

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

RESOLUTION NO 2021-055

A RESOLUTION APPROVING A VARIANCE TO ALLOW THE PROPERTY IDENTIFIED AS 8950 LAKE JANE TRL., TO CONSTRUCT A SPORT COURT CLOSER TO THE ORDINARY HIGH WATER LEVEL (OHWL) THAN WHAT THE SHORELAND CODE REQUIRES.

WHEREAS, Steve and Haley Meisterling (the "Applicant") owners of 8950 Lake Jane Trl, Lake Elmo MN 55042 (the "Property") has submitted an application to the City of Lake Elmo (the "City") for a variance(s) to allow the construction of a sport court which will meet all zoning requirements, except that it will be closer to the HOWL than what the shoreland code requires; 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 variance(s) on April 26th, 2021; 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 May 4th, 2021; and

WHEREAS, the City Council considered the variances at its May 4th, 2021 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) The construction of a sport court which will not meet the 100 ft. setback requirement from the OHWL. The court is allowed to sit 63 ft. from the OWHL resulting in a 37 ft. variance from the City Zoning Code.
- 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;

- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for a setback from the OHWL, 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 property was platted and established prior to current development standards which has resulted in a short depth but very wide lot. Applying the 100 ft. setback along with the 30 ft. setback from the ROW does make it very difficult for the property to have any buildable area that would not conflict with a provision of the City Code. The sport court will be able to meet the front yard setback requirement of 30 ft. and sit behind the home. Though, it will not be possible for the structure to be constructed on the property without needing a variance from the OWHL. However, the previous variance for the home has established the idea that a reduction in the setback from the OHWL is reasonable. Furthermore, with the City Code having a provision for lot averaging it can then be said that a reduction from 100 ft. is a reasonable request. Also, due to the west side of the property holding the septic system there is not another location where it could be constructed.*
- 5) **Unique Circumstances** the plight of the landowner is due to circumstances unique to the property not created by the landowner;
- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for setback from the OHWL (924 Elevation) of the structure, the plight is unique and has not been caused by the Applicant. The OWHL does come up quite far on the property which forces the court closer to the front of the lot. Also, with the front lot line sitting in the middle of Lake Jane Rd. it does requires the court to sit 30 ft. from the ROW instead of the front lot line. To reasonably place and design a court around the front and rear setback requirements is not possible and would not allow the property to build a court.*
- 6) **Character of Locality** the proposed variance will not alter the essential character of the locality in which the property in question is located;
- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for setback from the OHWL of the structure, the proposed variance will not alter the essential character of the locality. The property owners have already installed landscaping along Lake Jane road which will screen the court from the roadway and neighboring properties. Also, there are other structures such as pools and tennis courts on neighboring properties which are similar in nature.*
- 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;
- **Variance from Minimum Structure Setback from OHWL:** *With respect to the proposed variance for the setback from the OHWL, 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. With the court being flat it will not negatively impact the neighboring properties as required by the variance criteria. Furthermore, the court is not expected to substantially diminish or impair property values within the neighborhood.*

CONCLUSIONS AND DECISION

The City Council hereby approves the requested variance to build a sport court closer to the OHWL than what the City Zoning Code allows for the property addressed as 8950 Lake Jane Trail. The conditions for approval for the variance are outlined below:

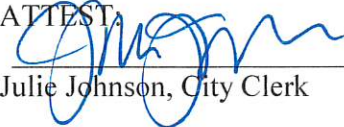
1. The property apply for a certificate of zoning compliance to construct the sport court.
2. All lighting shall be directed towards the ground and comply with Lake Elmo's lighting standards.
3. During construction silt fencing and other environmental measures shall be taken to preserve and protect the lake and surrounding vegetation.
4. If approved this variance approval is valid for 1 year and would expire on May 4th, 2022. The City must receive a certificate of zoning compliance to build the sport court by May 4th, 2022 to keep the approval valid.

Passed and duly adopted this 4th day of May, 2021 by the City Council of the City of Lake Elmo, Minnesota.



Mayor, Charles Cadenhead

ATTEST



Julie Johnson, City Clerk