

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

RESOLUTION NO 2019-066

A RESOLUTION APPROVING A VARIANCE TO ALLOW AN ACCESSORY BUILDING TO BE LOCATED CLOSER TO THE FRONT PROPERTY LINE THAN THE PRINCIPLE STRUCTURE FOR THE PROPERTY LOCATED AT 9447 STILLWATER BLVD.

WHEREAS, Todd Alguire (the “Applicant”) of 9447 Stillwater Blvd, Lake Elmo MN 55042 (the “Property”) has submitted an application to the City of Lake Elmo (the “City”) for a variance(s) to allow an accessory building closer to the front lot line than the principle structure and for the accessory building to exceed 22 ft. in height; and

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

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said variances on August 26th, 2019; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendations with respect to the requested variances to the City Council as part of the City Staff Memorandum dated September 17th, 2019; and

WHEREAS, the City Council considered the variances at its September 17th, 2019 meeting; and

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

FINDINGS

- 1) That the procedures for obtaining a variance are found in the Section 154.109 of the Lake Elmo Zoning Code.
- 2) That all submission requirements of Section 154.109 of the Lake Elmo Zoning Code have been met by the Applicants.
- 3) That the proposed variances include the following components:
 - a) That the proposed accessory building be located closer to the front property line than the principle structure.
 - b) The height of the accessory building to exceed the maximum allowed accessory building height of 22 ft. (or the height of the principle building) by 3 ft.
- 4) **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 an official control;
 - *With respect to the proposed variance for height of the structure strict enforcement of the City’s zoning regulations will cause practical difficulties and the applicant is proposing to use the property in a reasonable manner. Furthermore, the applicant has attempted to design the structure in a way that would mimic the design of the home. Although the building exceeds the 22 foot height limitation*

the structure was designed to be visually pleasing by matching the principle structure. Because the resemblance is similar to the principle building the request does appear to be reasonable.

- *With respect to the proposed variance for the location of structure strict enforcement of the City's zoning regulations will cause practical difficulties and the applicant is proposing to use the property in a reasonable manner. The request does appear to be reasonable because any other location meeting the code requirements would not be possible. The 150 ft. setback requirement from the lake would make placement behind the home on the west side impossible and placing the structure on the east side of the home would interfere with the shared driveway to the home south of the property (9495 Stillwater Blvd.). The applicant would be hard pressed to locate a building site on the property that would not require a single variance.*

5) **Unique Circumstances** the plight of the landowner is due to circumstances unique to the property not created by the landowner;

- *With respect to the proposed variance relating to the height of the structure, the plight of the Applicant is not unique and has been caused by the applicant. The City cannot determine the unique circumstance that would warrant approval of the structures height. The property is not currently used for agricultural purposes, beyond personal enjoyment. Geographically the build site is relatively flat so there is not a conflict when measuring the height of the building. The City does not believe this criteria is met and this request is denied through Resolution 2019-067.*
- *With respect to the proposed variance for the location of the structure, the plight of the Applicant is unique and has not been caused by the applicant. The current structure was built prior to the current owner so there is no way the applicant would have been able to suggest a different building location for the principle structure to avoid the need for this variance. Beyond limited space in the rear of the home Friedrich Pond requires a 150 ft. buffer which is impossible to meet if the structure were to be placed in the rear yard. Furthermore, the structure would severely impede the function of the driveway if the building was located on the east side of the home.*

6) **Character of Locality** the proposed variance will not alter the essential character of the locality in which the property in question is located;

- *With respect to the proposed variance for the height of the structure, the proposed variance will not alter the essential character of the locality. Although the structure may be measurably taller than some of the neighboring homes, according to the survey the foundation would be about 4 feet lower than the neighboring homes foundation. Though it may be taller, it is not perceived that the height will negatively affect the local area.*
- *With respect to the proposed variance for the location of the structure, the proposed variance will not alter the essential character of the locality. Although the structure would be located in front of the home, the uniqueness of the area aids to the proposed building location and it would not change the character of the local area.*

7) **Adjacent Properties and Traffic** 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;

- *With respect to the proposed variance for the height of the structure, the proposed*

variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. The structure would not be of such a height that it would begin to shade neighboring properties or structures, nor would it impair air flow. Furthermore, the height of a structure would not cause an increase of traffic or congestion of traffic.

- *With respect to the proposed variance for the location of the structure, the proposed variance will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets or substantially diminish property values. The location of the structure would not shade the neighboring properties or structures, nor would it impair air flow. Furthermore, the location would not cause an increase of traffic or congestion of traffic.*

CONCLUSIONS AND DECISION

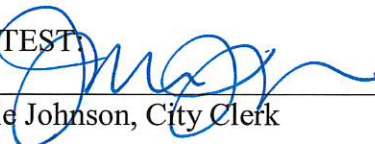
- 1) Based on the above findings, which show that all of the variance criteria for the location of the proposed accessory building have been met but have not been met for the requested height variance. The City Council hereby approves the requested variance for the location of an accessory building for the property located at 9447 Stillwater Blvd. and also denies the requested height variance for the same accessory building. The conditions for approval for variance approval are outlined below:
 1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading, erosion control, and storm water management plan approved by the City Engineer.
 2. That the Applicant must reduce the height of the building to 22 ft. unless the property is reclassified to Agricultural. If reclassified, the applicant can increase the structures height to 25 ft.
 3. If approved this variance approval is valid for 1 year and would expire on September 17th 2020 (leap year).
 4. One of the other smaller accessory buildings noted on the survey must be removed prior to the issuance of a building permit of the new accessory structure.

Passed and duly adopted this 17th day of September, 2019 by the City Council of the City of Lake Elmo, Minnesota.



Mayor Mike Pearson

ATTEST:



Julie Johnson, City Clerk