



**City of Lake Elmo Planning Commission Meeting  
City Council Chambers – 3880 Laverne Avenue North  
Minutes of Regular Meeting of  
July 24, 2023**

**CALL TO ORDER:** Commission Chair Risner called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

**COMMISSIONERS PRESENT:** Risner, Bohlig, Geffre, Rehkamp, Steil, Williams, Vrieze

**COMMISSIONERS ABSENT:** None

**STAFF PRESENT:** City Planner Sophia Jensen

**Pledge of Allegiance** at 7:00 PM

**Approve Agenda:**

M/S/P: Steil / Rehkamp: made a motion to approve the agenda. **Vote: 7-0, motion carried unanimously**

**Approve Minutes:**

M/S/P: Vrieze / Geffre made a motion to approve the 6-12-23 meeting minutes with **Vote: 7-0, motion carried unanimously.**

**PUBLIC HEARING**

**a) 8286 Hidden Bay - Variance.** Jeff and Judy Otto have submitted a variance application for three deviations from City's shoreland overlay district code (LEC 105.12.1260). The first variance request is a reduced structure setback from ordinary high water level. The second variance request is a reduced septic setback from the ordinary high water level. The third variance request is for an increase in impervious surface for unsewered shoreland lots.

Sophia Jensen, City Planner, gave presentation and answered questions.

Applicant Judy Otto, and Matt Beyer w/ PLAAD LLC (architect on record) spoke and answered questions

**REVIEW AND ANALYSIS/DRAFT FINDINGS:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 105.12.320 before the City may grant an exception or modification to city code requirements. These criteria are listed below, along with comments from Staff about the 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.

**IMPERVIOUS SURFACE FINDINGS:** The applicant argues that the existing lot is too small to construct a new home and driveway that meets their desire to age-in-place and meet impervious surface requirements. Staff finds that the existing home/driveway could be remodeled or refurbished without the need for a variance since it is a legal nonconformity. Otherwise, the lot could fit a smaller home and driveway within impervious surface requirements. The discrepancy here is that the applicants are proposing a new larger home and driveway than code dictates, not that a home on this lot is not possible. **Practical Difficulties are not met.**

**REDUCED STRUCTURE SETBACK FINDINGS:** While a single family home is consistent with the zoning district. Staff finds that the complete demolition and reconstruction of a larger home and desire for a deck when an existing legal nonconforming home is already on site does not meet the practical difficulties requirement. **Practical Difficulties are not met.**

**REDUCED SEPTIC SETBACK FINDINGS:** The current system is failing and the applicant has had a septic designer review the property for a feasible septic location. Staff finds that the applicant has proven practical difficulties since a septic is needed given the current failing system and there is no other feasible area on site. **Practical Difficulties are met.**

2. **Unique Circumstances.** The plight of the landowner must be due to circumstances unique to the property not created by the landowner.

**IMPERVIOUS SURFACE FINDINGS:** The applicant argues that they need the main level garage and hammerhead driveway exactly as they proposed for safe access which would cause the impervious surface to increase. Staff finds that the reasoning for the garage and hammerhead driveway insufficient; the residence is at the end of a road where ample or fast moving traffic does not appear to be an impending safety concern. The applicant has the opportunity to refurbish the existing home, garage, and driveway footprint without the need for a variance. By completely redesigning the garage and driveway the applicant is creating the plight which they are requesting flexibility from. **Unique Circumstances are not met.**

**REDUCED STRUCTURE SETBACK FINDINGS:** The applicant argues that the setbacks are excessively large on this property, and a portion of the property is below the ordinary high water level, leaving a small buildable area for a new home. Staff finds that these requirements are in place to protect the waterbody and prevent damage to structures. Many properties have land that fluctuates over or under the ordinary high water level based on environmental factors, these areas may be subject to flooding or act as a wetland buffer. The ordinary high water level setbacks apply to all properties on the designated water body and not unique to this lot. Given that the applicant is proposing to demolish the existing legal nonconforming home and is then requesting flexibility to move the structure closer they are creating the plight they are requesting flexibility from. **Unique Circumstances are not met.**

**REDUCED SEPTIC SETBACK FINDINGS:** The applicant is proposing to replace the septic in roughly the same area of the property as the existing system. Again due to the fact this is a failing system, and the only location for a septic on the property **Unique Circumstances are met.**

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

**IMPERVIOUS SURFACE FINDINGS:** The applicant argues that the neighboring homes also exceed the imperious surface requirement and the single level house would be more accommodating to neighboring view sheds. Staff finds that many of the surrounding homes were build many years ago when different impervious surface and ordinary high water level regulations may have been in place. The request, if approved, would alter character of locality by deviating from the City and DNR requirements put in place to protect the waterbody and structures built around them. **Character of Locality is not met.**

**REDUCED STRUCTURE SETBACK FINDINGS:** The applicant argues that that many of the neighboring homes are within the required structure setback from the ordinary high water level. Staff finds that many of the surrounding homes were build many years ago and different setback and ordinary high water level regulations may have been in place. The City's shoreland ordinance (105.12.1260(12)(c)) has exception for legal nonconforming buildings, where if structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level. The existing home is already closer to the ordinary high water level than the adjacent structure to the west and the east side does not have a structure. The request, if approved, would alter character of locality by deviating from the City and DNR requirements put in place to protect the waterbody and the structures built around them. **Character of Locality is not met.**

**REDUCED SEPTIC SETBACK FINDINGS:** Given this area does not have access to City Sewer and all adjacent properties are on private systems; Staff finds that approval of this request would not alter essential character of the neighborhood. **Character of Locality is met.**

4. **Adjacent Properties and Traffic.** The proposed variance must 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.

**IMPERVIOUS SURFACE FINDINGS:** The impervious surface increase should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

**REDUCED STRUCTURE SETBACK FINDINGS:** The reduced structure setback should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

**REDUCED SEPTIC SETBACK FINDINGS:** The proposed septic location should not increase congestion on a public street or negatively impair adjacent properties. **Adjacent properties and Traffic is met.**

M/S/P: Geffre / Steil moved to open the public hearing at 7:30 PM. **Vote: 7-0, motion carried unanimously.**

**Emailed Public Comments:**

- Link Lavey, 8510 Hidden Bay Trail N, Lake Elmo, had concerns.
- Anonymous resident, had concerns.
- Dawn Goracki, 2620 5<sup>th</sup> Avenue East, North St. Paul, owner of P.I.D 09.029.21.23.0012, had concerns.
- Doug & Pam Huntley, 8290 Hidden Bay Court, Lake Elmo, had concerns

**Public Comments:**

Jill Lundgren, 8282 Hidden Bay Court, has concerns.

M/S/P: Vrieze / Bohlig moved to close the public hearing at 7:36 PM. **Vote: 7-0, motion carried unanimously.**

M/S/P: Bohlig / Vrieze moved to recommend denial of the request from Jeff and Judy Otto for a variance to allow an impervious surface coverage of 21.8% for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 7-0, motion carried unanimously.**

M/S/P: Geffre / Rehkamp moved to recommend denial of the request from Jeff and Judy Otto for a variance to allow a reduced structure setback of 36.9 feet from the ordinary high water level for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 6-1, motion carried.** (Risner, Bohlig, Geffre, Rehkamp, Steil, Williams – Aye/ Vrieze – Nay)

M/S/P: Rehkamp / Steil moved to recommend approval of the request, with conditions listed in the staff report, from Jeff and Judy Otto for a variance to allow a reduced septic system setback of 38.3 feet from the ordinary high water level for the property located at 8286 Hidden Bay Court based on the findings listed in the staff report. **Vote: 7-0, motion carried unanimously.**

**PUBLIC HEARING**

**b) Village Design Review - Zoning Text Amendment.** The City of Lake Elmo has initiated a zoning text amendment to clean up outdated references, clarify the authorizing body, and update the process for review by a design professional for the Village Design Review in section 105.12.840 in Article XIII Village Districts.

Sophia Jensen, City Planner, gave presentation and answered questions.

M/S/P: Vrieze / Rehkamp moved to open the public hearing at 7:50 PM. **Vote: 7-0, motion carried unanimously.**

**Public Comments:** None

M/S/P: Vrieze / Steil moved to close the public hearing at 7:51 PM. **Vote: 7-0, motion carried unanimously.**

M/S/P: Steil / Geffre moved to recommend adoption of the proposed text amendment to Section 105.12.840 Village Districts Design Review as presented. **Vote: 7-0, motion carried unanimously.**

**New/Unfinished Business**

N/A

**Communications/Updates - City Council Updates**

- i. 4708 Larkspur Lane Variance - approved - 6/20/2023
- ii. Permitted Encroachments Zoning Text Amendment- approved - 6/20/2023

**Upcoming Meetings**

- i. August 14th
- ii. August 28<sup>th</sup>

Meeting adjourned at 7:52 PM.

Respectfully submitted,

Diane Wendt  
Permit Technician