



3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 777-5510
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Wednesday, November 14, 2012 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. October 22, 2012
4. Public Hearing
 - a. VARIANCE – 8961 37th STREET NORTH. Terri Franzwa has requested a Variance at 8961 37th St. N. in order to build a single family home on a lot that does not meet the R-1 zoning district minimum requirements for lot size (§154.051). In addition, the applicant is requesting a variance to allow a septic system on an area of less than 1 acre.
 - b. VARIANCE – 974 JASMINE AVENUE NORTH. Gary and Richelle Jader have requested a variance at 794 Jasmine Ave. N. to allow the construction of an accessory building nearer the front lot line than the principal structure. This requires a variance due to Zoning Ordinance requirements related to §154.092.
 - c. ZONING TEXT AMENDMENT – GB ZONING DISTRICT. The Planning Commission initiated a zoning text amendment to change therapeutic massage from a conditional to a permitted use in the General Business Zoning District (§154.051). This initiative is part of an effort to install a City licensing program for therapeutic massage in Lake Elmo.
5. Business Items - *None*
6. Updates
 - a. City Council Updates
 - b. Staff Updates
 - i. Upcoming Meetings:
 1. Planning Commission - November 26, 2012
 - ii. Planning Commission Appointments and Resignation
 - c. Commission Concerns
7. Adjourn



**City of Lake Elmo
Planning Commission Meeting
Minutes of October 22, 2012**

Chairman Williams called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Williams, Obermueller, Haggard, and Bloyer;

COMMISSIONERS ABSENT: Fliflet and Hall; and

STAFF PRESENT: Planning Director Klatt and City Planner Johnson

Approve Agenda:

The agenda was approved as presented.

Approve Minutes:

M/S/P: Bloyer/Obermueller, motion to accept the minutes for 10/10/12 as presented;
motion carried, Vote: 3-0 (Haggard abstained).

Public Hearing: *None*

Business Item: Conditional Use Permit Amendment – Gatsby Investors, LLC

Klatt noted that the proposed grading project is a continuation from the meeting on September 10, 2012. In addition, the applicant was unable to attend due to a scheduling conflict.

Klatt went on to explain the suggested conditions for approval that Staff outlined at the previous meeting. These included several conditions that should be completed in association with the construction of the site, including:

1. Approval of the gas line easement holder
2. Submission of a landscape plan
3. Access to the ski hill must be primarily through the retail sales building
4. South Washington Watershed District Permit
5. Grading must not disturb the existing drain field
6. Long-term drain field protection through fencing or another mechanism
7. Easements must be granted to the City over the pond and access areas
8. Modifications to the grading plan per City Engineer's recommendations
9. Exterior lighting plan
10. City Engineer requirements

These conditions must be part of any approval.

Haggard asked about the size of the promotional events. She wanted to know how these promotional events impact the available parking at the store

Klatt explained that the site already hosts promotional events now as part of the interior use of the facility. The promotional events are not expected to increase the need for parking. However, a code issue does exist at this site related to half of the existing marking not meeting the surfacing requirements. Nevertheless, City Staff feels that this is a separate issue independent of the Conditional Use Permit.

Haggard requested that there be no amplified music or public address system on the ski hill due to the future residential development around the area. In addition, Haggard felt that the pond area to the rear of the hill should have fencing to serve as a barricade for safety purposes. Finally, Haggard suggested that the City require a minimum size of tree for the tree replacement associated with the landscape plan.

Williams asked if the City currently has a minimum size requirement for tree replacement.

Klatt has noted that the City has required a minimum of 1.5" caliper trees for various landscaping projects associate with subdivisions in Lake Elmo. He recommends using the 1.5" caliper standard for now.

Bloyer asked if there is existing amplification of music now, and does the City have a noise ordinance to protect against such amplification.

Klatt noted that the City already has a noise ordinance. He suggested that if the Planning Commission is concerned about future noise levels, than the best strategy would be to place conditions related to future noise at the time of approval.

Obermueller noted that placing additional conditions or restrictions related to noise defeats the purpose the promotional events, which is to generate energy and excitement for the retail store. She noted that she may not support additional restrictions.

Bloyer suggested that the City should use the existing noise ordinance to address these issues.

Williams suggested an amendment to the third condition to note that access to the ski hill should avoid the drain field area.

Obermueller asked about the location of the existing trees on the site. She wanted to know if any of these trees may pose a safety hazard for skiers going down the hill.

Klatt noted that the trees were inventoried as part of the plan, and they do not appear to be a safety hazard for the skiing area. In addition, Staff believes that the applicant should have to mitigate the tree loss as much as reasonable, which will include additional plantings. The existing trees serve as an effective buffer for future commercial development in the area.

Klatt also noted that the backside of the site, including a deep ponding area, will undergo significant grading. He added that Commissioner Haggard previously suggested adding a protective fence around the ponding area may be a good safety measure to discourage skiing down the backside of the hill.

Klatt explained another possible amendment suggested by Haggard to set a caliper level for the trees that would be installed to replace the displaced trees.

The Planning Commission engaged in a discussion about safety measures related to the north side of the hill and the ponding area.

Klatt noted that a fence was installed as a barrier to a storm water retention pond near Lake Elmo Elementary School to act as a buffer. This was a different situation, but offers one example.

Williams asked what emergency response or medical staff would think of this design on the backside of the hill.

Klatt noted that the Engineers did review the design in this regard.

Williams asked what legal recourse the City would have to require a fence after the fact if there were safety concerns.

Klatt noted that the easement granted to the City for monitoring the storm water pond would give the City access. However, the City may not have the legal position to require a fence after the fact.

Williams suggested that a condition be included that the applicant must demonstrate to the City Engineer and Planning Director that measures have been taken to maintain safety and prevent accidental access to rear storm water area. This will be condition #11.

Related to condition #2, Klatt noted that Staff will complete some research to see what size of planting will be required for tree replacement.

Williams also noted that a condition will be added that the ski hill must follow the existing noise ordinance, which will be condition #12.

Obermueller noted that she did not want to require standards that would hinder the applicant's business.

The Planning Commission discussed whether the special event permit was appropriate.

Klatt explained that the promotional events are included as part of the retail use of the building. Therefore, a special event permit would not be appropriate for these events.

M/S/P: Bloyer/Obermueller, motion to recommend approval of the CUP with the proposed amendments and additional conditions; ***motion carried, Vote: 4-0.***

City Council Updates

Klatt reported that the City Council adopted Resolution 2012-53, approving a Conditional Use Permit at 11200 Stillwater Blvd. N. to allow therapeutic massage.

Bloyer wanted to find out more information regarding the City's efforts to recruit more Planning Commissioners.

Johnson noted that the City has received three to four applications for open seats on the Planning Commission. More than likely, these applicants will be interviewed at the next City Council meeting on 11/7/12.

Staff Updates

Design Standards Stakeholder Workshop is scheduled for October 29, 2012 @ 6:30-8:00pm at City Hall.

Klatt noted that the next Planning Commission meeting will be on Wednesday, November 14, 2012 due to the observance of the Veterans Day holiday.

Commission Concerns - *None*

Adjournment at 7:50pm.

Respectfully submitted,

Nick Johnson
City Planner



Planning Commission
Date: 11/14/12
PUBLIC HEARING
Item: 4a

ITEM: Franzwa Lot Size and Septic Area Variance Request – 8961 37th Street

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Nick Johnson, City Planner

SUMMARY AND ACTION REQUESTED

The Planning Commission is being asked to consider a request from Terri Franzawa, 8367 26th Street North, to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields. The City Council previously approved a similar variance for the applicant's property in 2007, but this variance has since expired. Ms. Franawa would now like to build a home on the property and is seeking a new variance in order to move forward with her building plans.

ADDITIONAL INFORMATION:

The attached Staff report includes a detailed review of the application along with a Staff recommendation. The applicant has provided a project narrative that was attached to the City's land use application form.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend approval of the variance request to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields based on the findings documented in the attached Staff report and provided the following condition is met:

- 1) The proposed house shall be required to connect to the municipal water system.

ORDER OF BUSINESS:

- Introduction Planning Director
- Report by staff..... Planning Director
- Questions from the Commission..... Chair & Commission Members
- Applicant Comments..... Chair facilitates
- Questions of the Applicant..... Chair & Commission Members
- Open the Public Hearing..... Chair
- Close the Public Hearing Chair
- Call for a motion..... Chair Facilitates
- Discussion of Commission on the motion..... Chair Facilitates

- Action by the Planning CommissionChair & Commission Members

ATTACHMENTS:

1. Detailed Staff Report
2. Application Form
3. Application Narrative
4. Certificate of Survey for Lot
5. Site Plan
6. Location Map
7. Aerial Photograph of Site

City of Lake Elmo Planning Department
Variance Request

To: **Planning Commission**

From: **Kyle Klatt, Planning Director**

Meeting Date: **11/14/12**

Applicant: **Terri Franzwa**

Location: **8961 37th Street North**

Zoning: **R1 – Single Family Residential**

Introductory Information

***Application
Summary:***

The City of Lake Elmo has received an application for a variance from Terri Franzwa, 8367 26th Street North, to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields. The Zoning Ordinance allows existing lots of record to be considered buildable if the lot meets a minimum of 60% of the minimum lot size in the underlying zoning district. The applicant's lot would therefore need to be a minimum of 39,204 square feet in size in order to be considered buildable, which is 1,702 square feet larger than its current size of 37,502 square feet. In addition, the City Code requires that all lots must have at least 1 acre of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. The applicant's site, because it is less than 1 acre in size, is also not able to meet this requirement. Primary and secondary drainfield sites have been identified for the lot on the attached site plan.

***Property
Information:***

The applicant's property at 8961 37th Street North was originally platted as two lots (Lot 1, Block 2 and Lot 2, Block 2) within the Kenridge Addition in July of 1966. The two lots were later combined into one tax parcel for a total of 0.86 acres.

Up until 2005, there was a home, accessory structure, and septic system located on this property. In March 2004, based on the recommendation of the Building Official and City Attorney, the City Council declared the house hazardous and unsafe structure. In November 2004, Washington County ordered an abatement of the public nuisance. The timeline established to correct the property deficiencies was not met and the County subsequently authorized demolition of the buildings on the property to abate the public health nuisance. This property was forfeited in 2004 and the buildings demolished the in the following year. The vacant lot was sold and is currently owned by Mr. Thomas DuFresne (10777 Lansing Avenue North, Stillwater, MN and co-applicant).

After assuming ownership in the property, Mr. DuFresne applied for a variance in order to rebuild a home on the property, and this variance was approved by the City Council on June 17, 2007. The variance was approved with a condition that the variance would expire one year from the date of approval. He did not immediately build the proposed house on the property, and requested extensions that were granted by the City in the following years. In the more recent past, Mr. DuFresne has not re-applied for an extension of the variance, and it has since expired in accordance with the previous Council action on the property.

The present applicant, Ms. Franzwa, has now asked for reconsideration of the property owner's previous request for a variance, and has submitted a new application for a variance to allow the construction previously requested on the site. The property has not changed substantially in the 5 years since a variance was initially approved by the Council, and is presently vacant except for the trees that surrounded the former house and garage.

**Applicable
Codes:**

Section 150.017 Variances.

(A-I) Variances. Identifies procedures and requirements for the processing and review of a variance application. Please note that this section was recently updated by the City to comply with revisions to Minnesota State Statutes.

Section 154.051 Zoning Districts: R-1 – One Family Residential

(C) Minimum District Requirements: The R-1 Zoning District has a minimum lot size of 1 ½ acre per unit without sanitary sewer and 24,000 sq. ft. per unit with sanitary sewer. This site does not have access to sanitary sewer, therefore the 1 ½ acre requirement would apply (*and further regulated as noted in the following section*)

Section 154.080 Additions and Exceptions to Minimum Area, Height, and Other Requirements.

(A) Existing Lot: An existing lot is a lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or registrar of titles, on or before the effective date of this section. Any such lot or parcel of land which is in a residential district may be used for single family detached dwelling purposes provided the area and width of the lot are within sixty percent (60%) of the minimum requirements of this section, provided all setback requirements of this section must be maintained; and provided it can be demonstrated safe and adequate sewage treatments systems can be installed to serve the permanent dwelling.

Section 154.051 Zoning Districts: R-1 – One Family Residential

(C) Septic Drainfield Regulations: All lots must have at least one (1) acre of land suitable for septic drainfields and area sufficient for two (2) separate and district drainfield sites. Placement of the second required drainfield between the trenches

of the first drainfield is prohibited.

Section 154.080 Additions and Exceptions to Minimum Area, Height, and Other Requirements.

(I) Minimum Area Requirements for Lots Without Public Sanitary Sewer:
 In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single and two family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of one (1) acre per dwelling unit.

Findings & General Site Overview

Site Data: Lot Size: 37,502 square feet (0.86 acres)
 Existing Use: Vacant
 Existing Zoning: R1 – Single Family Residential;
 Property Identification Number (PID): 16-029-21-14-0007

Application Review:

Applicable Definitions:

DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.

INDIVIDUAL SEWAGE TREATMENT SYSTEM. An on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.

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.

UNIQUE CIRCUMSTANCES. The plight of the landowner is due to circumstances unique to the property not created by the landowner

VARIANCE. A modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in the zoning code. Economic considerations alone shall not constitute a hardship.

Variance Review: The applicant is proposing to build a new home at 8961 37th Street North on a lot that does not meet the City’s minimum area requirements for lot size or the required minimum suitable area for septic drainfields. The attached site plan depicts the

**Variance
Criteria:**

proposed house to be built, which includes the proposed locations for a primary and secondary subsurface sewage treatment system. This plan appears identical to the one submitted with the 2007 variance; furthermore, the applicant has indicated that she has applied for a septic permit from Washington County that that this permit would likely be issued prior to the Planning Commission meeting. The home would be sited on the property in a manner very much in keeping with the arrangement of homes on other lots in this neighborhood, and would comply with all applicable setbacks and zoning regulations for an R-1 district.

As noted above, the City Council has previously approved a variance to allow a new home to be built on the applicant's lot, which was submitted prior to the recent ordinance update related to variances. After reviewing the request against the current variance standards, Staff has found that the applicant meets these requirements and has provided draft findings for consideration by the Planning Commission in the sections below.

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding 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.*

Under this standard, the City would need to find that the construction of a new home at 8961 37th Street North is a reasonable use of the property not otherwise permitted under the zoning ordinance. The appropriate findings for this standard would therefore need to note that the proposed house is a reasonable improvement for the lot. Using this standard as a basis, Staff is suggesting that the Planning Commission consider the following:

FINDINGS: That the proposed use is reasonable because prior to 2007 there was a single family home located on this site and the property was previously considered buildable as part of a subdivision that was platted prior to adoption of the City's present Zoning Ordinance. With the subsequent adoption of larger minimum lot size requirements by the City, the lot house was considered a legal non-conforming use, in which case it could have been rebuilt on the property within one year of the previous structure being razed. The re-establishment of a single-

family home on this lot is reasonable as it is located in a neighborhood of other single family homes with similar lot sizes.

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

In order to demonstrate compliance with this standard, the Planning Commission would need to note those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, an existing structure that would have otherwise been compliant under the Zoning Ordinance was removed due to a lack of upkeep and maintenance. The current land owner did not cause the property to fall into disrepair, and if he had purchased the land immediately after the demolition was complete, he could have rebuilt without any variances. Again, Staff is suggesting some findings that could be considered by the Planning Commission as follows:

FINDINGS: That the applicant's property is unique due to the removal of the previous structure from the premises and the relatively short time frame after which a new structure could have been built without variances from the minimum lot size requirements of the Zoning Ordinance. The current owner of the property was not responsible for the declaration of the previous nuisance conditions on the site, and instead is seeking to restore the past use that is otherwise consistent with the surrounding land uses. This lot is further unique in that the minimum size for a septic system would not be applicable to a lot with an existing house.

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

A formal set of findings related to this standard is suggested as follows:

FINDINGS: The applicant's lot is larger than many of the lots in the surrounding neighborhood and has historically been used for a single family home. The proposed location of the home on the property is consistent with the siting of homes on adjacent lots.

4. ***Adjacent properties and traffic.*** *The proposed variance will not impair an adequate supply of light and air to property 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.*

No impacts above and beyond those considered normal for any other single-family lot in the surrounding neighborhood would be expected should the variance be granted.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending approval of the variance request based on the findings noted in items 1-4 above. As part of the previous variance, the City required that

that the proposed home connect to the public water service currently available this area. Staff is recommending that this condition be carried forward as part of the present request. The other conditions adopted at part of the 2007 variance on this property were all specific to criteria that need to be met as part of any new home construction in the City and are not being recommended with the current review.

Variance Conclusions: Based on the analysis of the review criteria in City Code and referenced in the preceding section, Staff is recommending **approval** of the applicant's request to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields.

Resident Concerns: Staff has not received any correspondence or had any other communication with neighbors in advance of the public hearing.

Additional Information: The City's previous review of a variance for this lot and the ensuing extensions did not identify any critical issues or problems that would be created should a new home be allowed on the applicant's property.

Conclusion:

The applicants are seeking approval of a variance to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields.

Commission Options: The Planning Commission has the following options:

- A) Recommend approval of the variance request;
- B) Recommend denial of the variance request;
- C) Table the request and direct staff or the applicant to provide additional information concerning this application.

The deadline for a Council decision on this item is December 24, 2012, which can be extended an additional 60-days if needed.

Rec: **Staff is recommending approval** of a variance to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields based on the findings documented in the above Staff report and provided the following condition is met:

- 1) The proposed house shall be required to connect to the municipal water

system.

**Denial
Motion**

To deny the request, you may use the following motion as a guide:

Template:

I move to recommend denial of the request for a variance to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields ...*(please site reasons for the recommendation)*

**Approval
Motion**

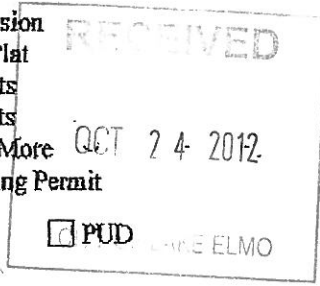
To approve the request, you may use the following motion as a guide:

Template:

I move to recommend approval of the request for a variance to build a new home at 8961 37th Street North on a lot that does not meet the City's minimum area requirements for lot size or the required minimum suitable area for septic drainfields based on the findings as drafted by Staff ...*(or cite your own)*
...with the conditions outlined in the staff report.

cc: Terri Franzwa, 8367 26th Street North, Lake Elmo
Thomas DuFresne, 10777 Lansing Avenue North, Stillwater, MN 55082

City of Lake Elmo
DEVELOPMENT APPLICATION FORM



- Comprehensive Plan Amendment
- Variance * (See below)
- Residential Subdivision Preliminary/Final Plat
 - 01 - 10 Lots
 - 11 - 20 Lots
 - 21 Lots or More
- Zoning District Amendment
- Minor Subdivision
- Excavating & Grading Permit
- Text Amendment
- Lot Line Adjustment
- Appeal
- Flood Plain C.U.P. Conditional Use Permit
- Residential Subdivision Sketch/Concept Plan
- Conditional Use Permit (C.U.P.)
- Site & Building Plan Review

APPLICANT: Jessi Franzwa 8367 26th St. N Lake Elmo 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: _____
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Thomas Dufresne
(Name) (Mailing Address) (Zip)

TELEPHONES: 651 430 9166 612 812 4808 10777 LANSING Ave N.
(Home) (Work) (Mobile) (Fax)
cal Stillwater MN 55082

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
8961 37th Street N, Lot 1 & 2 Block 2 Kenridge Addition
PID # 16.029.21.14.0007

DETAILED REASON FOR REQUEST: This request is to replace the house that was
built in 1969, removed in 2005

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:
A variance is required to rebuild as per section 300.09 subd. 1
A variance is also required for the septic drain lot size
requirement section 300.07 subd 4C.
NOTE: city water services this lot and subdivision

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Jessi Franzwa 10/23/12
Signature of Applicant Date

T. A. Dufresne 10/23/12
Signature of Applicant FEE OWNER Date

City of Lake Elmo Variance Request

A. Fee owner: Thomas DuFresne

Contract owner: Terri Franzwa

B. 8961 37th Street North, P.I.D. # 16.029.21.14.0007, Lot size: 37,410 square feet and .8588 Acres, existing use is a vacant lot (home built in 1969 removed in 2005), current zoning is ???

C. Provisions of the city code for which we are seeking a variance is Section 300.09 Subdivision 1 and Section 300.07 Subdivision 4C.

D. Lot is an existing residential lot located in a neighborhood of similar sized lots which had an existing home on it prior to 2005. Fee owner applied for and was granted these variances in 2007 and an extension in 2009 and was planning on building another home there at that time, however due to the economic conditions did not do so. The variance expired last year. There is city water available to the property at this time and I have a perc test showing that a septic system with backup will work on this site.

E. Talked to staff about the need to renew the variance on this site and was shown the files from the previous request and discussed the procedure to reapply again.

F. Strict enforcement of these ordinances would make the lot unbuildable as the size does not conform and the size of lot to have a septic system on it is below one acre. The characteristics of the lot make it impractical to add land to it as both adjoining property owners are of the same size or smaller in size the subject property.

G. As stated above the requests being asked for are because of the characteristics of the property due to its size and past approval for lots of this size in this area.

H. Granting of this variance would not alter the essential character of the current neighborhood as all homes in the current neighborhood are similar in size, there was recently a home on this site and also subject lot has a nice tree line buffering the adjoining properties to the south and west.

- I. The variance requested will not impair an adequate supply of light and air to the adjacent property owners and will not substantially increase the congestion of the public streets or substantially diminish or impair the property values of within the neighborhood as this will be a single family home with proposed access off of 37th Street, it will be a new home which should help the surrounding single family homes and as noted above has a buffer of trees to the two adjoining properties for additional screening.

CERTIFICATE OF SURVEY

16-29-21 16767

Washington County Department of Transportation & Physical Development
Survey and Land Management Division
14949 62nd Street North - Stillwater, MN 55082
651-430-6875

Wash. Co. CIM
NE Cor., Sec. 16,
T29N-R21W

Survey of tax forfeit property made for the Washington County
Department of Assessment, Taxpayer Services & Elections.

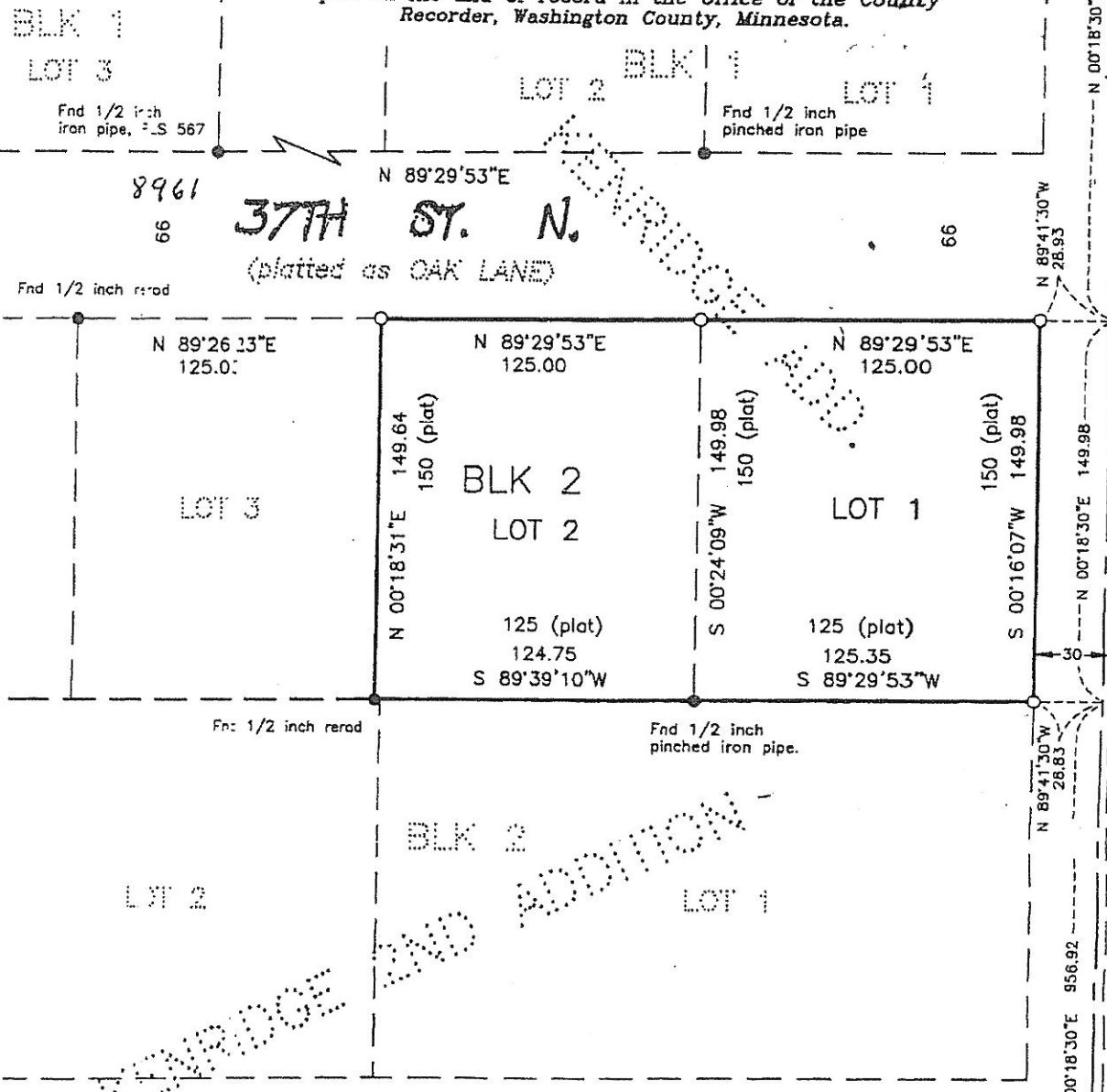
LEGAL DESCRIPTION

Lot 1 and Lot 2, Block 2, KENRIDGE ADD., according to the
plat on file and of record in the Office of the County
Recorder, Washington County, Minnesota.

KENRIDGE 2ND ADDITION

KENRIDGE 2ND ADDITION

KENRIDGE 2ND ADDITION



NOTES

36TH ST. N.

LEGEND

plats of KENRIDGE ADD and KENRIDGE 2ND ADDITION were plotted based on an erroneous location for the E 1/4 Corner, Section 16, T29N-R21W.

○ Denotes 7/8 inch diameter by 18 inch long iron rod marked with an aluminum cap inscribed "WASH CO SURVEYOR PLS 26004" unless otherwise noted.

● Denotes found monument, size and markings as indicated.

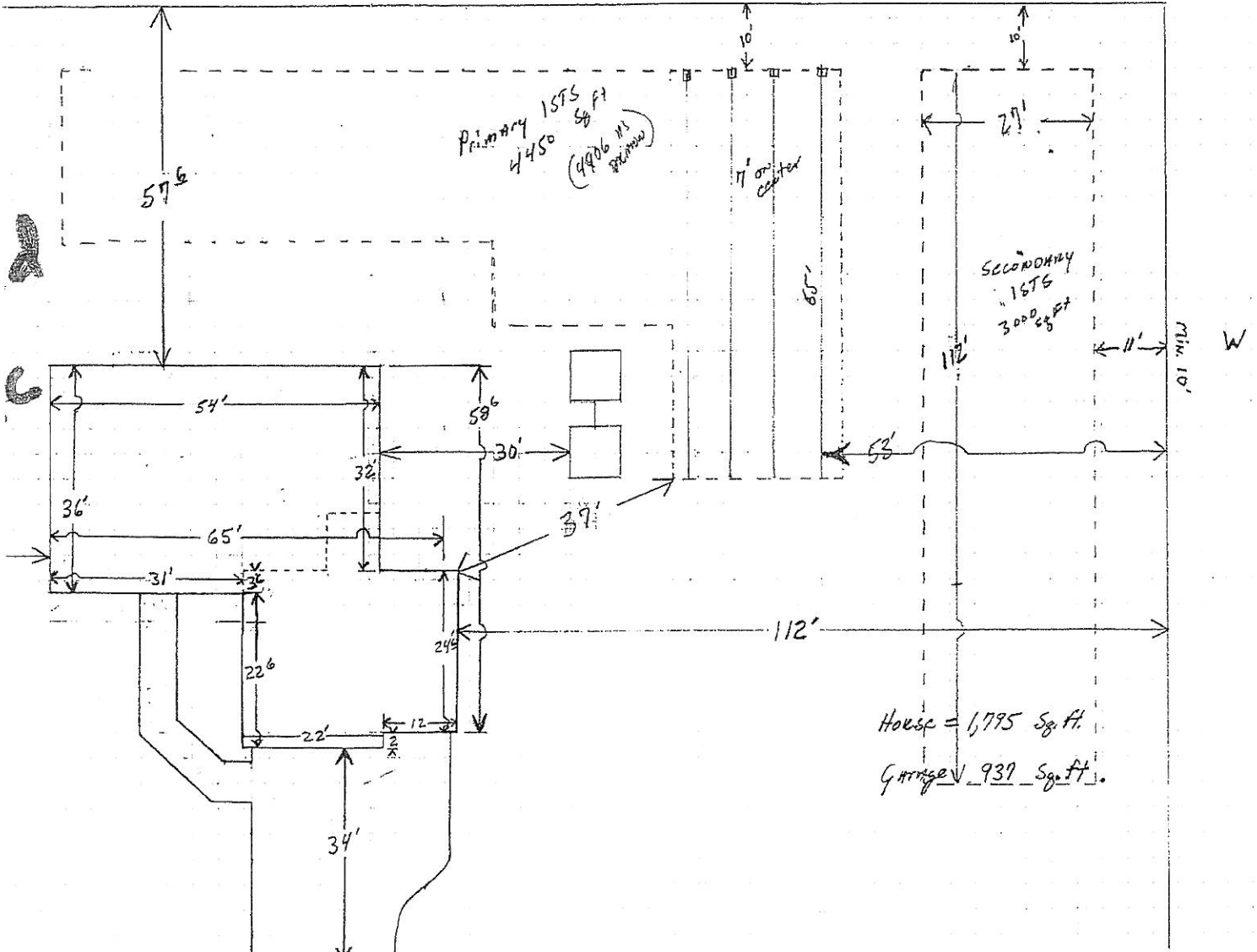
The plats of KENRIDGE ADD and KENRIDGE 2ND ADDITION both show 33 feet of right of way at

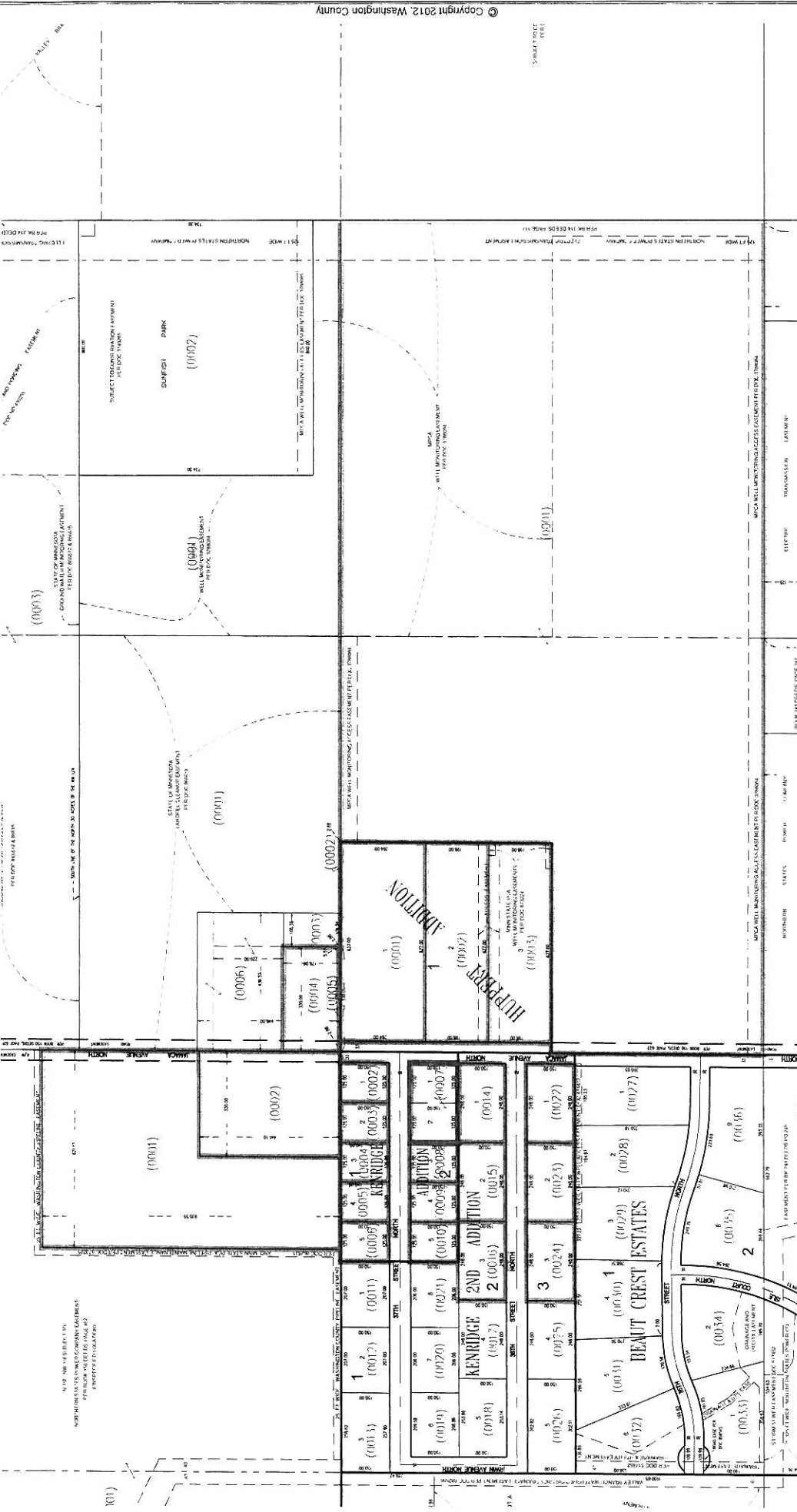
Erroneous East Line of the NE 1/4 of Section 16, as used on the plat of KENRIDGE ADD.

5

Scale $1/16" = 1'$, $1/4" = 4'$

121.40'





Washington County
 PUBLIC WORKS DEPARTMENT
 SURVEY AND LAND MANAGEMENT DIVISION
 16442 82nd Street, Acon, P.O. Box 5
 Clatsop, Oregon 97106-0005
 acon@pws.washingtoncounty.or.us
 www.co.washington.or.us

LEGEND
 DNR PROTECTED WATERS
 DNR PROTECTED WETLAND
 DNR PROTECTED WATERCOURSE
 PARCEL BOUNDARY
 PARCEL BOUNDARY

SECTION TOWNSHIP RANGE INDEX

000201	000201	100201
110201	110201	110201
200201	210201	220201

COUNTY MAP
 * LOCATION OF THIS MAP

SECTION TOWNSHIP MAP

25	26	27	28
NW	NE	SW	SE
11	12	13	14

PROPERTY INFORMATION TABLE

SECTION	TOWNSHIP	RANGE	ACRES	DATE
11	11	11	11.11	11/11
12	12	12	12.12	12/12
13	13	13	13.13	13/13
14	14	14	14.14	14/14

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 MAP LAST UPDATED: April 10, 2012
 NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE
 DATE OF CONTOURS: April 2008 DATE OF PHOTOGRAPHY: None

Scale: 1 inch = 300 feet

North Arrow

Scale: 1 inch = 300 feet

Aerial Photograph - Franzwa Variance

JEFFREY E. & MARILYN J. DOWNS

WASHINGTON CO. & RAMSEY CO.

LAVERNE A. DOWNS

LAVERNE A. DOWNS

CLAIR P. HUPPIERT

8961 37th St N

GARY A. & KAREN J. PAULSON

JEROME J. DELPERDANG ETAL

MAE S. NIPPOLDT

Jamaca Avenue North

JOHN H. & BARBARA G. CONRAD

SHAPE CONTRACTING CO. INC

MICHAEL C. & BARBARA J. RITCHIE

THOMAS A. DUFRESNE

DAVID A. & PATRICIA DUFRESNE

RICHARD LEO & SUSAN M. POSEL

LEO ACKERMAN

SHARON L. BELAK

ROBERT E. & NATASHA FLEISCHMAN

RICHARD K. & DIANE L. QUINN

THOMAS A. & LYNNE K. YOCH

37th Street

JOANN R. OHRT

THOMAS R. & PATRICIA O'DONNELL

ROBERT E. & NATASHA FLEISCHMAN

RICHARD K. & DIANE L. QUINN

LYLE S. & KATHLEEN A. ARCHAMBEAU

SHAPE CONTRACTING CO. INC

DOUGLAS S. SKRIEN

GLEN A. & LINDA L. WILLIAMSON

REINO J. & JOHANNA H. PANTILA

TODD A. & LISA S. KORHONEN

DAVID A. SCHMEROWSKI &

LYLE S. & KATHLEEN A. ARCHAMBEAU



Planning Commission
Date: 11/14/12
Item: 4b
Public Hearing

ITEM: Variance Request – 974 Jasmine Ave. N.

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The City of Lake Elmo has received an application from Gary and Richelle Jader, 974 Jasmine Avenue North, for a variance to construct an accessory building closer to the front lot line than the principal structure. The proposal involves the construction of a detached garage for the purpose of storage of tools and yard equipment. The Lake Elmo Zoning Ordinance as it pertains to accessory structures, §154.092, does not allow accessory buildings to be located nearer the front lot line than the principal structure.

BACKGROUND INFORMATION:

Due to the site conditions of the property at 974 Jasmine Ave. N., the applicants have found it to be problematic to locate the proposed accessory structure in any other location on their property. The site has several constraining elements, including an existing septic drainfield, steep slopes along the sides of the principal structure, and issue related to access to the detached garage. After discussing these problems with the applicants, Staff made a site visit to the property and found the constraints to be accurate.

In addition, the applicants did provide a narrative to address the 4 required criteria for approving a variance. Staff reviewed these findings and found them to be reasonable and satisfactory.

Finally, the neighbor to the south of the Jader property, Kris Taylor, did submit a letter of support for the applicant's variance and subsequent project. Given that the Jader property is classified as a corner lot, the applicants could construct an accessory building to the south of the principal structure within 25 feet of the side property line. However, this location would not be ideal due to the slopes of that area, the loss of multiple mature trees, and the structure having no buffering. Given this situation, the proposed location of the structure by the applicant is more conducive to meeting the intent of the RE zoning district, keeping structures farther away from the public street.

RECCOMENDATION:

Staff is recommending that the Planning Commission approve the variance request with the following motion:

“Move to recommend approval of the variance request at 974 Jasmine Ave. N. to allow the construction of an accessory structure nearer the front lot line than the principal structure with the following condition:

- 1. The accessory structure must be located as far from the front lot line as possible while still meeting the required 10-foot setback from the existing septic drainfield.”*

ATTACHMENTS:

- 1. Staff Report
- 2. Land Use Application w/Applicant Narrative
- 3. Site Plan
- 4. Location Map
- 5. Site Photos
- 6. Letter of Support from Neighbor Kris Taylor.

ORDER OF BUSINESS:

- Introduction.....Planning Staff
- Report by Staff.....Planning Staff
- Questions from the Commission..... Chair & Commission Members
- Open the Public Hearing.....Chair
- Close the Public HearingChair
- Discussion by the Commission..... Chair & Commission Members
- Action by the Commission..... Chair & Commission Members



City of Lake Elmo Planning Department
Variance Request

To: Planning Commission

From: Nick M. Johnson, City Planner

Meeting Date: 11/14/12

Applicant: Gary and Richelle Jader

Owner: Gary and Richelle Jader

Location: 974 Jasmine Avenue North

Zoning: RE – Residential Estates

Introductory Information

Application Summary: The City of Lake Elmo has received an application from Gary and Richelle Jader, 974 Jasmine Avenue North, for a variance to construct an accessory building closer to the front lot line than the principal structure. The proposal involves the construction of a detached garage for the purpose of storage of tools and yard equipment. The Lake Elmo Zoning Ordinance as it pertains to accessory structures, §154.092, does not allow accessory buildings to be located nearer the front lot line than the principal structure.

The applicant has provided a written statement to the City indicating the reason for the placement of the detached garage. In addition, the applicant narrative addresses how the proposed variance meets the 4 required findings to grant a variance.

Property Information: The Jader’s property at 974 Jasmine Avenue North is located on the southwest corner of Jasmine Ave. and CSAH-10 (10th St. N.) in the Stonegate Neighborhood of Lake Elmo. The attached location map details the location of the property.

Applicable Codes: **Section 154.092 – Accessory Buildings and Structures**
(I) No detached garages or other accessory buildings in residential districts shall be located nearer the front lot line than the principal building on that lot, except in AG, RR, and R-1 Districts where detached garages may be permitted nearer the front lot line than the principal building by resolution of the City Council, except in planned unit developments or duster developments.

Section 150.017 Variances.

(A-I) Variances. Identifies procedures and requirements for the processing and review of a variance application. Please note that this section was recently

updated by the City to comply with revisions to Minnesota State Statutes.

Findings & General Site Overview

Site Data: Lot Size: 2.5 acres
 Existing Use: Single Family Detached Dwelling
 Existing Zoning: RE – Residential Estates
 Property Identification Number (PID): 34.029.21.22.0001

Application Review:

Variance Review: As outlined in the applicant’s narrative, the detached garage is intended to be used for gardening equipment and tool storage, such as snow blower and other equipment. Due to the characteristics of the lot and location of the septic drainfield, the applicant was unable to locate the structure in the desired location behind the principal structure further to the west of the proposed location. The attached site plan shows the proposed location of the accessory building.

Regarding the proposed location of the accessory building, the applicant’s have noted that there are several difficulties in locating the accessory building behind the principal structure on the Jader’s property. On the north side of the lot, the location of the septic drainfield does not allow the garage to be located behind the principal structure due to the required setbacks from drainfield areas. Alternatively, the applicant noted that expanding the existing attached garage to the north presented structural challenges as reported by the applicant’s builder, and would limit access to the rear yard of the property. In terms of locating the structure to the west of the principal structure, or in the rear yard, difficulties arose from a standpoint of poor access. Finally, locating the structure on the south side of the home was not feasible due to steep slopes, and several mature trees would need to be removed. Staff did make a site visit to confirm these difficulties and found the applicant’s description to be accurate. In addition, Staff has determined that the proposed location of the detached garage is 91 feet from the front yard lot line, and would therefore be consistent with the intent of the RE zoning district, keeping structures away from the street area.

It should also be noted that the neighbor to the south of the Jader’s property, Kris Taylor, has submitted a letter of support for the proposed location of the accessory structure. This letter is also attached in the packet. In discussing possible locations for the detached garage, it is noteworthy that locating the structure in the rear or side (southern) yard would make the structure far more visible to the adjacent neighbors.

Variance Requirements: An applicant must also establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below:

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.

2. **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.
3. **Character of locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.
4. **Adjacent properties and traffic.** The proposed variance will not impair an adequate supply of light and air to property 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.

Given the information that has been submitted by the applicant and pending further review by the Planning Commission, staff would offer the following suggested findings specific to the variances that have been requested by the applicant:

1. *The proposed use of a detached garage in the proposed location is a reasonable use of the property. The applicant has demonstrated that the proposed location is the most suitable location on the site. In addition, Staff has determined that the intent of the RE district is still being met. Staff determines that this criterion is met.*
2. *The location of existing drainfield and steep slopes surrounding the principal structure are unique to the lot, and make locating the structure in another location problematic. In addition, the fact that the Jader property is a corner lot, with the side (corner) yard facing all of the adjacent properties, makes locating the accessory building to the south of the principal structure more problematic from a screening standpoint. Staff determines that this criterion is met.*
3. *The applicant has noted that the detached garage will match the principal home architecturally. In addition, the structure is tucked into the existing wooded area as much as possible, offering additional screening to the north. Regarding the surrounding residential properties, detached accessory structures are common to the neighborhood. The addition of this accessory structure is consistent with the intent of the RE district and would not alter the character of the locality. Staff determines that this criterion is met.*
4. *The proposed variance will not impair an adequate supply of light and air to property 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. Staff determines that this criterion is met

Conclusions: Staff finds that the applicants have met the 4 necessary criteria for a variance and demonstrated that the proposed location for the accessory building is consistent with the purpose or intent of the RE zoning district.

Conclusion:

Gary and Richelle Jader, 974 Jasmine Ave. N., have submitted a request for a variance to construct a detached garage nearer the front lot line than the principal structure.

Staff Rec: **Staff is recommending that the Planning Commission** recommend approval of the variance request by Gary and Richelle Jader, 974 Jasmine Avenue North, given that the request meets the four criteria for a variance. In addition, Staff recommends to add a condition that the applicant must keep the accessory structure as far from the front lot line as possible (while meeting the septic drainfield setback) in order to meet the intent of the RE zoning district.

Approval Motion To approve the request, you may use the following motion as a guide:

Template: *“Move to recommend approval of the variance request at 974 Jasmine Ave. N. to allow the construction of an accessory structure nearer the front lot line than the principal structure with the following condition:*

- 1. The accessory structure must be located as far from the front lot as possible while still meeting the required 10-foot setback from the existing septic drainfield.”*

cc: Gary and Richelle Jader

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Variance * (See below)
- Residential Subdivision Preliminary/Final Plat
 - 01 - 10 Lots
 - 11 - 20 Lots
 - 21 Lots or More
- Zoning District Amendment
- Minor Subdivision
- Excavating & Grading Permit
- Text Amendment
- Lot Line Adjustment
- Appeal
- PUD
- Flood Plain C.U.P. Conditional Use Permit
- Residential Subdivision Sketch/Concept Plan
- Conditional Use Permit (C.U.P.)
- Site & Building Plan Review

APPLICANT: GARY/RICHHELLE JADER 974 JASMINE AVE N 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-738-7690 651-307-0480
(Home) (Work) (Mobile) (Fax)

FEE OWNER: SAME
(Name) (Mailing Address) (Zip)

TELEPHONES: SAME
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): LOT 1, BLOCK 1
974 JASMINE AVE N
LAKE ELMO, MN 55042

DETAILED REASON FOR REQUEST: WE WANT TO ADD AN ACCESSORY BUILDING ON OUR PROPERTY. WE ARE RESTRICTED FROM BUILDING IT BEHIND OUR HOME BECAUSE OF OUR SEPTIC SYSTEM - IT NEEDS TO BE 10' AWAY

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:
IT NEEDS TO BE CLOSE TO OUR GARAGE & DRIVEWAY - IT'S WHERE WE WANT TO STORE OUR SNOW BLOWER & MOWER. BECAUSE OF THE LOCATION OF OUR DRAIN FIELD, THERE IS NO OTHER REASONABLE PLACE FOR US TO PUT THE STRUCTURE.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Maryc Jader Oct 20, 2012
Signature of Applicant Date

Richelle Jader 10/20/12
Signature of Applicant Date

Gary and Richelle Jader
974 Jasmine Ave No
Lake Elmo, MN 55042

October 23, 2012

Variance Application Project Narrative

City Code Section 154.092
Subsection 1

1) *Practical Difficulty*

The difficulty we face on our property for placement of the accessory building is due to the location of our drain field and septic system. Our first choice for location of the building was, unfortunately, too close to our drain field. We must be at least 10 feet away from the outside edge of the field, and that is why we've chosen the location we're requesting. We've chosen this spot because it is convenient and proximally located to the house - it will house the snowblower, shovels, rakes, lawn mower, hoses, potting and garden items, and other items needed often.

2) *Unique circumstances*

The drain field is a circumstance that is beyond our control; one not created by us.

3) *Character of locality*

The building location on our property, for which we are requesting this variance, is tucked into the trees to the right of the house (facing the house from Jasmine), will have an inviting approach, be architecturally pleasing and fitting with our home's style, have windows, window boxes, nicely pitched roof, made of material that matches the house, will add to the overall aesthetics of our yard and property, and incorporate an attractive brick patio gathering place. It will augment our existing brick patio and fountain area in front of our house. (It won't be a steel structure stuck in the middle of the yard.)

4) *Adjacent properties and traffic*

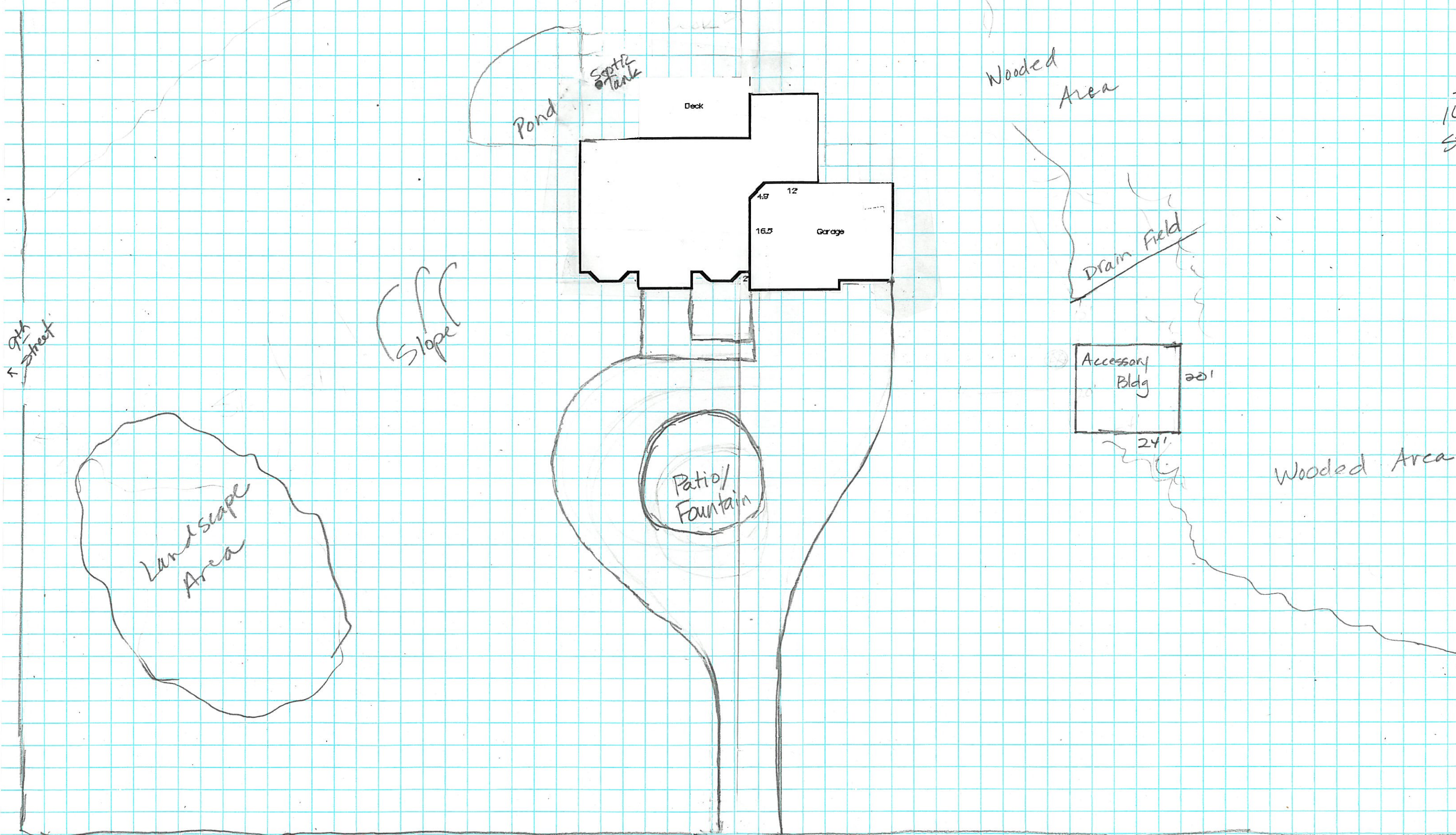
The proposed building will not impair "light and air supply" as it will be lower than the surrounding trees. The approach to this building will not have an impact on neighborhood traffic congestion as it does not have its own driveway. In our opinion, this building substantially adds to the value of our property and augments the look and feel of the neighborhood.



10/23/12

Jader
974 Jasmine Ave No
1/4" = 5'
1" = 20'

(Garden)



9th Street

10th Street

Jasmine Ave

Wooded Area

Drain Field

Accessory Bldg
20'
24'

Wooded Area

Slope

Pond

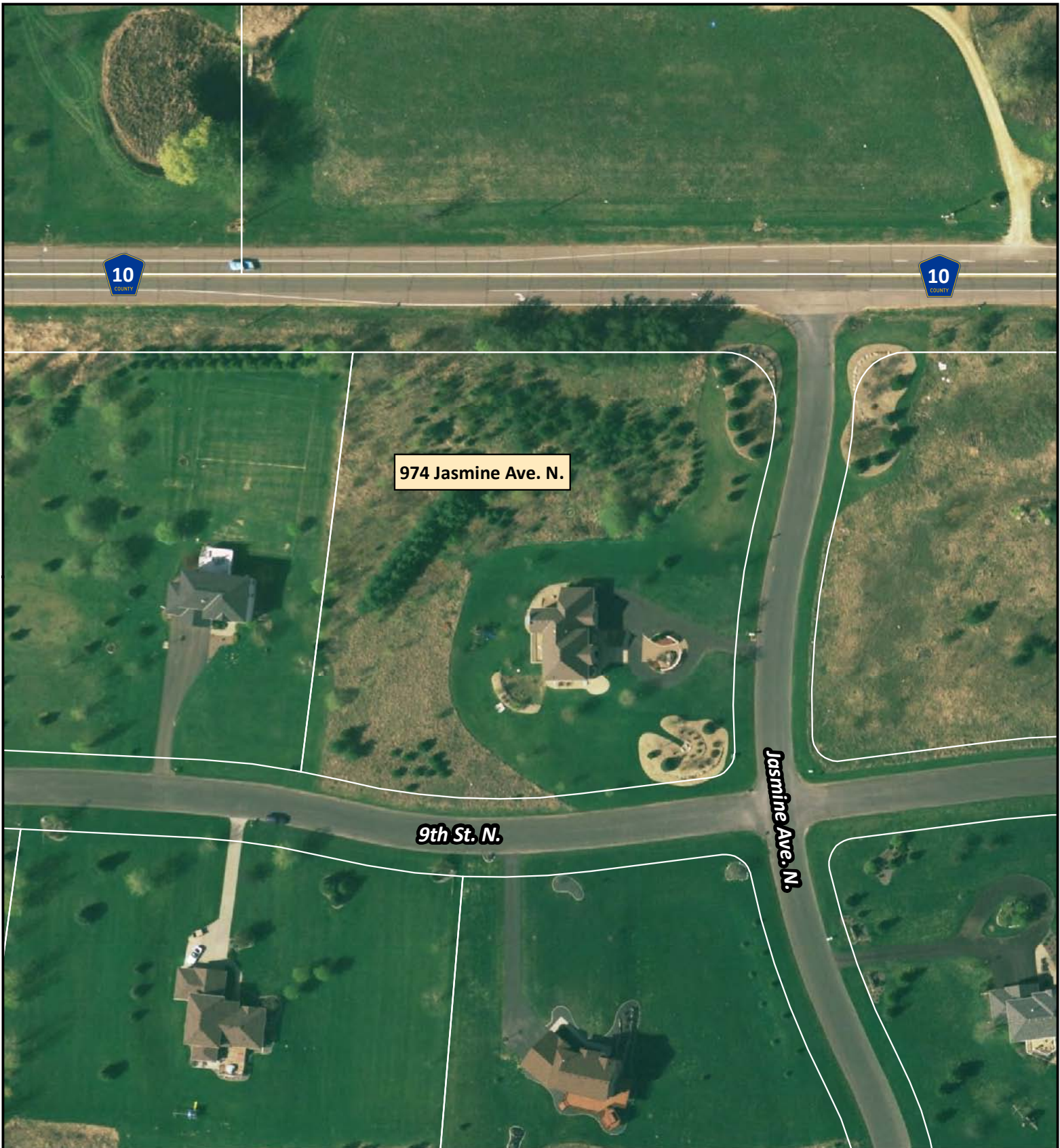
Septic tank

Deck

Garage

Patio/
Fountain

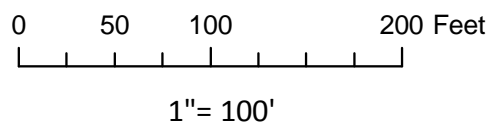
Landscape Area



Location Map: 974 Jasmine Ave. N.



City of Lake Elmo
11-9-2012
Data Source:
Washington County, MN



Site Photos: Jader Property - 974 Jasmine Ave. N.

North Side of Jader Property



South Side of the Jader Property



Septic Drainfield Site



Proposed Garage Location

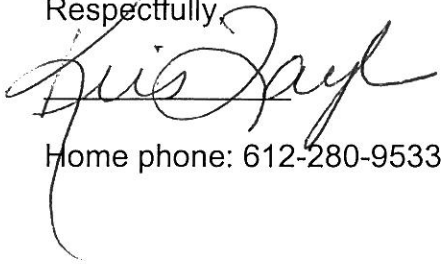


To: City of Lake Elmo
From: Kris Taylor & Brian Roloff
Re: Proposed construction of outbuilding on the property at 974 Jasmine Ave (Jader's)

We live at 9179 9th St. N. and are neighbors directly across from the Jaders in Stonegate. Their plan to build an outbuilding on their property is fine with us. They are planning to build a structure that is consistent with the design of their home and consistent with the look and feel of the neighborhood. In addition, it is partially tucked into their woods and they have no plans to build an additional driveway on their property that would connect this building to Jasmine. In fact, we think it is great they are investing in the neighborhood.

If you have any questions, we would be happy to speak to you.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kris Taylor". The signature is written in black ink and is positioned above the printed name and phone number.

Kris Taylor

Home phone: 612-280-9533



Planning Commission
Date: 11/14/12
Item: 4c
Public Hearing

ITEM: Zoning Text Amendment – General Business Zoning District

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The Planning Commission is asked to consider a zoning text amendment to change therapeutic massage from a conditional to a permitted use in the General Business (GB) zoning district (§154.051). This text amendment is one step in the process of instituting a licensing program for therapeutic massage in Lake Elmo.

BACKGROUND INFORMATION:

Through recommendation of Staff, the Planning Commission initiated a zoning text amendment proposing to change therapeutic massage to a permitted use at the Planning Commission meeting on 10/10/12. As part of this recommendation, Staff is going to implement a licensing program.

Throughout the Metro Area, licensing is a much more common approach for regulating therapeutic massage than conditional use permits. Additionally, Staff feels that licensing offers the City greater protection in monitoring these uses. For example, applicants must have achieved a certain level of training and pass a background check in order to obtain a license. In addition, licenses must be renewed by practitioners annually, whereas a CUP is applied to a property. Overall, the license program will ensure that therapeutic massage businesses that practice in Lake Elmo will be lawful on a continual basis.

The City Clerk of Lake Elmo is currently working on drafting a therapeutic massage ordinance to determine the licensing requirements. Staff anticipates that this ordinance will be brought to the City Council sometime in December. Once the therapeutic massage ordinance is drafted and presented to the Council, Staff will also present the zoning text amendment changing therapeutic massage to a permitted use in the GB district (if approved by the Planning Commission). In other words, the Council will not execute the zoning text amendment until the licensing program is approved.

RECCOMENDATION:

Staff is recommending approval of the proposed zoning text amendment with the following motion:

“Move to recommend approval of the proposed zoning text amendment, changing therapeutic massage from a conditional to a permitted use in the General Business zoning district.”

Note: This text amendment will not be brought to the Council until the therapeutic massage ordinance (licensing program) is approved.

ATTACHMENTS:

- 1. Zoning Text Amendment – GB Zoning District

ORDER OF BUSINESS:

- Introduction.....Planning Staff
- Report by Staff.....Planning Staff
- Questions from the Commission..... Chair & Commission Members
- Open the Public Hearing.....Chair
- Close the Public HearingChair
- Discussion by the Commission..... Chair & Commission Members
- Action by the Commission..... Chair & Commission Members



PROPOSED ORDINANCE AMENDMENT – GENERAL BUSINESS ZONING DISTRICT
Lake Elmo Planning Department Draft 11-14-12

§ 154.051 GB – GENERAL BUSINESS.

(A) *Permitted uses and structures.*

(1) The following service/office uses:

<i>General Business - Service/Office</i>	
<u>Therapeutic Massage</u>	<u>See licensing requirements in §114.01</u>

(5) *Uses permitted by conditional use permit.*

<i>General Business - Conditional Use</i>	
<u>Therapeutic Massage</u>	