients, sediment, bacteria, pesticides, heavy metals, and organic wastes. Studies have consistently shown a strong, direct connection between the percentage of impervious surface in a watershed and water quality degradation. As impervious surface area expands, so does the volume of runoff, phosphorus, and sediment entering waters, causing nuisance algae blooms, reducing public enjoyment, and harming aquatic plants and animals.

Please use the attached MNDNR guidance on variances to maximum impervious surface in shoreland districts when evaluating this variance request against statutory criteria and developing a findings of fact. If findings support granting the variance, impacts to Lake Jane should be considered in developing appropriate conditions to mitigate those impacts.

This project would increase impervious surface from 26.9% to 29.7%, where the maximum impervious surface allowed is 15% for unsewered properties within the shoreland district of a recreational development lake. MNDNR recommends denial of this variance request because this additional increase in impervious surface would result in a percent impervious that would be nearly double the City's standard and because the proposed addition is within the shore impact zone (SIZ). If a variance is granted for this project, MNDNR recommends that the City of Lake Elmo include conditions on the variance that mitigate for this increase in percent impervious surface. Examples of appropriate mitigation conditions include:

- Modify construction design (to minimize impact).
- Direct rain gutter discharges into a rain garden (infiltration basin designed to capture and infiltrate runoff).
- Restore shoreline vegetation to natural state (to intercept and filter runoff coming from the structure).

Thank you for the opportunity to comment on this variance request.

Sincerely,



Jenifer Sorensen
MNDNR, East Metro Area Hydrologist
1200 Warner Road
St. Paul, MN 55106
651-259-5754 | jenifer.sorensen@state.mn.us

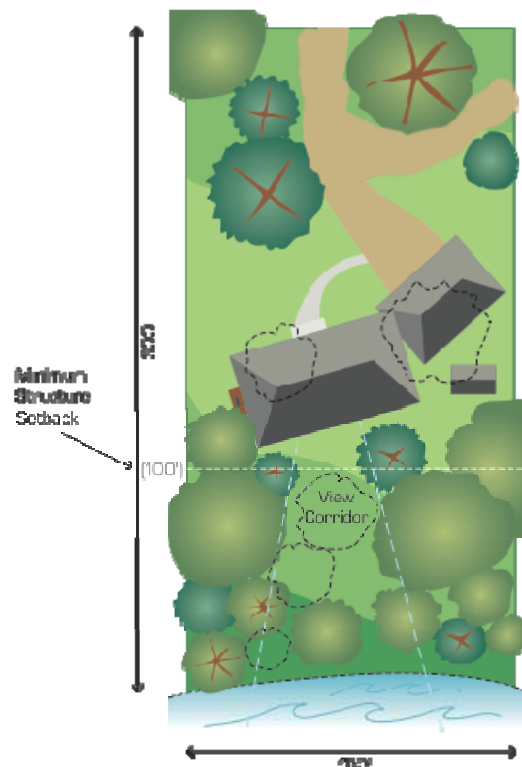
This is one of a series of examples developed as guidance for considering variance requests along lakes and rivers. Consult your local shoreland and floodplain ordinances.

Why are impervious surface coverage limits important?

In the protection of water quality, the management of rainwater on individual lots is one of our most important tasks. Rainwater that does not infiltrate into the ground or evaporate runs downhill to lakes, wetlands, or rivers. As impervious surface coverage increases, the rate and amount of runoff and pollutants entering public waters increases. When runoff from impervious surface coverage is not addressed, pollution increases and the diversity of aquatic life is reduced. Local governments have limited discretion to deviate from - or grant a variance to - impervious surface limits. They may do so only if *all* of the variance criteria established in state statutes and their local ordinances are met. In evaluating such requests, local governments must examine the facts, determine whether all statutory and local criteria are satisfied, and develop findings to support the decision. If granted, local governments may impose conditions to protect resources. An example impervious surface variance request, with considerations, is provided below.

Example Impervious Surface Variance Request

A property owner wishes to build a large lakehome on a conforming lot. The lake lot includes a private driveway with a spur to the neighbor's lot, which was placed to avoid an adjacent wetland. The building plans for the new construction plus the existing private road spur to the neighbor's property would exceed the impervious surface limit provision in the local ordinance.



Considerations for Findings

A good record and findings help keep communities out of lawsuits and help them prevail if they find themselves in one. In evaluating the facts and developing findings for this variance request, *all* of the following statutory criteria must be satisfied, in addition to any local criteria:

- Is the variance in harmony with the purposes and intent of the ordinance?**

Considering a variance request is a balancing test that requires weighing the need of an individual property owner against the purposes of the shoreland regulations for protecting the public interest. These purposes are derived from Minnesota Shoreland Rules, which established impervious surface caps to prevent excessive runoff from constructed surfaces. Such excessive runoff causes erosion, transport of pollutants to public waters thereby degrading water quality. **Considerations:** *Will deviating from the required limit on this property undermine the purposes and intent of the ordinance? Why or why not? Is it possible to mitigate the consequences of additional impervious surface on-site such that additional runoff will not be produced? Would this mitigation be in harmony with the purposes and intent of the ordinance? Why or why not?*
- Is the variance consistent with the comprehensive plan?**

The local comprehensive plan establishes a framework for achieving a community's vision for the future. Most plans contain goals and policies for protecting natural resources and shorelands, as well as maps that identify areas of high risk or with high ecological value where development should be avoided. The variance request must be considered with these goals and policies in mind. Maps should be consulted to determine if the property is within any areas identified for protection. **Considerations:** *Which goals and policies apply? Is allowing additional impervious surface and runoff consistent with these goals and policies? Why or why not?*

- **Are there *unique circumstances* to the property not created by the landowner?**

Unique circumstances relate to physical characteristics of the land - such as lot dimensions, steep slopes, poor soils, wetlands, and trees. These *do not* include physical limitations or personal circumstances created by the property owner that prevent compliance with the impervious surface provision, such as size of home or design preferences. Consider what distinguishes this property from other shoreland properties to justify why the applicant should be able to deviate from the provision when others must comply. **Considerations:** *What physical characteristics are unique to this property that prevent compliance with the requirement? Were any difficulties in meeting the impervious surface limit created by some action of the applicant? Has the applicant demonstrated no other feasible alternatives exist that would not require a variance, such as increasing the setback to reduce driveway length or reducing the lakehome's footprint?*

- **Will the variance, if granted, alter the essential character of the locality?**

Consider the size of the proposed structure, the extent of encroachment, and how it relates to the shoreline and hydrology of the riparian area. A large addition located close to the shoreline can detract from the natural appearance and character of the lake and its riparian areas and degrade water quality by altering topography, drainage, and vegetation in the riparian area, negatively affecting recreational, natural, and economic values. **Considerations:** *Does the variance provide minimal relief or a substantial deviation from the required setback? Does it affect the natural appearance of the shore from the lake? Does it affect the hydrology of the riparian area?*

- **Does the proposal put property to use in a reasonable manner?**

Examine the reasons that the variance is requested and evaluate them in light of the purposes of the local shoreland ordinance and the public water resource at stake. Since the impervious surface cap is generally intended to reduce runoff to public waters, it may not be appropriate to allow large areas of constructed surfaces so close to the water. **Considerations:** *Has the applicant demonstrated that the proposed construction is reasonable in this location given the sensitive nature of the area and the purposes of the regulations? Why or why not?*

Note: *The last three criteria address practical difficulties. Economic considerations alone cannot create practical difficulties*

Range of Outcomes

Based on the findings, several outcomes can occur:

- If the applicant fails to prove that *all* criteria above are met, then the variance must be denied. For example, the local government could find that the building plans itself created the circumstances necessary for a variance rather than the any unique physical characteristics of the property.
- If the applicant demonstrates that *all* criteria are met, then the variance may be granted. For example, the local government could find that the construction footprint is reasonable, the circumstances are unique given the adjacent wetland, and the minor deviation in the impervious surface coverage does not alter the hydrology of the area (as determined through runoff calculations).
- If the variance is granted and the impervious surface in any way alters the hydrology of the area, then conditions may be imposed, such as to increase the structure setback from the lake by 15 feet to reduce the extent of the driveway and minimize the amount of impervious surface coverage over the limit.

Conditions on Variances

If findings support granting the variance, consideration must be given to the impacts on the public water and the riparian area and appropriate conditions to mitigate them. Conditions must be directly related and roughly proportional to the impacts created by the variance. Several examples are provided below:

- Modify construction designs (to minimize impact);
- Use permeable pavement systems for walkways, driveways, or parking areas (to reduce effective impervious surface area and infiltrate runoff);
- Direct rain gutter discharges away from the public waters and into infiltration basins (to reduce connected impervious coverage to allow additional areas for infiltration);
- Preserve and restore shoreline vegetation in a natural state (to intercept and filter runoff coming from structures and driveways); and/or
- Increase setbacks from the ordinary high water level (to provide infiltration near public waters).

More information at: www.dnr.state.mn.us/waters/watermgmt_section/shoreland/variances.html