

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

**RESOLUTION NO 2021 - 092**

*A RESOLUTION APPROVING A VARIANCE FROM THE CITY'S REQUIREMENT  
REQUIRING A CHAPEL OR PLACE OF WORSHIP TO HAVE DIRECT ACCESS TO A  
COLLECTOR OR ARTERIAL STREET TO ALLOW THE CONSTRUCTION OF A CHAPEL  
ON THE PROPERTY LOCATED AT 8249 DEMONTRVILLE TRAIL*

**WHEREAS**, Reverend John Burns, representing the Carmelite Hermitage (the "Applicant") of 8249 Demontreville N, Lake Elmo MN 55042, Washington County, Minnesota (the "Property") has submitted an application to the City of Lake Elmo (the "City") for a variance to the requirement in the City Code that requires a chapel or place of worship to have direct access to a collector or arterial street for a chapel or place of worship; and

**WHEREAS**, the Property is landlocked but currently has access to Demontreville Trail via an existing driveway that is located in an easement that is located on an adjoining property that is owned by the Jesuit Retreat House (the "Existing Driveway"); and

**WHEREAS**, Demontreville Trail is not an arterial or collector street; and

**WHEREAS**, in 2020, the Applicant applied for and received a conditional use permit from the City to construct a chapel on the Property which included the approval of a variance from the City's requirement requiring a chapel or place of worship to have direct access to a collector or arterial street so that the chapel could use the Existing Driveway to access Demontreville Trail instead of constructing a new access to an arterial or collector street; and

**WHEREAS**, the Jesuit Retreat House filed a lawsuit against the City and the Applicant with respect to the City's granting of the variance and the conditional use permit; and

**WHEREAS**, a settlement of the lawsuit was reached between the parties and as part of that settlement, the Applicant and the Jesuit Retreat House have reached an agreement about the location, construction, and use of a new proposed 20-foot-wide bituminous driveway that is partially located on the Jesuit Retreat House property that will allow the Property to access Demontreville Trail (the "New Driveway"); and

**WHEREAS**, because the New Driveway will be used instead of the Existing Driveway for access to the chapel and the Property via an easement over the Jesuit Retreat House property and the New Driveway connects the Property to Demontreville Trail which is not a collector or arterial street, the Applicant is in need of a variance from the City requirement that requires a chapel or place of worship to have direct access to a collector or arterial street; and

**WHEREAS**, notice of the variance 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 about the variance on August 9, 2021; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendations with respect to the requested variance to the City Council as part of the City Staff Memorandum dated August 17, 2021; and

**WHEREAS**, the City Council considered the variance request at its August 17, 2021 meeting and directed City staff to bring back a revised Resolution of approval that clarifies that the New Driveway would be for legal access purposes not only for the planned chapel but for any other buildings and uses on the Property; and

**WHEREAS**, the City Council considered this revised Resolution at its September 7, 2021 meeting; and

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

### FINDINGS

- 1) That the procedures for obtaining a variance are found in the Section 154.109 of the Lake Elmo Zoning Code.
- 2) That the Applicant met all the variance application and submission requirements of Section 154.109 of the Lake Elmo Zoning Code.
- 3) That the proposed variance includes the following component:
  - a) That the New Driveway will provide access to the Property from Demontreville Trail.
- 4) With respect to the proposed variance from the City's requirement that for chapels or places of worship that there must be direct access to an arterial or collector street, the strict enforcement of this requirement will cause practical difficulties and the Applicant proposes to use the Property in a reasonable manner not permitted by an official control.

*The addition of a chapel to Property has been planned since at least 1991 when the City first approved a Master Plan for the Property. The Applicant has been using the Existing Driveway to Demontreville Trail for access to the Property even prior to that time. The proposed chapel is a reasonable use of the Property given that it is permitted by conditional use permit and a conditional use permit has been granted by the City. The addition of a new driveway to Demontreville Trail for access purposes is reasonable given the fact that the Existing Driveway also provides access to the Property via Demontreville Trail and not to an arterial or collector street and this type of access has not been an issue.*

- 5) With respect to the proposed variance from the City's requirement that for chapels or places of worship that there must be direct access to an arterial or collector street, the plight of the Applicant is due to circumstances unique to the Property not created by the Applicant.

*According to the Applicant, the existing lot layout with the access easement to Demontreville Trail has been in place since 1904, prior to the Applicant's ownership of the Property. Therefore, this situation was not created by the Applicant. For the Applicant to be able to access the Property via an arterial or collector street, it would need to significantly re-route the driveway due to the topography of the Property. The re-routing of the driveway would then cause it to go through a neighborhood.*

- 6) With respect to the proposed variance, the proposed variance will not alter the essential character of the locality in which the Property is located.

*The proposed variance will allow the Applicant to use the New Driveway for access to the Property and for the proposed chapel. The New Driveway will not be altering the essential character of the*

locality (or area) in which the Property is located because the Property already uses the Existing Driveway to access Demontreville Trail, so only the location of the driveway is changing. In the alternative, if the variance is not granted, access would need to go through a neighborhood which would alter the essential character of the neighborhood.

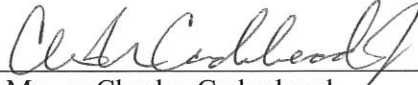
- 7) The proposed variance will not impair an adequate supply of light and air to properties adjacent to the Property, increase congestion of public streets or substantially diminish or impair property values within the neighborhood.

*The New Driveway will not impair an adequate supply of light and air to the properties adjacent to the Property as no structures are being constructed. It will also not increase congestion of the public streets as the Existing Driveway already accesses Demontreville Trail. Also, the expected traffic levels on Demontreville Trail with the addition of the proposed chapel and the New Driveway is expected to remain about the same as it has been for the past ten years. The New Driveway will also not substantially diminish or impair property values within the neighborhood as it will not go through the neighborhood.*

### **CONCLUSIONS AND DECISION**

- 1) Based on the above findings that show the Applicant has met all the City variance criteria with respect to the variance for having direct access to a collector or arterial street for a chapel or a place of worship, the City of Lake Elmo hereby approves the Applicant's application for a variance or exception from the City standard requiring a place of worship or a chapel to have direct access to a collector or arterial street, subject to the following conditions:
- a) That the Applicant shall secure any required land use approvals, permits, and plan approvals from the City and other applicable jurisdictions for the construction of the chapel, the New Driveway, and any associated site improvements.
  - b) That the Applicant revise the driveway construction plans for the New Driveway to meet the requirements of the City Engineer and City Fire Chief as noted in their project review comments. The City Engineer and the City Fire Chief shall approve the final driveway construction plans before the Applicant starts constructing the New Driveway.
  - c) That the Applicant secure all other necessary approvals and permits for the construction of the New Driveway including a permit from the Watershed District.
  - d) That once completed, the New Driveway may be used as access for the chapel and any other buildings or improvements on the Property, notwithstanding that the Applicant will be required to secure any required land use approvals, permits, and plan approvals from the City and other applicable jurisdictions for the construction of any other buildings or improvements on the Property.

Passed and duly adopted this 7<sup>th</sup> day of September, 2021 by the City Council of the City of Lake Elmo, Minnesota.

  
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Mayor Charles Cadenhead

ATTEST:

  
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Julie Johnson, City Clerk