

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

**RESOLUTION NO. 2023-073**

***A RESOLUTION APPROVING A VARIANCE TO ALLOW A REDUCED SEPTIC SYSTEM  
SETBACK OF 38.3 FEET FROM THE ORDINARY HIGH-WATER LEVEL ON THE  
PROPERTY LOCATED AT 8286 HIDDEN BAY COURT NORTH***

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

**WHEREAS**, Jeff and Judy Otto (the “Applicants”), owners of the property located at 8286 Hidden Bay Court N, PID # 09.029.21.23.0013, Lake Elmo, MN 55042 (the “Property”) have submitted an application to the City of Lake Elmo (the “City”) to request a variance to allow a reduced septic system setback of 38.3 feet from the ordinary high-water level for a replacement septic system; and

**WHEREAS**, notice of a public hearing 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 July 24<sup>th</sup> 2023; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation of approval of the variance to the City Council as part of a Staff Memorandum dated August 15, 2023; and

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

**FINDINGS**

1. The Applicants’ current septic system on the Property is failing and needs to be replaced.
2. The Applicants had a septic system designer review the Property to determine feasible locations for a new septic system. The Applicants’ septic system designer determined that the proposed location of the septic system that is 38.3 feet from the ordinary high-water level is the only feasible location on the Property for the new septic system.
3. The Applicants are requesting a variance to allow for a reduce septic system setback of 38.3 feet from the ordinary high-water level for the replacement septic system.

## Septic Approval

4. That the procedures for obtaining a variance are set forth in Section 105.12.320 of the Lake Elmo Zoning Code. Any action taken by the City Council to approve a variance request must meet all of the following findings:

- a. **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 current septic system is failing and needs to be replaced. The Applicants have had a septic designer review the Property for a feasible septic system location and the only feasible location is 38.3 from the ordinary high-water level. The City Council finds that the Applicants have proven practical difficulties because a septic system is needed given the current failing system, there is no other feasible area on site, and a septic system is needed in order to maintain the house that is on the Property. Practical Difficulties are met.*

- b. **Unique Circumstances** - the problem for the landowner/applicant which the intended variance is intended to correct is unique to the property in question that was not created by the landowner/applicant.

**FINDINGS:** *The Applicants are proposing to replace the septic system in roughly the same area of the Property as the existing system. The current septic system is failing and not due to the fault of the Applicants. The proposed location is the only feasible location on the Property for the new septic system. Unique Circumstances are met.*

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

**FINDINGS:** *Given this area does not have access to City sewer and all adjacent properties are on private septic systems, the City Council finds that approval of this request would not alter essential character of the neighborhood. Character of Locality is met.*

- d. **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:** *The proposed location for the new septic system will not increase congestion on a public street as it will not contribute to any additional traffic to the neighborhood. It will also not impair an adequate supply of light or air to adjacent properties given that it is underground. Because it is underground and will not be*

**Septic Approval**

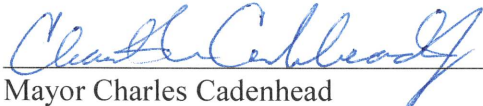
*seen, it will not impair property values within the neighborhood. Adjacent properties and Traffic is met.*

**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 Applicants' request for a variance to allow a reduced septic system setback from the ordinary high-water level on the Property, subject to the following conditions:

1. The Applicants must obtain all other necessary City, state, and other governing body permits and approvals prior to construction of the septic system.
2. A minimum 35-foot-wide buffer strip measured perpendicular to the ordinary high-water level extending 35 feet inland must be provided. A mowed access path and shoreline are allowed but must not exceed 30 percent of the Applicants' shoreline width or 30 feet, whichever is less.
3. This variance is only for a reduced septic system setback from the ordinary high-water level to 38.3 feet.
4. This variance shall expire if work on the new septic system does not commence within 12 months of the date of this Resolution.

Passed and duly adopted this 15<sup>th</sup> day of August, 2023 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