

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

**RESOLUTION NO. 2021-019**

***A RESOLUTION AMENDING RESOLUTION NO. 2007-033 FOR A MINOR  
SUBDIVISION AND LOT WIDTH VARIANCE FOR 3200 LAKE ELMO AVENUE  
BY REMOVING CONDITION OF APPROVAL #8 AND ALLOWING A SETBACK  
OF 150 FEET FROM THE ORDINARY HIGH WATER LEVEL OF LAKE ELMO***

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

**WHEREAS**, Carolyn and Brett Horttor (the “Applicant”) owner of the parcel identified as PID 13.029.21.33.0042, Lake Elmo, MN 55042 (the “Property”) has submitted an application to the City of Lake Elmo (the “City”) for a variance request to amend Resolution No. 2007-033 approving a minor subdivision and lot width variance for 3200 Lake Elmo Avenue by removing Condition of Approval #8; and

**WHEREAS**, notice has been published, mailed, and posted pursuant to the Lake Elmo Zoning Code, Section 103.00.120; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on January 24, 2022; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated February 15, 2022; and

**WHEREAS**, the City Council considered said matter at its February 15, 2022 meeting and directed City staff to draft a resolution approving the variance for its consideration; and

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

**FINDINGS**

- That the procedures for obtaining a variance are found in Section 103.00.120 of the Lake Elmo Zoning Code.
- That all submission requirements of Section 103.00.120 of the Lake Elmo Zoning Code have been met by the Applicant.

- That the proposed variance includes the following components:
  - The proposed single family dwelling would include a four-season porch structure and deck located 150 feet from the Ordinary High Water Level of Lake Elmo. The subject property is currently regulated by City of Lake Elmo in Resolution No. 2007-033. This resolution approved a Minor Subdivision and Lot Width Variance for 3200 Lake Elmo Avenue on April 17, 2007. At the time the Parent Parcel was split into two parcels named "F" and "G." As part of the split, all structures proposed on parcel "F" would have a minimum setback of 195 feet from OHWL of Lake Elmo. The Lake Elmo Zoning Code requires a 75-foot rear setback on this property.
  - **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:

*The proposed structure complies with the minimum setback requirements outlined in Section 105.04.680 of the Lake Elmo City Code. The Shoreland Standards ordinance states parcels with connection to city sewer on lakes classified as recreational development shall have a setback of 75 feet from the OHWL. The new construction will be connected to city sewer and water. The subject property has had its septic area filled and will be connected to public utilities so there is no longer a need for a designated septic area requiring a 195-foot setback.*

- **Unique Circumstances** the plight of the landowner is due to circumstances not created by the landowner:

*The unique shape, topography and location of the lot influence the placement of the home.*

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

*The variance would allow the property owner to use the property in accordance with uses permitted in the Rural Single Family District without altering the essential character of the locality. The proposed setback is behind existing adjacent property structures. Many homes on Lake Elmo are closer to the shoreland than the proposed 150 feet setback. With the setback reduced to 150 feet, the foremost portion of the proposed sunroom structure would remain farther from the shoreland than the neighboring adjacent structures. The proposed variance conforms to the setbacks of structures that exist on both sides of the proposed addition of the four-season porch and deck.*

- **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:

*The proposed variance does not substantially diminish or impair adjacent properties. The proposed minimum setback is farther from the OHWL than that of adjacent homes. Supporting emails from neighbors are included in Attachment 5.*

**DECISION**

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, and based upon the information received and the above Findings, that the City Council of the City of Lake Elmo hereby approves the request by Carolyn and Brett Horttor for a variance request to amend Resolution No. 2007-033 approving a minor subdivision and lot width variance for 3200 Lake Elmo Avenue by removing Condition of Approval #8.


Passed and duly adopted this 15<sup>th</sup> day of February, 2022 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

