

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

RESOLUTION NO 2020-008

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 10092 STILLWATER LANE.

WHEREAS, Dan Grunder (the “Applicant”) of 10092 Stillwater Lane, 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

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 January 13th, 2020; 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 January 21st, 2020; and

WHEREAS, the City Council considered the variances at its January 21st, 2020 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. The building is set at 222.1 ft. away from the closest front property line.
- 4) That the Applicant has established and demonstrated compliance with the variance criteria set forth in Lake Elmo Zoning Code Section 154.109. Pursuant to that section of

the Code, a variance to a provision of the Zoning Code may be granted by the City upon the application by the owner of the affected property where the strict enforcement of Zoning Code would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of the Zoning Code. "Practical difficulties" when 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. The problem for the landowner/Applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the landowner/Applicant. The proposed variance must not alter the essential character of the locality in which the property in question is located. Finally, the proposed variance must 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.

- a) *With respect to the proposed variance for the location of structure strict enforcement of the City's zoning regulations will cause practical difficulties for the Applicant, who is proposing to use the property in a reasonable manner. The request can be considered reasonable when all factors are considered as a whole. The eastern access will have difficulty contending with overhead utility lines, western access would require filling and grading to create a slope that is reasonable for access, and placement of a shed in the rear yard which becomes excessively saturated during rain events would put the building at risk of flooding.*
- b) *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. Considering that more grading, tree removal, and water all pose an issue in the rear yard, placement slightly closer to the front lot line appears to be reasonable. With the Applicant being unable to have reasonable control of where flooding may or may not occur on the property the plight has not been caused by the landowner.*
- c) *With respect to the proposed variance for the location of the structure, the proposed variance will not alter the essential character of the locality. The majority of homes in the area do not appear to have accessory buildings. With that said it is expected to be incredibly difficult, due to vegetation, to reasonably notice the building and claiming that its impact would be negative is a stretch.*
- d) *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.*

DECISION AND CONDITIONS OF APPROVAL

- 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. The City Council hereby approves the requested variance for the location of the accessory building for the property located at 10092 Stillwater Lane. The conditions for approval for variance approval are set forth below:

1. That the Applicant obtain all applicable permits including but not limited to a City building permit.
2. If no action is taken by the Applicant, the variance will expire on January 20, 2021.

Passed and duly adopted this 21st day of January, 2020 by the City Council of the City of Lake Elmo, Minnesota.



Mayor Mike Pearson

ATTEST:



Julie Johnson, City Clerk