



STAFF REPORT

DATE: 4/3/18

**REGULAR #19
MOTION**

TO: City Council
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Requests for 8728 DeMontreville Trl (Side Yard Setback)
REVIEWED BY: Emily Becker, Planning Director

SUMMARY AND ACTION REQUIRED:

The City has received a request from owner(s)/applicant Brooks Moening, of 8728 DeMontreville Trl, to allow reconstruction and expansion of an existing detached garage. The home was constructed in 1972 and garage the garage in 1974. The owner is in need of a variance because Article VI Non-Conforming Uses, Buildings and Structures indicates that all additions or expansions to the outside dimensions of an existing nonconforming structure must meet all requirements of the Zoning Code unless a variance is granted. The current structure is 7.3 feet away from the side yard lot line when it should be 10 feet to comply with today's code.

The City Council is being asked to hold a public hearing, review and make recommendation on the above mentioned requests.

GENERAL INFORMATION:

Legal SUBDIVISIONNAME BERGMANN ADD LOT 5 BLOCK 2
SUBDIVISIONCD 37085
PID# 04.029.21.12.0017

Existing Land Use/Zoning: Single-family detached residential home/detached garage guided for RR - Rural Residential Family / Rural Area Development.

*Surrounding Land Use/
Zoning:* Surrounded by single family homes and guided for Rural Single (RS) to the south and Rural Residential (RR) to the north.

History: Further information relating to the properties subdivision or zoning could not be found. However, it is known that the building permit for the home was issued in 1972 and the building permit for the garage was issued in 1974. The principal use for the property has been a single family dwelling, and is made up of .44 acres.

Deadline for Action: Application Complete – 2/23/2018
60 Day Deadline – 4/24/2018
Extension Letter Mailed – N/A
120 Day Deadline – N/A

Applicable Regulations:

- Article VI – Non-conforming uses, buildings and structures
- Article XI – Rural districts
- Article V - Zoning Administration and Enforcement

REQUEST DETAILS

The applicant is requesting to remove and reconstruct the existing garage on the property. The following information provides a more detailed explanation of the proposal. In summary, the

existing garage does not meet the required setbacks for the RR zoning district of 10'. Buildings or structures lawfully existed prior to current zoning standards are not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building, or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed the 10% of the minimum setback requirements. The applicant is proposing to re-build the garage entirely and expand the garage length, which goes beyond normal maintenance. Additionally, the garage requires a variance of 2.7 feet (required 10 foot setback – proposed 7.3 foot setback), which exceeds 10% of the minimum setback requirement.

Article XI: Rural Residential

	RR
Maximum Impervious Coverage	-
Minimum Accessory Building Setbacks (feet)	
Front Yard	30
Interior Side Yard	10
Corner Side Yard ^g	25
Rear Yard	40

Reason for Variance Requests. The variance request is due to the lot width of the property; the lot being established prior to current zoning criteria; and construction of the garage prior to current zoning standards. The parcel is 100.13 feet in width, which is much narrower than the required lot width of 300 feet within the Rural Residential zoning district. Had the home and garage been constructed with the current standards in mind, it is likely the garage would not have been built to be non-conforming. The garage is located between the northern property line and the home and is 32 inches from the home's concrete steps, so there isn't space to move the new garage location further from the northern property line. The larger garage is desired for additional storage space and to allow the applicant to resume with woodworking as a hobby. Additionally, the current garage is bowed and sagging, and studs are rotted as a result of being built directly on the concrete slab and not elevated on block. The stucco is crumbling and breaking away from the wall board.

Size and Number. The maximum allowed size and number for accessory structures within rural district is one 1,200 square foot structure for lots under 1 acre in size. The proposed garage is 1200 square feet in size and is the only accessory structure on the property, and so this requirement is met.

Maximum Impervious Surface. The subject property is unique in that it is zoned RR. Normally properties which are zoned RR should have a minimum lot size of 10 acres. There is no record as to why this property was allowed to be divided down past the 10 acre minimum to .44 acres except for that the lot was likely created prior to current standards. Older zoning maps were reviewed and it had shown the parcel being zoned RR as well. There is no impervious surface requirements for lots zoned RR, and so this standard does not apply.



Accessory Structure Standards. Below is an analysis of how the proposed garage meets required accessory structure standards.

- C. *Structure Height, Rural Districts.* No accessory building shall exceed twenty-two (22) feet in height or the height of the principal structure, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City. Building projections or features, such as chimneys, cupolas, and similar decorations that do not exceed twenty-five (25) feet in height are permitted in rural districts.
- *Staff Comment:* The applicant has stated that the home is 15 feet 10 inches in height and the garage is to be 15 feet in height. As the code is currently written this is allowed and under normal circumstances would be considered a conforming height. This standard is met.
- D. *Structure Location, Rural Districts.* No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.
- *Staff Comment:* The garage will not be built any closer to the front lot line than it is now, the expansion will go off the back of the structure. The garage is 60.3 feet off the front property line and the home is 49.9 feet off the front line. This standard is met.
- E. *Exterior Design and Color.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
- *Staff Comment:* The garage design and color scheme will need to follow what is expressed above. Plans have not been submitted, condition of approval.
- F. *Openings and Doors.* Garage doors and other openings shall not exceed fourteen (14) feet in height for all accessory structures, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City.
- *Staff Comment:* The door height/design will need to follow what is expressed above. Plans have not been submitted, condition of approval.

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter 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 this chapter. Definition of practical difficulties - "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.

***FINDINGS:** The property had been platted and built on prior to the establishment of the current zoning code. Because of this the parcel is significantly smaller than others of its kind. Though the garage is currently non-conforming, this appears to be a reasonable request as everything besides the side yard setback would be conforming to current code. Staff believes this standard is met.*

- 2) Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

***FINDINGS:** The property was platted prior to current zoning standards and does not meet the current minimum lot width requirements, which makes it difficult to fit a detached garage on the property meeting required side yard setback requirements. The existing garage was built prior to current zoning standards and does not meet minimum setback requirements, and the Applicant would like to re-build and expand the length of the existing garage in the same location. Staff believes this standard is met.*

- 3) Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

***FINDINGS:** The property is wooded on all sides. Also there are other residencies in the area which have attached or detached garages with some lots also having accessory structures. There is a heavy woodline on the northern property edge and the nearest dwelling unit to the north is over 400 ft away. From an aerial perspective it would not seem reasonable to think anyone could perceivably notice that the garage had been rebuilt and expanded off the rear. Staff believes this standard is met.*



- 4) 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.

***FINDINGS:** A variance from the required side yard setback to expand the structure will not impair an adequate supply of light and air to adjacent properties. Congestion of public streets or diminishment or impairment of property values will also not be affected. Staff believes this standard is met.*

Results of Planning Commission and Public Hearing

The planning commission held a public hearing on the night of March 26th, 2018. There were no written comments submitted to staff and no one spoke on the request beyond the applicant. One commission member stated that they felt the property to the north would not be easy to develop due to the wetlands, this further supported the idea that this request would not impose a burden/nuisance to future neighbor(s). Also future lots would need to conform to the zoning code (size and width) and buildings would need to meet the zoning code setback requirements.

The variance passed with no amendments 6-0. The Planning Commission as well as staff is recommending approval of the proposed variance request based on the findings noted in 1, 2, 3, and 4 with the following conditions.

1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading and erosion control, and by the City Engineer.
2. The structure complies with section 154.406 Accessory Structures, Rural Districts Sub. (C,D,E, and F)
3. The exterior building materials, design and color shall be compatible with the principal building.
4. The garage door height not exceed fourteen (14) feet.

FISCAL IMPACT:

The proposed variance is not expected to have fiscal impact to the City.

OPTIONS:

The City Council may:

- Recommend approval of the proposed variance, subject to recommended findings and conditions of approval.
- Amend recommended findings and conditions of approval and recommend approval of the variances, subject to amended findings and conditions of approval.
- Move to recommend denial of all variances, citing findings for denial.

RECOMMENDATION:

Staff recommends and the Planning Commission recommend approval of the request from Brooks Moening for the requested variances:

“Move to adopt resolution 2018-038 approving the request from Brooks Moening for variances from the following standard; minimum side yard setback, subject to recommended findings and conditions of approval identified in the staff report.”

ATTACHMENTS:

- 1) Variance Application and narrative
- 2) Survey
- 3) Resolution 2018-038

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



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

LAND USE APPLICATION

- 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: Brooks Moening
Address: 8728 DeMontreville Tr N
Phone # 651-261-2154
Email Address: brooks.moening@gmail.com

Fee Owner: Brooks Moening
Address: 8728 DeMontreville Tr N
Phone # 651-261-2154
Email Address: brooks.moening@gmail.com

Property Location (Address): 8728 DeMontreville Tr N
(Complete (long) Legal Description: Bermann Add Lot 5 Block 2, SubdivisionCd 37085
PID#: 04.029.21.12.0017

Detailed Reason for Request: Reason for request is to request a variance from code 154.402, setback requirements for accessory building. I would like to remove my existing garage, which is in rough shape with sagging roof trusses and rotting studs and wall board due to being built directly on the slab, and rebuild with a larger footprint. However, my current garage and slab are located 7.3 feet from the side property line, as opposed to the required offset of 10 feet, as required by code. My request is to rebuild a larger garage while maintaining the current 7.3 foot property line offset.

*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:
The existing locations of the home and garage do not allow a replacement garage to be moved further away from the property line than where the current garage is located. The size of the home is less than 2000 square feet with a 3/4 crawl-space basement, so existing storage and utility area is very limited. Replacing the existing garage with a larger footprint while maintaining the existing offset will provide the homeowner with needed storage and utility space without affecting the character of the surrounding area.

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: _____ Date: _____

Signature of fee owner: _____ Date: _____

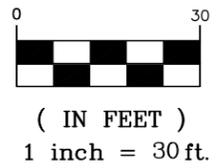
- A. Current Property Owner: Brooks Moening
- B. Site Data
 - a. Legal Description: Bergman Addition Lot 5, Block 2
 - b. Parcel Number: 04.029.21.12.0017
 - c. Parcel Size: 0.437 acres, 19,036 sq. ft.
 - d. Existing Use of Land: Residential
 - e. Current Zoning: RR
- C. Section 154.402 Lot Dimensions and Building Bulk Requirements – Setback Requirements, Minimum Accessory Building Setbacks, Interior Side Yard
- D. This proposal is to seek a variance from the Interior Side Yard setback requirement of 10 feet. The current garage is currently 7.3 feet from the north side property line and is in a state of disrepair. I would like to tear down the existing garage and rebuild on the existing concrete slab, but expand the footprint of the garage further to the west, maintaining the existing set-back of 7.3 feet. The current garage footprint is 24' x 30' (720 square feet), and the proposed garage footprint would be 24' x 50' (1200 square feet).
- E. Discussions were held between Ben Prchal and Brooks Moening regarding the proposed project and applicable city requirements. Based on existing situation and property limitations, decision was made to move forward to request a variance.
- F. The strict enforcement of this chapter would cause practical difficulties because of the lot size and locations of existing buildings relative to property lines. The current garage is located between the northern property line and the home. It is offset 7.3' from the property line and 32" from the home's side concrete steps, so there isn't space to move the new garage location further from the northern property line. A larger garage is desired for additional storage space and to allow me to resume my woodworking hobby. My home is under 2000 square feet and 75% of my basement is crawl space, which limits functional area and storage inside the home
- G. The plight of the landowner is due to how and where the home and garage were built prior to my purchase of the property, as well as the limitations due to the width of the lot. The current condition of the garage is due to how the garage was originally built; roof is bowed and sagging due to the use of non-engineered trusses and the wall board and studs are rotting as a result of being built directly on the concrete slab and not elevated on block. As a result, the stucco is crumbling and breaking away from the wall board and creating both an eyesore and intrusion issues.
- H. Granting of this variance would not alter the essential character of the neighborhood for several reasons. One, expanding the garage size would not change the current setback from the existing garage, only extending an existing setback. In addition, the nearest building to the north of the garage is over 450 feet away, separated by heavy woods, so it would have no impact on a neighboring property. Finally, given the heavily wooded nature of surrounding properties in sparsely populated neighborhood, the expansion of the garage would be difficult to notice from the roadside and largely unseen from all adjacent neighbor's homes.

CERTIFICATE OF SURVEY

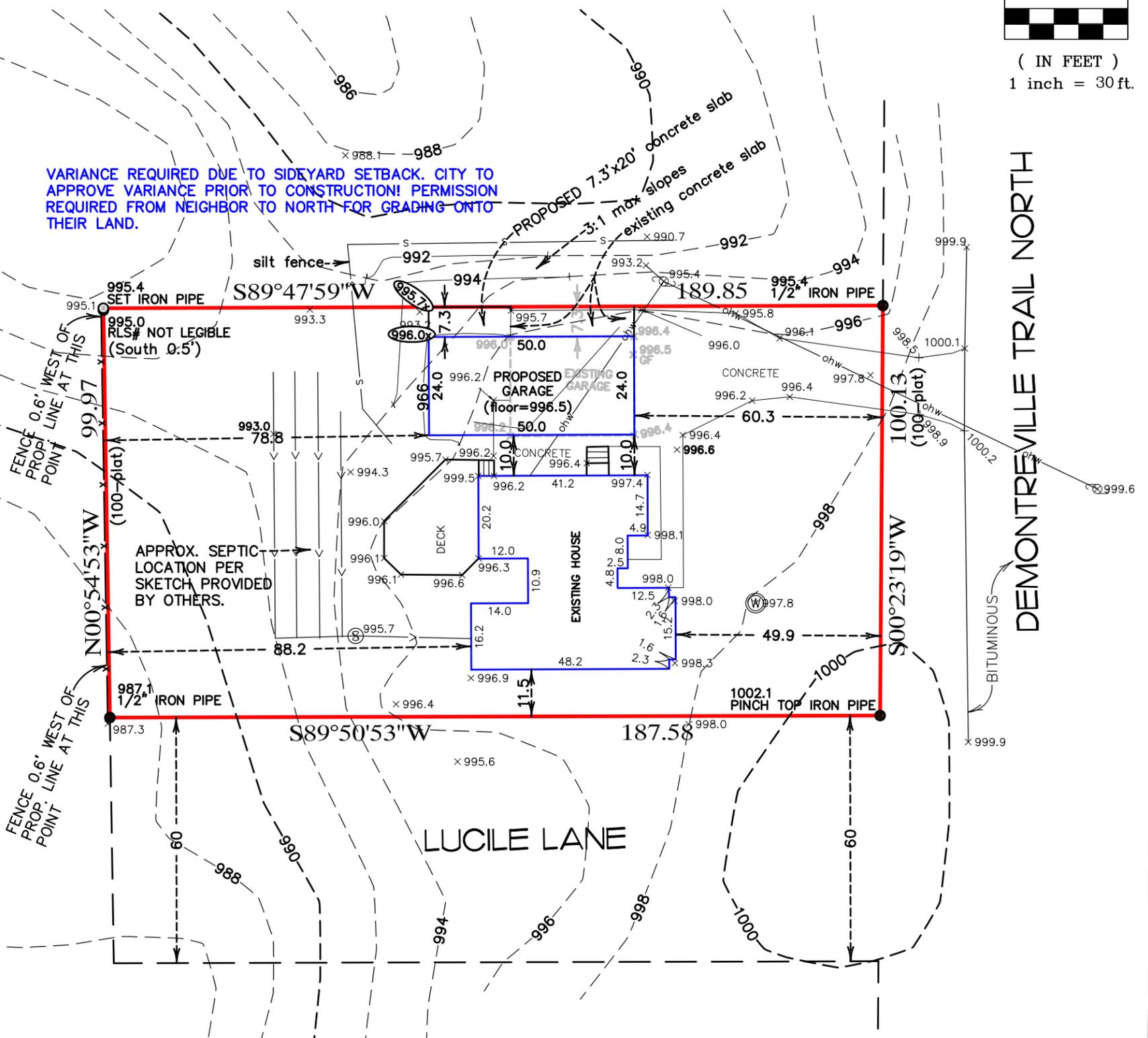
PROPERTY ADDRESS: #8728 DEMONTREVILLE TRAIL NO., LAKE ELMO, MN
P.I.D.# 04.029.21.12.0017

FOR: BROOKS J. MOENING

~(Showing Proposed Grage)~



VARIANCE REQUIRED DUE TO SIDYARD SETBACK. CITY TO APPROVE VARIANCE PRIOR TO CONSTRUCTION! PERMISSION REQUIRED FROM NEIGHBOR TO NORTH FOR GRADING ONTO THEIR LAND.



LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- ⊙ DENOTES WELL
- DENOTES EXISTING CONTOUR
- ohw --- DENOTES OVERHEAD WIRE
- x --- DENOTES EXISTING FENCE
- x1011.2 DENOTES EXISTING ELEVATION.
- ⊙ DENOTES SEPTIC PIPE
- ⊕ DENOTES UTILITY POLE
- Ⓞ DENOTES PROPOSED ELEVATION.

AREAS:

- TOTAL LOT AREA = 18,880± sq.ft. (0.43 acres)
- EXISTING HOUSE = 1,899± sq.ft.
- EXISTING GARAGE = 722± sq.ft.
- PROPOSED GARAGE = 1,200± sq.ft.

BENCHMARK

BASIS FOR ELEVATION: NAVD 88 (VIA REAL TIME GPS MEASUREMENTS UTILIZING MINNESOTA DEPARTMENT OF TRANSPORTATION VRS NETWORK)

BASIS FOR BEARINGS: NAD83 (1996) (VIA REAL TIME GPS MEASUREMENTS UTILITIZING MINNESOTA DEPARTMENT OF TRANSPORTATION VRS NETWORK).

- Rev. 02/28/18, update conc. slab by gar.
- Rev. 02/27/18, add septic, grading
- Rev. 02/23/18, add zoning

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Eric R. Vickaryous
ERIC R. VICKARYOUS

Date: Feb. 12th, 2018 Reg. No. 44125

ACRE LAND SURVEYING
Serving Twin Cities Metro area and beyond
763-458-2997 acrelandsurvey@gmail.com

EXISTING PROPERTY DESCRIPTION

Lot 5, Block 2, BERGMANN ADDITION, Washington County, Minnesota.

ZONING:

- PROPERTY ZONED RURAL RESIDENTIAL (RR)

NOTES

- CITY TO VERIFY ALL BUILDINGS ELEVATIONS AND SETBACKS.
- Bearing's shown are on assumed datum.
- This survey was prepared without the benefit of titlework. Easement, appurtenances and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a title insurance commitment or attorneys title opinion.
- This survey was completed Feb. 1st, 2018, in the middle of the Minnesota snow/ winter season. There may be improvements/features in addition to those shown hereon that were not located due to snow/ice cover.

JOB #18007ms

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

RESOLUTION NO 2018-038

A RESOLUTION APPROVING A VARIANCE TO ALLOWING THE EXPANSION OF A NON-CONFORMING STRUCTURE NOT MEETING SIDE YARD SETBACK OF THE CITY'S ACCESSORY STRUCTURE REQUIREMENTS AT 8728 DEMONTREVILLE TRLN.

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

WHEREAS, Brooks Moening, 8728 DeMontreville Trl N, Lake Elmo MN 55042 (Applicant/Owner), has submitted an application to the City of Lake Elmo (the "City") for variance to allow the expansion of a non-conforming structure not meeting the minimum side yard setback requirement for accessory structures. The proposed addition does not encroach further into the side yard. The garage will not exceed the maximum allowed size for the property which is 1,200 square feet.

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 March 26, 2018; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated March 26, 2018; and

WHEREAS, the City Council considered said matter at its April 3, 2018 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 the expansion and renovation of a currently existing accessory structure which does not meet the minimum side yard lot line setback.
- 4) That the Variance will be located on property legally described as follows:
SUBDIVISIONNAME BERGMANN ADD LOT 5 BLOCK 2 SUBDIVISIONCD
37085, 8980 Hudson Boulevard North, Washington County, Minnesota with the following PID: 04.029.21.12.0017.

- 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 Finding: The property had been platted and built on prior to the establishment of the current zoning code. Because of this the parcel is significantly smaller than others of its kind. Though the garage is currently non-conforming, this appears to be a reasonable request as everything besides the side yard setback would be conforming to current code.***
- 6) The plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific Findings: The property was platted prior to current zoning standards and does not meet the current minimum lot width requirements, which makes it difficult to fit a detached garage on the property meeting required side yard setback requirements. The existing garage was built prior to current zoning standards and does not meet minimum setback requirements, and the Applicant would like to re-build and expand the length of the existing garage in the same location.***
- 7) The proposed variance will not alter the essential character of the locality in which the property in question is located. ***Specific Findings: The property is wooded on all sides. Also there are other residencies in the area which have attached or detached garages with some lots also having accessory structures. There is a heavy woodline on the northern property edge and the nearest dwelling unit to the north is over 400 ft away. From an aerial perspective it would not seem reasonable to think anyone could perceivably notice that the garage had been rebuilt and expanded off the rear.***
- 8) 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: A variance from the required side yard setback to expand the structure will not impair an adequate supply of light and air to adjacent properties. Congestion of public streets or diminishment or impairment of property values will also not be affected.***

CONCLUSIONS AND DECISION

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

1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading and erosion control, and by the City Engineer.
2. The structure complies with section 154.406 Accessory Structures, Rural Districts Sub. (C,D,E, and F)
3. The exterior building materials, design and color shall be compatible with the principal building.
4. The garage door height not exceed fourteen (14) feet.

Passed and duly adopted this 3rd day of April, 2018 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk