



## City of Lake Elmo

3800 Laverne Avenue North  
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615  
[www.LakeElmo.Org](http://www.LakeElmo.Org)

### NOTICE OF MEETING

The City of Lake Elmo  
Planning Commission will conduct a meeting on  
**Monday, July 11, 2011, at 7:00 p.m.**

#### AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
  - a. May 9, 2011 (future meeting)
  - b. June 13, 2011 (future meeting)
4. Public Hearing
  - a. VARIANCE: Consideration of an application to allow the reconstruction of a barn that is non-conforming to size within the floodplain at 9940 59<sup>th</sup> Street Court North. The variance is to allow the 3,800 square foot building to be internally flood proofed where the regulations allow the rebuilding of a structure within the floodplain when it does not exceed 500 square feet.
  - b. VARIANCE: Consideration of a variance at 5761 Keats Avenue North to allow a 2,400 square foot detached accessory building to be built in addition to an existing detached accessory building (2,310 square feet in size) where current regulations allow only one accessory building up to 2,500 square feet.
5. Business Items (None)
6. Updates
  - a. City Council Updates
    - i. Variance Ordinance – Approved
    - ii. Appeal of Lot Line Interpretation for 7955 Hill Trail Court - Reversed
  - b. Staff Updates
  - c. Commission Concerns
7. Adjourn

ITEM: Hold a public hearing to consider an application from Douglas Lovett for a variance to permit the construction of a new accessory building at 9940 59<sup>th</sup> St. Ct. N.– OP/OS zoning – PID 03-029-21-12-0005.

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Kelli Matzek, Planner

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SUMMARY AND ACTION REQUESTED: Staff is requesting that the planning commission hold a public hearing to consider a request from Douglas Lovett for a variance to permit the construction of a new accessory building at 9940 59<sup>th</sup> Street Court North. Specifically, the accessory building requires a variance due to the fact that that the site is in a flood plain, thus making it nonconforming. The construction of this barn is a result of an old structure at the same location being damaged due to snow load. It should be noted that the structure was not previously in the flood plain before FEMA updates their flood maps in 2008.

For variance applications, the burden is on the applicant to demonstrate why this situation is unique and necessitates flexibility to code requirements. To make this case, a variance can only be granted by the city when strict enforcement of the code would cause “practical difficulties” on a property owner. Therefore, the case must meet the following four findings:

- a. *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 spirits and intent of this chapter;*
- b. *The plight of the landowner is due to circumstances unique to the property not created by the landowner;*
- c. *The proposed variance will not alter the essential character of the locality in which the property in question is located; and*
- d. *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.*

In reviewing the request against the four findings listed above, staff determined all criteria were met and considered reasonable.

At this time, the planning commission is asked to conduct a public hearing for the variance request to allow construction of an accessory building. Upon conclusion of the hearing, the commission is asked to make a recommendation to the City Council on this request.

ADDITIONAL INFORMATION:

- The Valley Branch Watershed District did not have any concerns with the application.

RECOMMENDATION:

Recommend that the Planning Commission approve the proposed variance for Douglas Lovett at 9940 59<sup>th</sup> St. Ct. N. with conditions outlined in the attached staff report.

ORDER OF BUSINESS:

- Introduction ..... Kyle Klatt, Planning Director
- Report by staff ..... Kyle Klatt, 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 Commission..... Chair & Commission Members

ATTACHMENTS (6):

1. Site plan identifying dimensions of the accessory structure
2. Detailed staff report analyzing the request
3. Letter detailing contractor's flood proofing measures
4. Flood plain map
5. Survey of 9940 59<sup>th</sup> St. Ct. N.
6. Images of the old accessory structure that was damaged due to snow load

City of Lake Elmo Planning Department  
**Variance Review**

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*To:* **Planning Commission**

*From:* Kyle Klatt, Planning Director

*Meeting Date:* 7/11/11

*Applicant:* **Doug Lovett**

*Owner:* Doug Lovett

*Location:* **9940 59<sup>th</sup> Street Court N.**

*Zoning:* OP/OS– Open Space Preservation District

***Introductory Information***

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***Request*** Doug Lovett, 9940 59<sup>th</sup> St. Ct. N., is requesting that the City consider a variance to allow the construction of an accessory building on the property at the site where the previous structure was damaged due to snow load. The proposed building would be located within the flood plain and would thus be non-conforming.

<b><i>Site Data:</i></b>	<i>Property Identification No.</i>	<i>Area</i>	<i>Use</i>
	03-029-21-12-0005	635,976 square feet (14.60Acres)	Accessory Structure

The applicant's property is OP/OS Open Space Preservation District. It is located in the Northern part of Lake Elmo. There is an existing single family home and accessory structure located within the flood plain in Flood Fringe District. The fact that these structures are in the flood plain is a result of FEMA's last updates of their flood map in 2008. It should be noted that the extent to which the flood boundary extends is farther than what is typically normal. The accessory structure, a barn used for the property owner's farming activities, was constructed at more than 30 years prior. It is important to note that the structure is not visible from Hwy 36 and does not present a physical or visual nuisance in any way.

***Applicable Codes:***

**§ 152.11 NONCONFORMING USES (A, 3)**

The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction

materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 152.04 or 152.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

#### **§ 152.05 FLOOD FRINGE DISTRICT (B, 2)**

As an alternative to fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 152.04 (D, 5, c)

#### **§ 152.04 FLOODWAY DISTRICT (D, 5, c)**

Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided that the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following standards:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
3. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

#### **§152.10 ADMINISTRATION (C, 3)**

*Variances.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only when the applicable criteria of Section 154.017 of the City Code is met. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the City, and in

materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 152.04 or 152.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

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the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization on the public, or conflict with existing local laws or ordinances.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**Applicable  
Code  
Definitions:**

**ACCESSORY BUILDING.** A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

**ACCESSORY STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BUILDING.** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

**PRACTICAL DIFFICULTIES.** "Practical difficulties", as used in connection to 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.

**STRUCTURE.** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, and other similar items.

**USE, ACCESSORY.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to the principal use.

**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 Section 300.06, Subd. 3. Economic considerations along shall



not constitute a hardship. [sic]

### Variance Review

**Variance Request:**

The applicant is requesting that the City consider a variance to allow the construction of an accessory structure within the flood plain on the property.

**Variance Criteria:**

By code, a variance can only be granted where the city finds the request can successfully address the following four criteria:

- 1. 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 spirits and intent of this chapter;*

The applicant is proposing to rebuild an accessory building that was damaged due to snow load. Despite the fact that rebuilding the structure in its current location is within the boundary of the flood plain, it is important to differentiate that the structure is located in a Flood Fringe District as opposed to a Floodway District. It should also be noted that there have been no previous incidents of flooding of this structure. Given that if the appropriate flood proofing is completed by the property owner, rebuilding this structure in its current location is found to be reasonable.

It is critical to note that according to City Code, the property owner would be allowed to construct the structure with the same dimension had it not been in the flood plain. In other words, the location of the structure in the flood plain is the only factor making the structure nonconforming.

In addition to these finding, the property owners have noted that an accessory structure of only 500 square feet, which is what is allowed within the Flood Fringe District, is not large enough to fulfill the needs of their farming activities that currently occur. Therefore, an accessory structure of this size would significantly limit their ability to continue their farming activities.

It should also be noted that in order to repair and rebuild this structure, the property owners must obtain a variance due to the fact that the cost of the project exceeds 50 percent of the market value of the structure, as specified in Section 152.11.

The request to rebuild the accessory building that was damaged due to snow load on the property is a reasonable request. Therefore, staff finds **this condition is met.**

- 2. The plight of the landowner is due to circumstances unique to the property not*

not constitute a hardship. [sic]

**Variance Review**

<b>Variance Request:</b>	The applicant is requesting that the City consider a variance to allow the construction of an accessory structure within the flood plain on the property.
<b>Variance Criteria:</b>	<p>By code, a variance can only be granted where the city finds the request can successfully address the following four criteria:</p> <ol style="list-style-type: none"> <li>1. <i>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 spirits and intent of this chapter;</i></li> </ol> <p>The applicant is proposing to rebuild an accessory building that was damaged due to snow load. Despite the fact that rebuilding the structure in its current location is within the boundary of the flood plain, it is important to differentiate that the structure is located in a Flood Fringe District as opposed to a Floodway District. It should also be noted that there have been no previous incidents of flooding of this structure. Given that if the appropriate flood proofing is completed by the property owner, rebuilding this structure in its current location is found to be reasonable.</p> <p>It is critical to note that according to City Code, the property owner would be allowed to construct the structure with the same dimension had it not been in the flood plain. In other words, the location of the structure in the flood plain is the only factor making the structure nonconforming.</p> <p>In addition to these finding, the property owners have noted that an accessory structure of only 500 square feet, which is what is allowed within the Flood Fringe District, is not large enough to fulfill the needs of their farming activities that currently occur. Therefore, an accessory structure of this size would significantly limit their ability to continue their farming activities.</p> <p>It should also be noted that in order to repair and rebuild this structure, the property owners must obtain a variance due to the fact that the cost of the project exceeds 50 percent of the market value of the structure, as specified in Section 152.11.</p> <p>The request to rebuild the accessory building that was damaged due to snow load on the property is a reasonable request. Therefore, staff finds <b>this condition is met.</b></p> <ol style="list-style-type: none"> <li>2. <i>The plight of the landowner is due to circumstances unique to the property not</i></li> </ol>



	<p><i>created by the landowner;</i></p> <p>In 2008, FEMA updated the flood map, which resulted in the accessory structure on the Lovett property being included in the Flood Fringe District. In addition, the area of the flood plain is substantially larger than normal. Finally, the damage caused by snow load made the structure unsafe, necessitating new construction.</p> <p>Therefore staff finds <b>this condition is met.</b></p> <p>3. <i>The proposed variance will not alter the essential character of the locality in which the property in question is located.</i></p> <p>The structure existed in the same location before being included in the Flood Fringe District. As mentioned before, this structure has never previously flooded. As long as the appropriate flood proofing techniques are utilized, then there shouldn't be any concern as to a shift in the character of the locality.</p> <p>Therefore, staff finds <b>this condition is met.</b></p> <p>4. <i>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.</i></p> <p>Repairing the damaged structure should ensure that property values do not diminish in the neighborhood. In addition, completing the necessary flood proofing would not diminish the property value in any way. Finally, repairing this structure should not impair the supply of light or air, or cause any congestion to the public streets.</p> <p>Therefore, staff finds <b>this condition is met.</b></p>
<p><b>Variance Conclusions:</b></p>	<p>Based on the analysis of the review criteria in City Code, staff would recommend approval of the variance to allow the construction of the accessory structure.</p>
<p><b>Resident Concerns:</b></p>	<p>Staff is not aware of any resident concerns regarding the requested variance.</p>

**Review Comments:**

<p><b>Planning Issues:</b></p>	<p>As long as the property owner successfully flood proofs the structure up to the specifications required, then the barn should be constructed in its existing location.</p>
<p><b>MN DNR Concerns:</b></p>	<p>This variance was submitted to the MN DNR, but given the current state government shut-down, there was no response.</p>

<b>Fire Department Comments:</b>	The fire department has not expressed any significant concerns.
<b>Engineer Comments:</b>	The City Engineer has not expressed any significant concerns.
<b>VBWD Comments:</b>	The Valley Branch Watershed District did not have any concerns.
<b>Conclusion:</b>	
	The applicant is seeking approval of a variance allowing the construction and repair of an accessory structure.
<b>Commission Options Presented:</b>	The Planning Commission was presented with the following options: <ul style="list-style-type: none"><li>A) Recommend approval of the requested variance as it will not adversely impact the essential character of the locality.</li><li>B) Recommend denial of the requested variance based on the findings identified by the commission.</li></ul> The deadline for a Council decision on this item is August 22, 2011.
<b>Staff Rec:</b>	<b>Staff recommended approval</b> of the variance request based on the following: <ul style="list-style-type: none"><li>1) The construction of the accessory structure will not alter the essential character of the locality.</li><li>2) The implementation of flood proofing measures will ensure that the structure is not a nuisance or hazard.</li><li>3) An accessory structure of only 500 square feet would limit the property owner's ability to continue the farming activities in the future that presently occur.</li></ul> Provided the following conditions are met <ul style="list-style-type: none"><li>1) It must be anchored to resist flotation, collapse, and lateral movement;</li><li>2) The portions of these structures located below the Base Flood Elevation (BFE) must be constructed of flood-resistant materials;</li><li>3) It must be designed to allow for the automatic entry of flood waters;</li><li>4) Mechanical and utility equipment must be elevated or flood proofed at or above the BFE;</li></ul>

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- 5) It must comply with the floodway encroachment provisions of the National Flood Insurance Program (NFIP) Regulations;
- 6) Its use must be limited to parking and/or limited storage; and
- 7) The structure must pass additional review to ensure that all of these conditions have been met.

**Approval  
Motion**

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

**Template:**

**I move to approve the requested variance for an accessory structure at 11002 Upper 33<sup>rd</sup> Street based on the findings provided by staff and with the conditions identified in the staff report. ...*(use staff's findings provided above or cite your own)***

**Denial  
Motion**

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

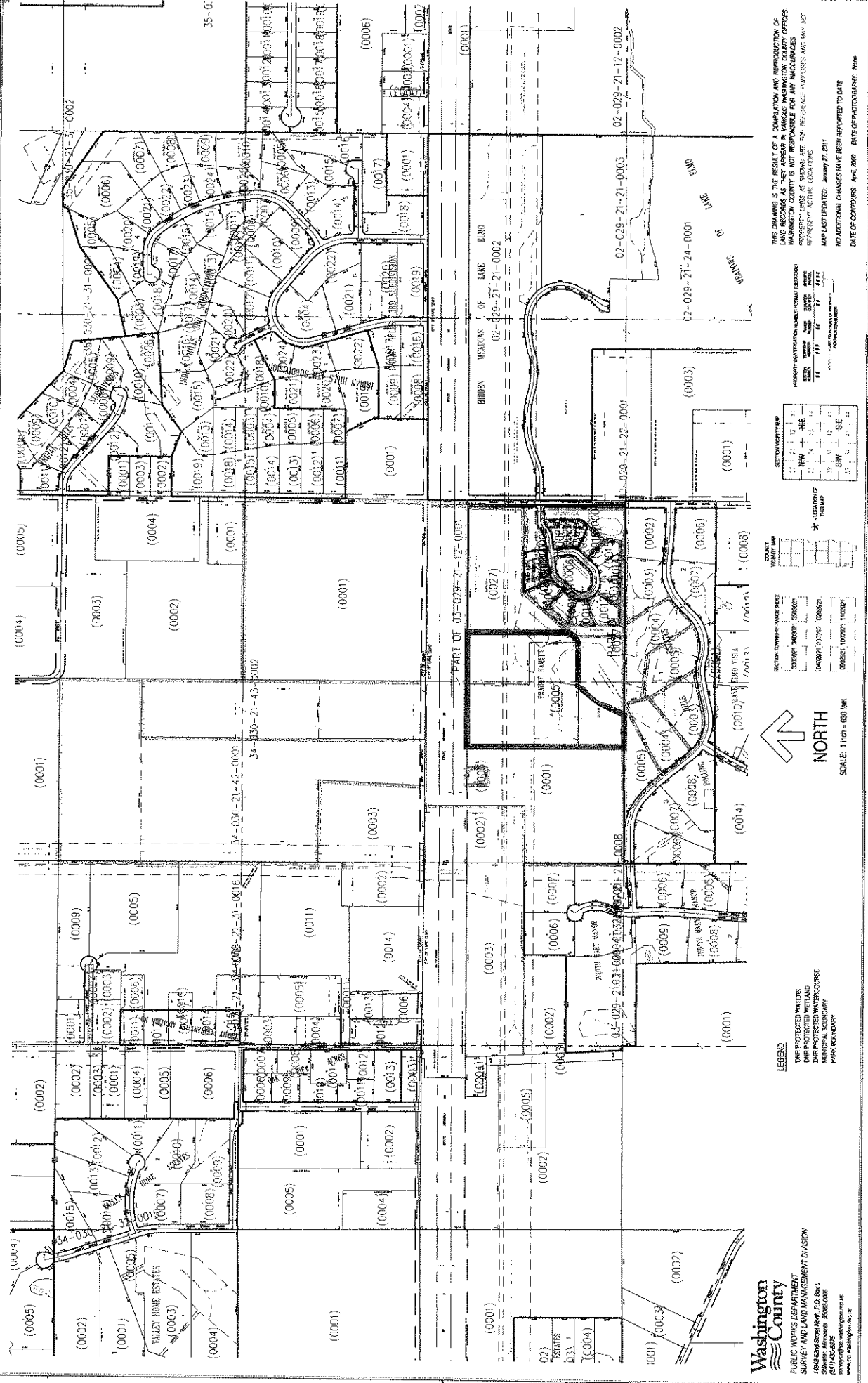
**Template:**

**I move to deny the requested variance at 11002 Upper 33<sup>rd</sup> Street based on the following findings...*(please site reasons for the recommendation)***

cc: Doug Lovett, 9940 59<sup>th</sup> St. Ct. N.







THIS DRAWING IS THE RESULT OF A COMPARISON AND REPRODUCTION OF OFFICIAL RECORDS AND SURVEY DATA FROM WASHINGTON COUNTY. WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY inaccuracies, omissions, or errors. THE USER SHALL BE RESPONSIBLE FOR VERIFYING ALL INFORMATION AND DATA SHOWN ON THIS MAP. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND OFFICIALS. NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE.

DATE OF CONTOURS: April 2009 DATE OF PHOTOGRAPHY: None

SECTION VARIETY MAP

Section	1	2	3	4
NE				
SE				
SW				
NW				

PROPERTY INFORMATION

SECTION	TOWNSHIP	RANGE	SECT.	ACRES
02	29	21	21	40.00
02	29	21	24	40.00

SECTION TOWNSHIP RANGE

Section	Township	Range
02	29	21
02	29	21

PROPERTY INFORMATION

Section	Township	Range	SECT.	ACRES
02	29	21	21	40.00
02	29	21	24	40.00

PROPERTY INFORMATION

Section	Township	Range	SECT.	ACRES
02	29	21	21	40.00
02	29	21	24	40.00

PROPERTY INFORMATION

Section	Township	Range	SECT.	ACRES
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PROPERTY INFORMATION

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02	29	21	24	40.00

Washington County  
PUBLIC WORKS DEPARTMENT  
SURVEY AND LAND MANAGEMENT DIVISION  
4646 Skyway Blvd. S.D. Box 9  
Shelton, Missouri 65252-0208  
(817) 632-8257  
www.washcounty.org

LEGEND

- ONE PROTECTED WATERS
- ONE PROTECTED WATERS
- ONE PROTECTED WATERS
- MUNICIPAL BOUNDARY
- PARK BOUNDARY

NORTH

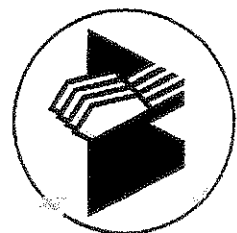
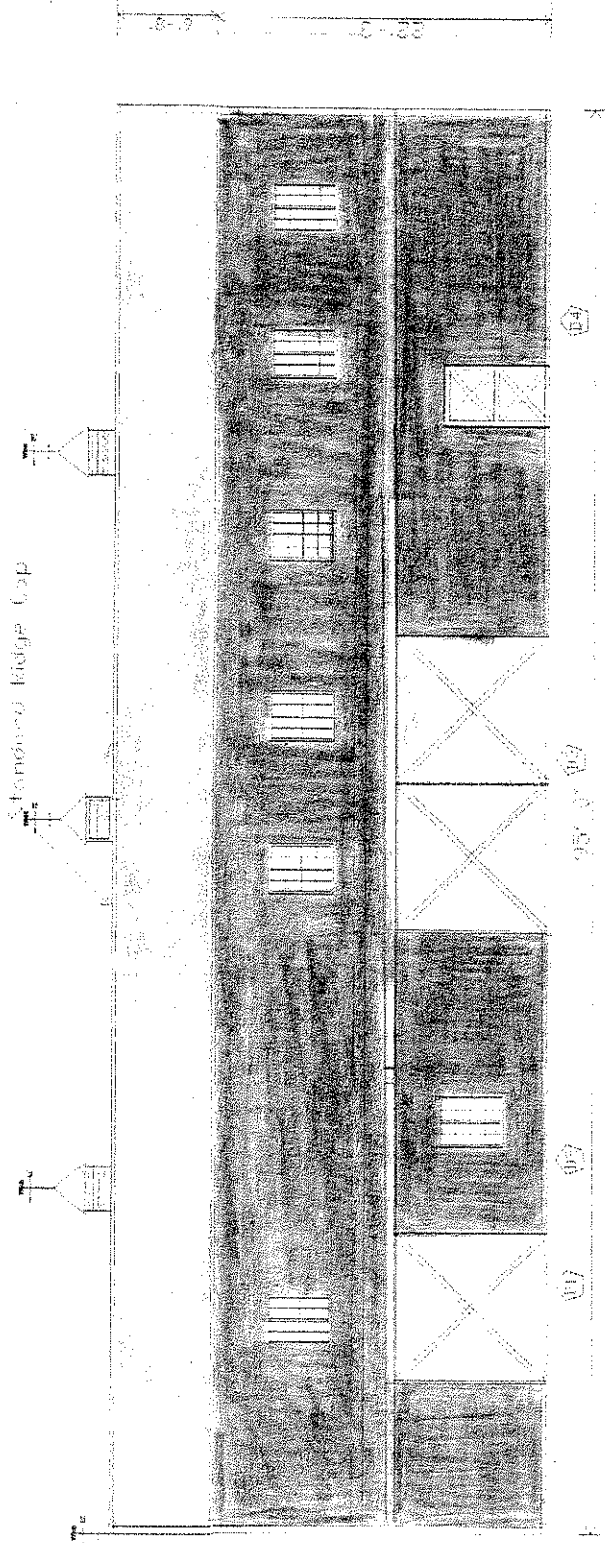
SCALE: 1 inch = 630 feet

SECTION VARIETY MAP

PROPERTY INFORMATION

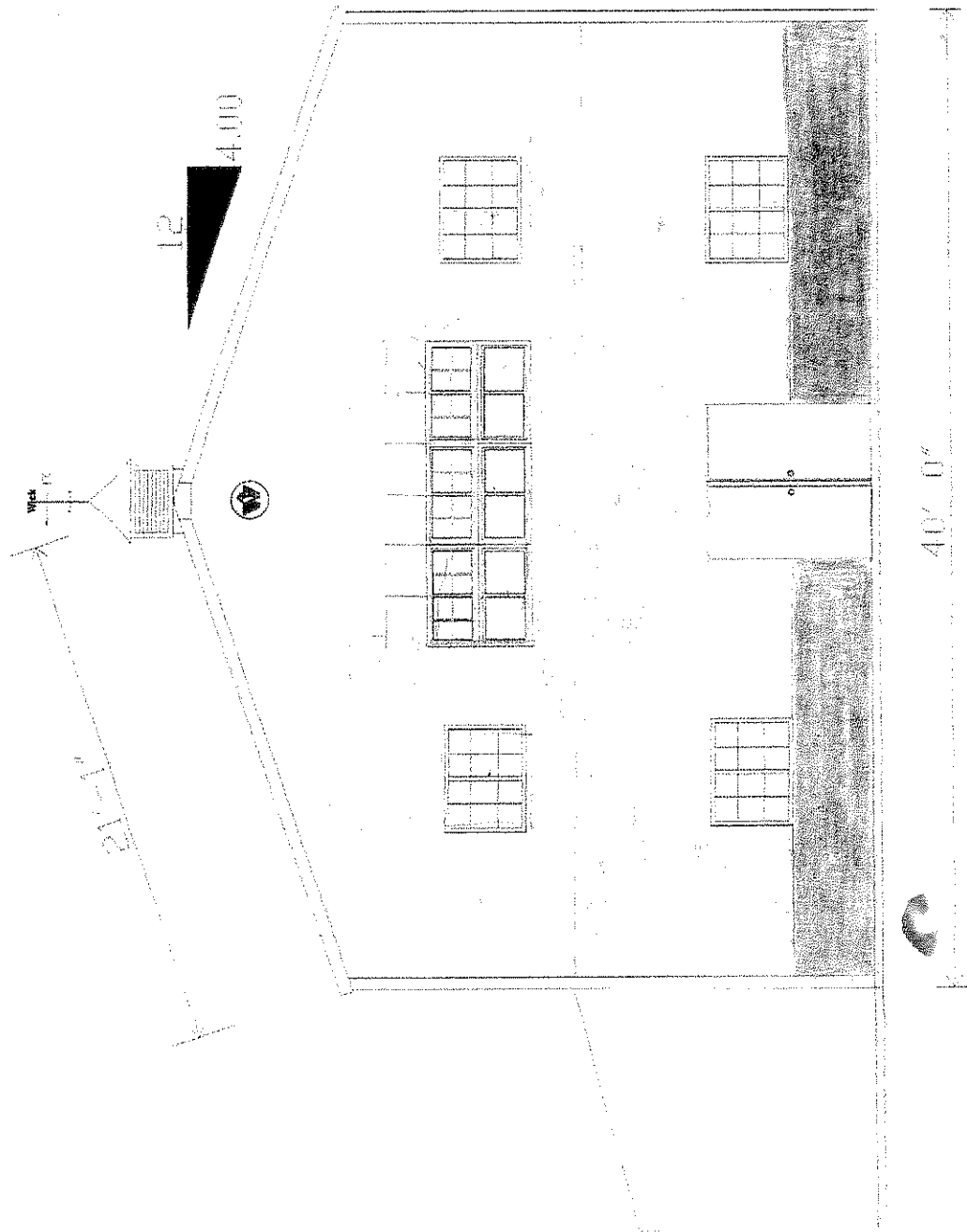
DATE OF CONTOURS

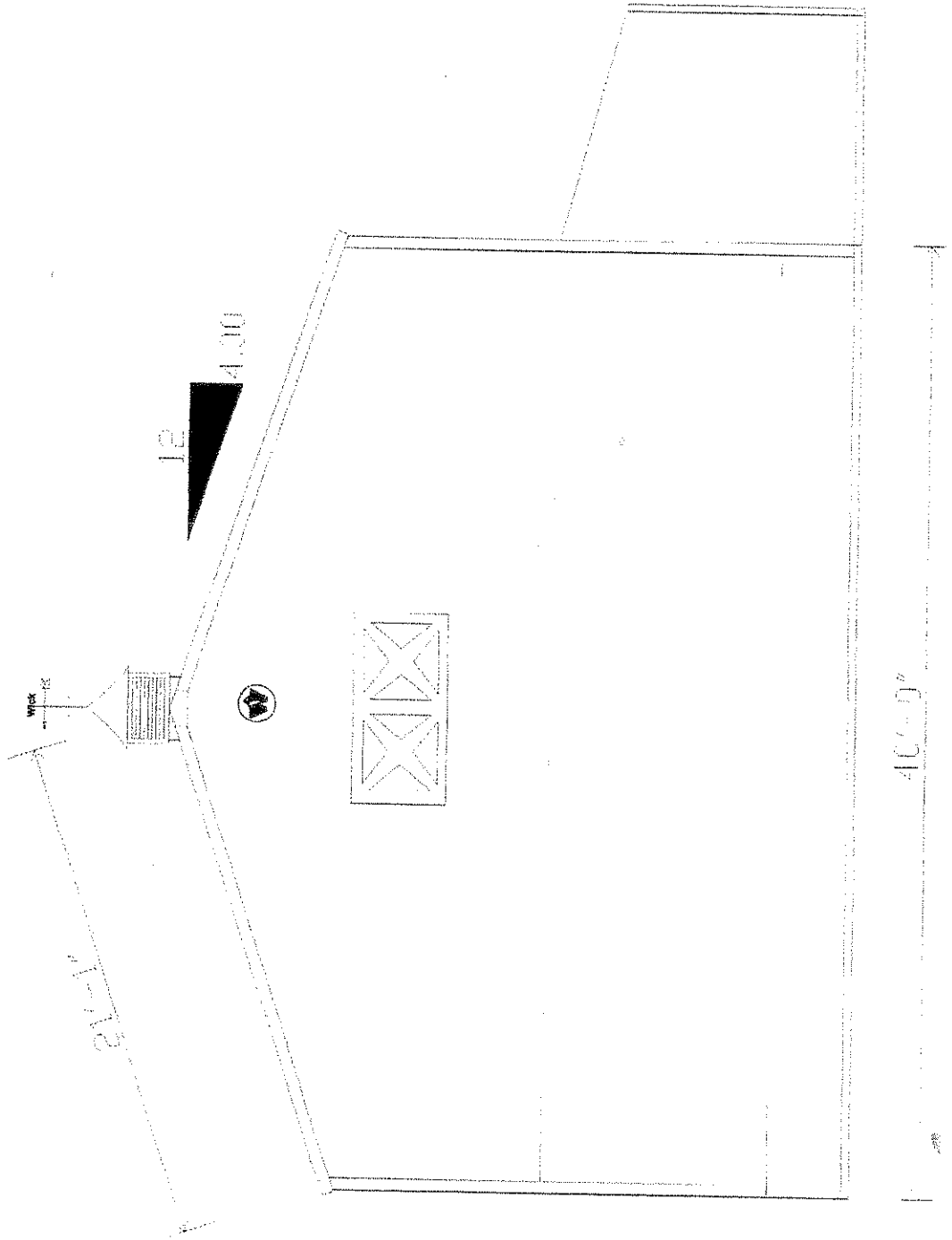
DATE OF PHOTOGRAPHY



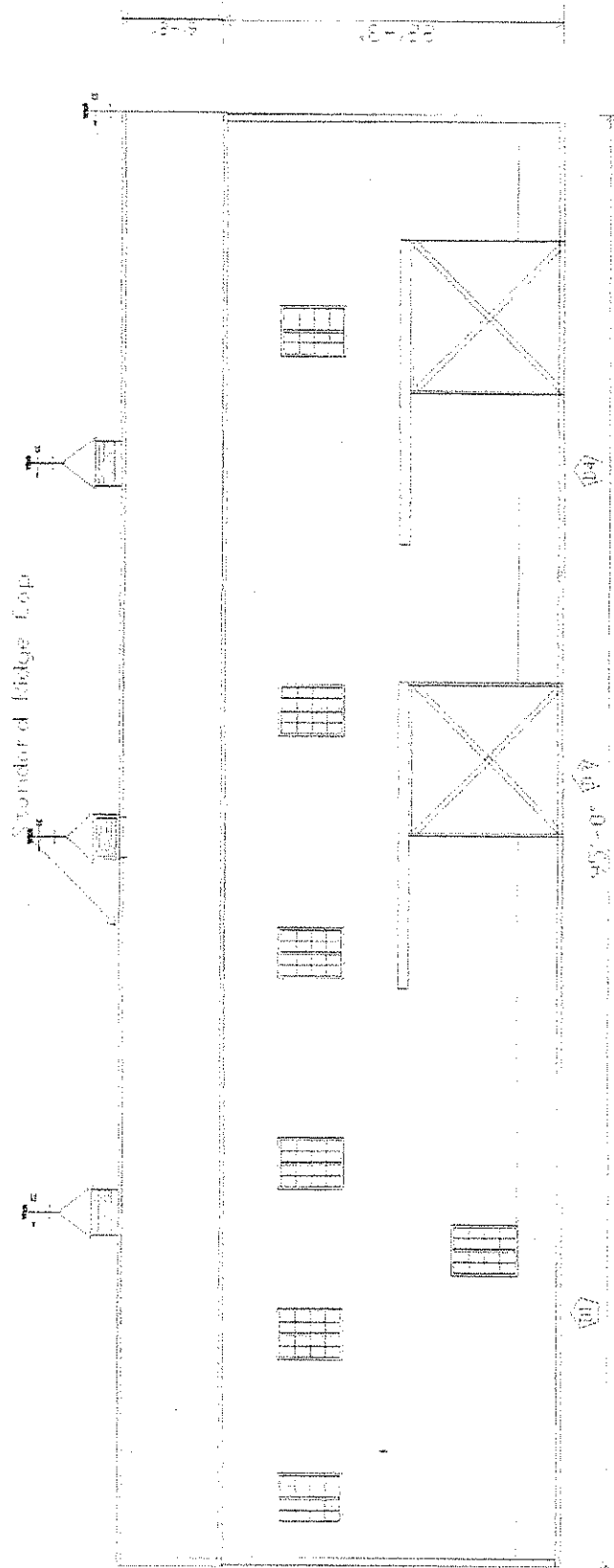
**Wick**  
Buildings®

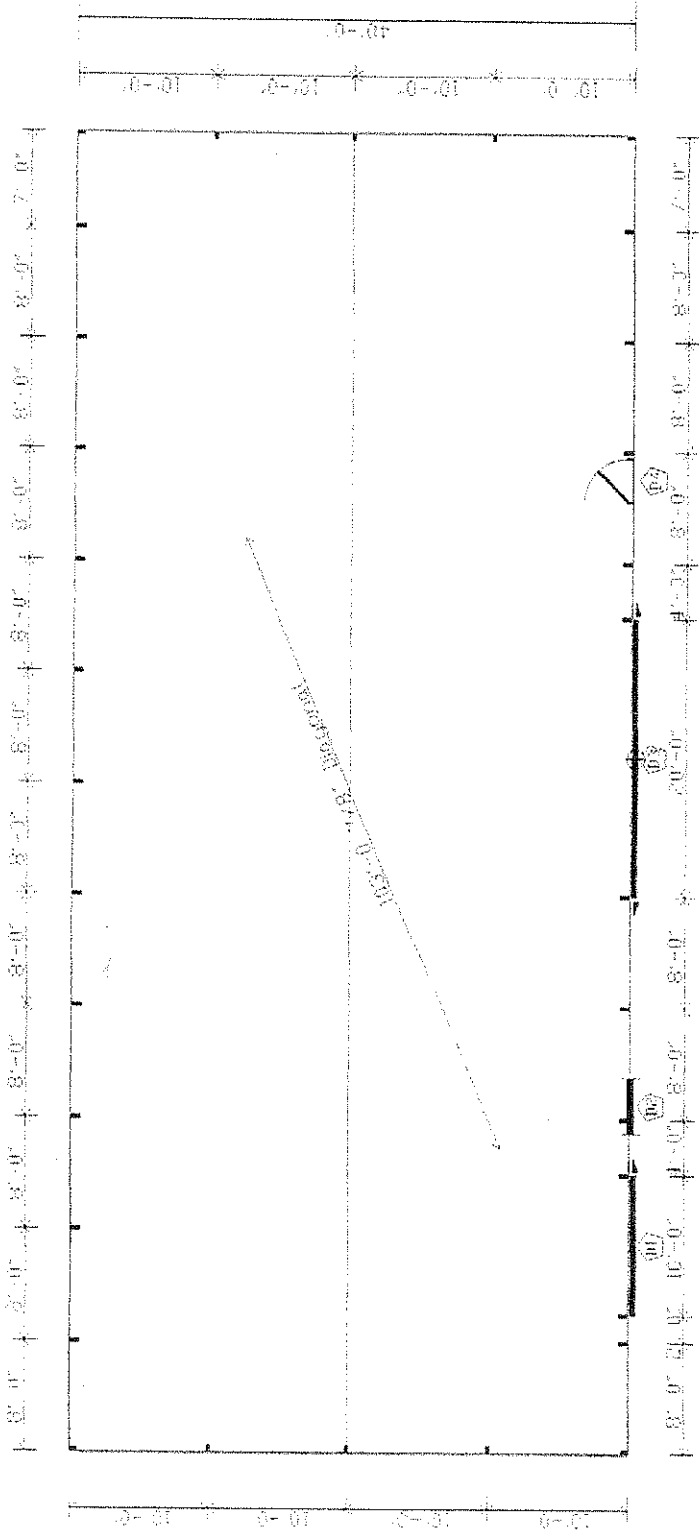
405 Walter Road  
 Mo. Zionsville, Wisconsin 53560  
 Phone: 608-795-2294  
 Fax: 608-795-2534





C 2





FLOOR PLAN



Bob Ulrich  
 EAST BETHEL, MN

DO NOT SCALE THIS DRAWING





Here is a picture of the remaining structure after the damage was removed.



Since one third of the roof collapsed, we were told that the remaining two-thirds of the roof should be replaced and brought up to code or it could fall down too.

We were also told that since the collapsed roof was taken down, there is a danger that the walls could fall down. To reduce this risk, we removed the metal from the side walls but have left the posts, slab, plumbing and electric in place.

We have contacted the City of Lake Elmo and are requesting the proper permits to proceed.

We would like to install a new roof which would meet snow load requirements and replace the metal on the sides which was taken down to mitigate the risk of the walls falling down.

We would like to leave the posts, slab, plumbing and electric but will replace them if it is required by the building codes.

The insurance company requires us to submit all claim information by June 28<sup>th</sup> in order to receive payment. The mortgage company is requiring that we rebuild the barn in order to protect their interests.

Here is a picture of the barn with the damaged roof section removed.



On December 24<sup>th</sup>, 2011, one third of our 40 foot by 95 foot pole barn collapsed from snow load. We have 4 children ages 10 and younger so we had an immediate need to make the area safe.



On December 29<sup>th</sup>, 2011, we were issued a building permit of "Class of Work" Repair to remove the damage and make the building safe. As a first step, we removed the section of collapsed roof.



## Kyle Klatt

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**From:** doug@thelovettfarm.com  
**Sent:** Friday, July 01, 2011 3:21 PM  
**To:** Kelli Matzek; Kyle Klatt  
**Subject:** 9940 59th Street Ct N - Flood Proofing

I have discussed the need to flood proof our barn with our building supplier, Wick Buildings. They told me that the barn will include the following attributes intended to make it FP-3 or FP-4 compliant:

1. Galvanized screws
2. Treated two by eight inch girt
3. Steel sides
4. Treated posts
5. Posts secured four to five feet deep, eight feet on center
6. Ten to sixteen foot openings in front and back of building

Please let me know if Lake Elmo requires any additional information or changes to the barn design.

Thank you,

Doug Lovett

9940 59<sup>th</sup> Street Ct N

651.338.8575

ITEM: Hold a public hearing to consider an application for a variance to permit the construction of a second accessory building at 5671 Keats Avenue – RR zoning; 02.029.21.22.0001

SUBMITTED BY: Kyle Klatt, Planning Director *kk*

REVIEWED BY: Kelli Matzek, City Planner

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### SUMMARY AND ACTION REQUESTED

Staff is requesting the Planning Commission hold a public hearing to consider a variance request from Steve and Joan Ziertman, 5761 Keats Avenue, to allow the construction of a new 2,400 square foot accessory building on their property. A variance has been requested because the applicants already have built a 2,310 square-foot building on their property, and the RR – Rural Residential Zoning District only allows one such accessory building on their property. The proposed building would be used to house equipment related to the growing and selling of agricultural products (primarily pumpkins).

For variance applications, the burden is on the applicant to demonstrate why this situation is unique and necessitates flexibility to code requirements. To make this case, a variance can only be granted by the city when strict enforcement 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. The criteria that are included in the City Code for making such a decision include the following:

*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.

- (1) 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.

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

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

*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.

In reviewing the request against the four criteria listed above, staff determined that not of all of these criteria were met and is recommending denial of the request based on the suggested findings included in the attached Staff report.

At this time, the Planning Commission is asked to conduct a public hearing for the variance request to allow construction of a second accessory building on the applicants' property. Upon conclusion of the hearing, the commission is asked to make a recommendation to the City Council on this request.

**ADDITIONAL INFORMATION:**

- Four letter/emails in support of the applicants' request are attached.
- No other comments from other City Staff or outside agencies have been submitted to the City.

**RECOMMENDATION:**

Staff is recommending that the Planning Commission recommend denial of the proposed variance for the construction of a second accessory building at 5761 Keats Avenue with the findings outlined in the attached report.

**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 Commission..... Chair & Commission Members

**ATTACHMENTS:**

1. Detailed staff report analyzing the request
2. Application form
3. Applicants narrative and proposed findings (with Comprehensive Plan excerpts)
4. Site Plan
5. Site photographs
6. Aerial image of site
7. Comments and maintenance change worksheet from City Assessor
8. Letters of support

City of Lake Elmo Planning Department  
**Variance Request**

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**To: Planning Commission**

**From: Kyle Klatt, Planning Director**

**Meeting Date: 7/11/11**

**Applicant: Steve and Joan Ziertman**

**Location: 5761 Keats Avenue**

**Zoning: RR – Rural Residential**

***Introductory Information***

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***Application Summary:***

The City of Lake Elmo has received a variance request from Steve and Joan Ziertman, 5761 Keats Avenue, to allow the construction of a new 2,400 square foot accessory building on their property. A variance has been requested because the applicants already have built a 2,310 square-foot building on their property, and the RR – Rural Residential Zoning District only allows one such accessory building on their property. The proposed building would be used to house equipment related to the growing and selling of agricultural products (primarily pumpkins).

***Property Information:***

The applicants' property and neighboring property at 5699 Keats Avenue were split from their family's farm in 1989, with houses being constructed on these lots a short time later. The original farmstead, including the house and barn, were later sold to the organization that built the Rockpoint Church in 2006; which also received approval at this time for a preliminary plat for an open space subdivision named Hidden Meadows. This 25-lot development has not yet received final plat approval from the City, and therefore, all property immediately to the north and west of the applicants' property is either vacant or being rented out for agricultural production (except for the church and parking lot). In the future, there will be residential lots to the east of the applicants' property, with open space/conservation land planned to the north.

The applicants' property at 5761 Keats Avenue is approximately 10.7 acres in size, and in addition to the principal residential structure, there is a detached accessory building that was built in two phases at different times. These accessory buildings are now joined together by a breezeway, in which case they are viewed as one detached structure in accordance with the Building Code and Zoning Ordinance. Most of the property located to the rear of the house is used for the growing of agricultural products, including pumpkins, gourds, hay, corn stalks, ornamental corn, and other products, which are then sold on the premises as part of an agricultural sales operation. There is currently some equipment being stored outside that does not meet the City Code requirements for such exterior storage, but most of this equipment is located



behind a screening fence on near the northern property line, and because it is screened from view, it does comply with the City requirements.

Because the Ziertmans have requested time at the Planning Commission meeting to review their request with the Commission, Staff will not be providing a detailed description of the farming activity taking place on the site as part of this report.

**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 154.036 RR- Rural Residential.**

(A-F) RR – Rural Residential Zoning District. Specifies the permitted uses, district requirements, and minimum district requirements for the RR zoning district.

**Section 154.092 Accessory Buildings and Structures.**

Describes the types of accessory buildings and regulations based on building type.

**Section 154.093 Number/Size of Accessory Buildings**

Specifies the number and size of accessory buildings that are allowed in each zoning district based on the size of the property.

**Findings & General Site Overview**

**Site Data:**

*Lot Size:* 10.7 acres

*Existing Use:* Residential/Agricultural

*Existing Zoning:* RR – Rural Residential;

*Property Identification Number (PID):* 02.029.21.22.0001

**Application Review:**

**Applicable Definitions:**

**BUILDING.** Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separate from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

**DETACHED RURAL STORAGE BUILDING.** A 1-story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment and the like. Exterior materials shall match the principal structure in exterior color or be of an earthen tone.

**AGRICULTURAL FARM BUILDING.** An accessory building used or intended

for use on an active commercial food-producing farm operation of more than 20 acres, a Minnesota Pollution Control Agency permit may be required.

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

**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

**AGRICULTURAL SALES BUSINESS.** The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products produced on the premises. The operation may be indoors or outdoors, include pick-your-own or cut-your-own opportunities include pick-your-own opportunities, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the AGRICULTURAL SALES BUSINESS.

**AGRICULTURE.** The production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

**AGRICULTURAL BUILDING.** A structure on agricultural land, as defined below in the definition for FARM, RURAL of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

**FARM, RURAL.** The portion of a 10 or more acre parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

**Variance Review:**

The applicants are proposing to construct a second accessory building on their property that would be 2,400 square feet in size and located 25 feet off of the southern property line. It would be situated in back of the existing buildings on the property and at a lower elevation than the existing structures as well. There is a fairly

substantial buffer of evergreen trees between the proposed building location and neighboring property, which would greatly reduce the visibility of the structure from the south. The applicants have stated that they need additional space to store agricultural equipment used as part of their farming operation, partially because they are losing the use of the historic barn that was part of their family's original homestead. No driveway is proposed to provide access to the structure since it will be primarily be used to store equipment used in the adjacent fields.

The City's Zoning regulations limit the number of accessory buildings that can be established in a Rural Residential District to no more than one such building with 2,500 square feet for parcels that are between 10 and 15 acres in size. The proposed accessory building would be the second such building on the site, and therefore would not be allowed under the terms of the RR Zoning District regulations and Accessory Building requirements.

Please note that the City Code does include differing definitions and requirements for various agricultural buildings and activities. Specifically, the code contains three definitions that could fit this building, including **AGRICULTURAL BUILDING**, **DETACHED RURAL STORAGE BUILDING**, and **AGRICULTURAL FARM BUILDING**. Because the term used in the accessory building section of the Code is "agricultural farm building", it is Staff's interpretation that a farming operation would need to have at least 20 acres of land in order to be exempt from the City's zoning requirements (such agricultural buildings are exempt from the City's zoning requirements).

**Variance  
Criteria:**

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. Because the City has not yet reviewed a variance under the ordinance, some of these required findings will be new to both staff and Planning Commissioners. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicants' 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.*

The language concerning "practical difficulties" represents the bulk of the new provisions that were amended in the City Code. Under this standard, the City would need to find that the construction of a second accessory building at 5761 Keats Avenue is a reasonable use of the property not otherwise permitted under the

zoning ordinance. Staff has found that the proposed building would exceed the number and size of permitted accessory buildings on the site, and therefore, the Planning Commission will need to consider the “reasonableness” of the proposal as submitted by the applicants. Under this criteria, Staff would suggest the following findings that could be made either in support or opposition to the variance:

APPROVE: That the proposed use is reasonable because the applicants have demonstrated the need for additional agricultural storage on their property beyond what can be accommodated in the current buildings on the site. The accessory building is located on a portion of the site that is not directly visible from the any roads, and would be well screened from adjacent properties. Because most of the site is being used to grow agricultural products, the property functions as an operating farm which has different usage and storage requirements than a property that is only used for residential purposes.

DENY: That the proposed use is not reasonable because the applicants already have a large accessory building in use on the property in addition to an attached garage. There are other alternatives to storing wagons and other agricultural equipment on the site, including renting out space from another agricultural property as they have been doing in the past. The operation of a farming operation of ten acres in size can be accommodated within the allowed building size limits.

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

This standard is relatively unchanged from the previous variance provisions, but represents the most problematic aspect of the variance request from Staff’s perspective. In this case, the language is very specific to the “property” and not the “use” of the property, and therefore, the Planning Commission should be thinking about how this site is different and unique from any other property that is zoned RR in the City. Variances are typically used to address issues specific to the site, for instance, a property with a large ravine or irregular lot lines that make compliance with the zoning standards difficult. Again, some is suggesting some findings that could be considered by the Planning Commission either in support or opposition to the variance:

APPROVE: That the applicants are using the property for agricultural purposes and have been classified as such by the Washington County Assessor’s office. Very few properties that are less than 20 acres in size are used and/or classified in this manner. Because nearly all of the property is being actively farmed, the equipment and storage needs for this parcel are much greater than other sites that are not under active agricultural production.

DENY: That the plight of the land owner is *not* due to circumstances unique to the property (and not created by the landowner). There is very little that differentiates the applicants’ 10.7 acre parcel from any other parcel of this size in

the community other than how this property is being used, which is something directly under the applicants control. Any property owner in the RR – Rural Residential District can use their property for agricultural purposes, and therefore, the use of the property is not something that is unique to this parcel.

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

Depending on how the Planning Commission interprets the term “locality”, the proposed building may or may not meet this criterion. Staff is suggesting that the Commission focus on the land immediately surrounding the applicants’ property since these parcels would be most directly impacted by the construction of a larger building on this site. If a broader view is used, the site may not be as appropriate for a larger structure given the existing and proposed residential development that ultimately will surround this land. Staff is again suggesting findings that could be used either in support or opposition of the request.

APPROVE: The area surrounding the applicants’ property has historically been used for active farming, including open space land that is part of an open space development to the north and east of this property. The proposed building will be located in such a manner that it will not be directly visible from surrounding properties, and will be located behind a row of evergreen trees that will provide year round buffering. Former farm sites with multiple accessory buildings are not uncommon in this area and many of these sites have been successfully incorporated into residential subdivisions.

DENY: The area surrounding the applicants’ property is guided for rural agricultural density (open space) development, and land to the north, east, and west of their property has already been developed in this manner. Large accessory buildings are not consistent with the current or future expected character of this area.

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.*

Staff has found that the proposed accessory building will comply with this provision since it is located in a manner that will minimize direct impacts to adjacent properties and will not create any additional traffic on the streets surrounding the applicants’ property.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending denial of the variance request based on the findings noted under “denial” in items 1, 2, and 3 above. The most significant issue in this case concerns the uniqueness of the property, and Staff is not able to identify any particular factors associated with this site that are specific to the site under consideration and no other

property. Should the Planning Commission disagree with this assessment based on the information included with this report or other information presented and discussed the public hearing, Staff has included draft findings in the report that could be used as a basis for a recommendation of approval. Should the Commission make a recommendation of approval, Staff would recommend at least two conditions of approval to help ensure that the intent of the Zoning Ordinance is upheld once the building is constructed. These conditions include the following:

- That the use of the proposed accessory building be restricted to agricultural activities only, and that it not be used for the storage of personal automobiles, home based business activities, or other non-agricultural equipment.
- That additional trees be planted along the east side of the proposed building to provide screening from the future residential area to the west of the applicants' property.

**Variance  
Conclusions:**

Based on the analysis of the review criteria in City Code and City Staff would recommend **denial of the accessory building request** for 5671 Keats Avenue.

**Resident  
Concerns:**

Staff has received four letters/emails in support of the variance. These are attached for review by the Planning Commission.

**Additional  
Information:**

The City Engineer has reviewed the proposed location of the building and has not expressed any concerns regarding the proposed construction site.

**Conclusion:**

The applicants are seeking approval of a variance to allow the construction of a second detached agricultural farm building on their property at 5761 Keats Avenue.

**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 August 14, 2011, which can be extended an additional 60-days if needed.

**Rec:** **Staff is recommending denial** of the variance to allow the construction of a second detached agricultural farm building on their property at 5761 Keats Avenue based on the findings documented above under “denial”.

**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 allow the construction of a second detached agricultural farm building on property at 5761 Keats Avenue ...***(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 allow the construction of a second detached agricultural farm building on property at 5761 Keats Avenue ...***(or cite your own)*  
**...with the conditions outlined in the staff report.**

cc: Steve and Joan Ziertman, 5761 Keats Avenue

**City of Lake Elmo  
DEVELOPMENT APPLICATION FORM**

Fee \$ \_\_\_\_\_

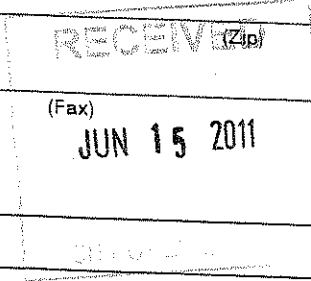
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Comprehensive Plan Amendment              | <input checked="" type="checkbox"/> Variance * (See below)           | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat |
| <input type="checkbox"/> Zoning District Amendment      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

APPLICANT: Steve & Joan Zierman 5761 Keats Ave 55042  
(Name) (Mailing Address) (Zip)

TELEPHONES: 729-9134 295-4600 (Steve) 295-1982 (Joan)  
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Same  
(Name) (Mailing Address)

TELEPHONES: \_\_\_\_\_  
(Home) (Work) (Mobile) (Fax)



PROPERTY LOCATION (Address and Complete (Long) Legal Description):  
See Attached

DETAILED REASON FOR REQUEST:  
See Attached

\*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:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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.

Joan Zierman 6/14/11  
Signature of Applicant Date

Steve Zierman 6-14-11  
Signature of Applicant Date



**5761 Keats Avenue N Variance Application Information:**

**Written Statements:**

**A. Owners: Joan & Steve Ziertman**

**B. Legal Description: PT NW1/4 BEING THE N 425 FT OF THE S 1550 FT OF THE W 1100 FT OF SD NW1/4 OF SEC 2 - SUBJ TO SUBJ TO EASEMENT OVER W33FT THEREOF FOR KEATS AVE SECTION 02 TOWNSHIP 029 RANGE 021**

**PARCEL ID #02.029.21.22.0001**

**PARCEL SIZE: 10.78 Acres or 466,092 Sq Feet**

**Existing use of the land: Residential/Agricultural (Tax Class will be agricultural as we meet the state statute requirements)**

**Current Zoning: Rural Residential**

**C. The provision of the code that we seek a variance from is: 154.092 Accessory Buildings and Structures**

**D. We are asking to build an additional 2400 Square foot building on our property (see site plan). In our zoning district, we are only allowed one 2500 square foot building, and we currently have a 2310 square feet.**

**E. I spoke with Kyle and Bruce regarding our situation. We have been informed by Rockpoint Church that we can no longer store anything in their building. In order to continue with our farm, we need a building to store our farm equipment and produce. Staff informed us that we had a couple of directions to go. We could go for a zoning text amendment or a variance. At that time, the variance was not going to happen because of strict criteria. I then thought**

being rezoned might be an option and talked to staff about that. We were going to go that direction until we heard that Governor Dayton had signed the new criteria for variances that gives us a better chance to get the building that we need to stay viable. We feel this is a better option as it doesn't make our lot non conforming.

F. We will speak to the practical difficulties of the new variance standards.

1. Is the variance consistent with the comp plan? Yes. Very much so. Our 2030 Comp plan states this: "The following general planning and development policies will guide development in a manner that will allow reasonable growth to take place, while preserving and enhancing the rural character and features of Lake Elmo that make the City a unique and desirable community." The comp plan further talks about agricultural preservation. "In keeping with the general policies enumerated above, existing operating agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported. These uses shall be encouraged to continue operations and to retain large land holdings that contribute to operating efficiency. In keeping with the general policies enumerated above, the city shall affirmatively establish and pursue specific strategies and seek resources to assist existing agricultural uses in remaining a viable alternative to urbanization for landowners, consistent with the concept of right to farm. The provisions of municipal infrastructure and services to areas of the city where operating agriculture exists shall not be in a manner that results in an economic or operational disincentive to continue agricultural use of the land." In summary, the Comp plan requires the city to help us keep our farm viable which this building will do.

2. Does the proposal put the property to use in a reasonable manner? Yes. This is a reasonable use for our property. Farming is an allowed use in RR. It is logical that an agricultural use would need a building to store farm equipment and produce. Every property in RR is

allowed certain sized buildings for personal property whether they farm or not. It only makes sense that if someone farms and is allowed to farm by our code and is classified as agriculture by the county, they should be allowed to have an agricultural building. By state statute, what we do meets the criteria of agriculture and Washington County recently tax classified us as AG. The zoning in this city is somewhat random and there are properties zoned RR that should be AG based on size and AG properties that should be zoned RR based on size. If we look at the future zoning map for our part of the City, all the property whether it is currently AG or RR is all RAD and there was even talk of combining AG and RR into one zoning for performance zoning. I think in our situation it is reasonable to base this decision on the use of our property and not the zone.

3. Will the variance if granted alter the essential character of the neighborhood. No. The proposed building will not be seen from Keats. There is an extensive tree line to the south as well as the neighbors own building to screen from their view. There are other parcels around us that either have more or larger buildings than is currently allowed because the buildings were not required to be taken down as property was subdivided. This is the rural portion of our city and people expect to see barns and buildings.

4. Are there unique circumstances to the property? Our farm has been around for a long time and is a unique part of the community. It was part of a larger family farm that was also a pumpkin farm starting in 1972. Without this building, we can't continue with the farm. We are an integral part of the community and according to the comp plan, the City needs to assist us in remaining viable, which is allowing us the tools ie: the building to do so.

In addition to the points already made, I would like to make a few more. I would like to speak to the point that is always brought up when talking about variances which is will this set a precedent. I do not feel that it will. We are truly asking to build an agricultural building based on the fact that the use of our property is AG. This is reaffirmed by state statute and Washington county agreed with us. In order for another RR parcel to ask for an additional "AG" building, they would need to prove that they are a true and existing agricultural use and be tax classified as such.

Another point is that currently AG parcels of 40 acres or more can have a 20,000 square foot building in addition to unlimited AG buildings. That would equate to 5000 square feet on 10 acres without unlimited AG buildings. This is only 1% or the total square footage of the property which is pretty insignificant.

The character of the neighborhood will not be affected as there are many other lots under 40 acres that have more than the currently allowed size or amount of buildings. We are in the rural part of the city and to the north of us all the way to highway 36 will continue to be open space with the Rockpoint church behind us.

I would like to mention that all of our produce is grown on site. Therefore we have a lot of equipment we need to grow our produce. In the fall, the produce needs to be stored inside, or it is susceptible to damage from frost. Our property actually produces a lot of produce. We had many many wagons of regular pumpkins, pie pumpkins, squash, gourds, mini pumpkins, hay, corn stalks, ornamental corn etc. We also produced enough to sell to a local farm that had crop failure.

The state spends a lot of tax dollars every year for the Dept of Agriculture and MN Grown (which we are part of) to ensure that the small farm like ours remain viable. Buy local is huge!! We help to make Lake Elmo unique and contribute to our community. We have donated to the fall festival, regional arts center, regions hospital pediatric burn unit, our church and schools, Susan G. Koman and other organizations important to friends, family and neighbors. We would like to be able to preserve our farm to be able to pay it forward to our community. I think our situation is an example of why Cities, City officials and the League of MN cities fought so hard to get the variance standards changed. So that cities have a much greater say in what is acceptable outside the big box code that is not a one size fits all.

## CITY-WIDE PLANNING POLICY

The following general planning and development policies will guide development in a manner that will allow reasonable growth to take place, while preserving and enhancing the rural character and features of Lake Elmo that make the City a unique and desirable community:

1. Develop land use and infrastructure plans corresponding to the 2030 population forecast of 24,000 in the 2030 Regional Development Framework.
2. Encourage the majority of the new households created in areas north of 10<sup>th</sup> Street North, and outside of the Village Area to be efficiently developed in a rural context in the form of Open Space Development cluster neighborhoods.
3. Guide new community growth in keeping with the geographic assignments and decennial household, population, and employment targets established by the Memorandum of Understanding entered into by the City and the Metropolitan Council in January 2005.
4. Limit Metropolitan Urban Service Area (MUSA) expansion to the area that can be served from the Regional Wastewater Interceptors specified, in the wastewater volumes specified by the aforementioned Memorandum of Understanding, and staged consistent with a City adopted development Staging Plan.
5. Adopt a MUSA expansion development Staging Plan/schedule that will limit total annual City household and employment growth to a use, mix, and scale that remains sustainable in the context of providing municipal services/infrastructure and local government fiscal responsibility.

### **Agricultural Preservation**

In keeping with the general policies enumerated above, existing operating agricultural uses and qualifying alternative uses that preserve the open space within the community shall be supported. These uses shall be encouraged to continue operations and to retain large land holdings that contribute to operating efficiency.

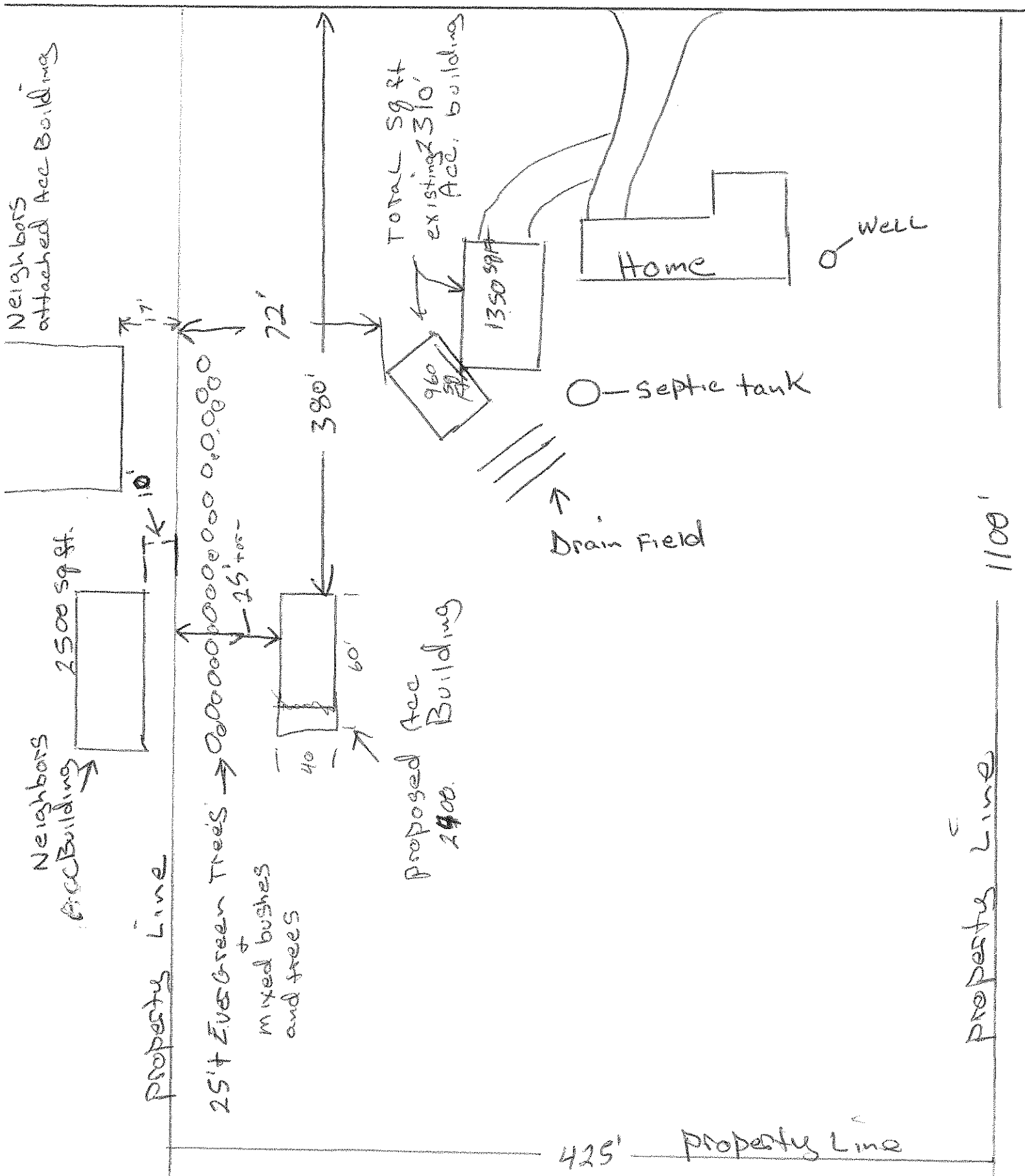
In keeping with the general policies enumerated above, the City shall affirmatively establish and pursue specific strategies and seek resources to assist existing agricultural uses in remaining a viable alternative to urbanization for landowners, consistent with the concept of “a right to farm.” The provision of municipal infrastructure and services to areas of the City where operating agriculture exists shall not be in a manner that results in an economic or operational disincentive to continue agricultural use of the land.

### **Residential Development**

All residential units will be designed, sited, and constructed to conserve energy in lighting, cooling, and heating processes.

The primary style of residential dwelling unit within RAD, RED, RAD2, and NC land

Keats Ave



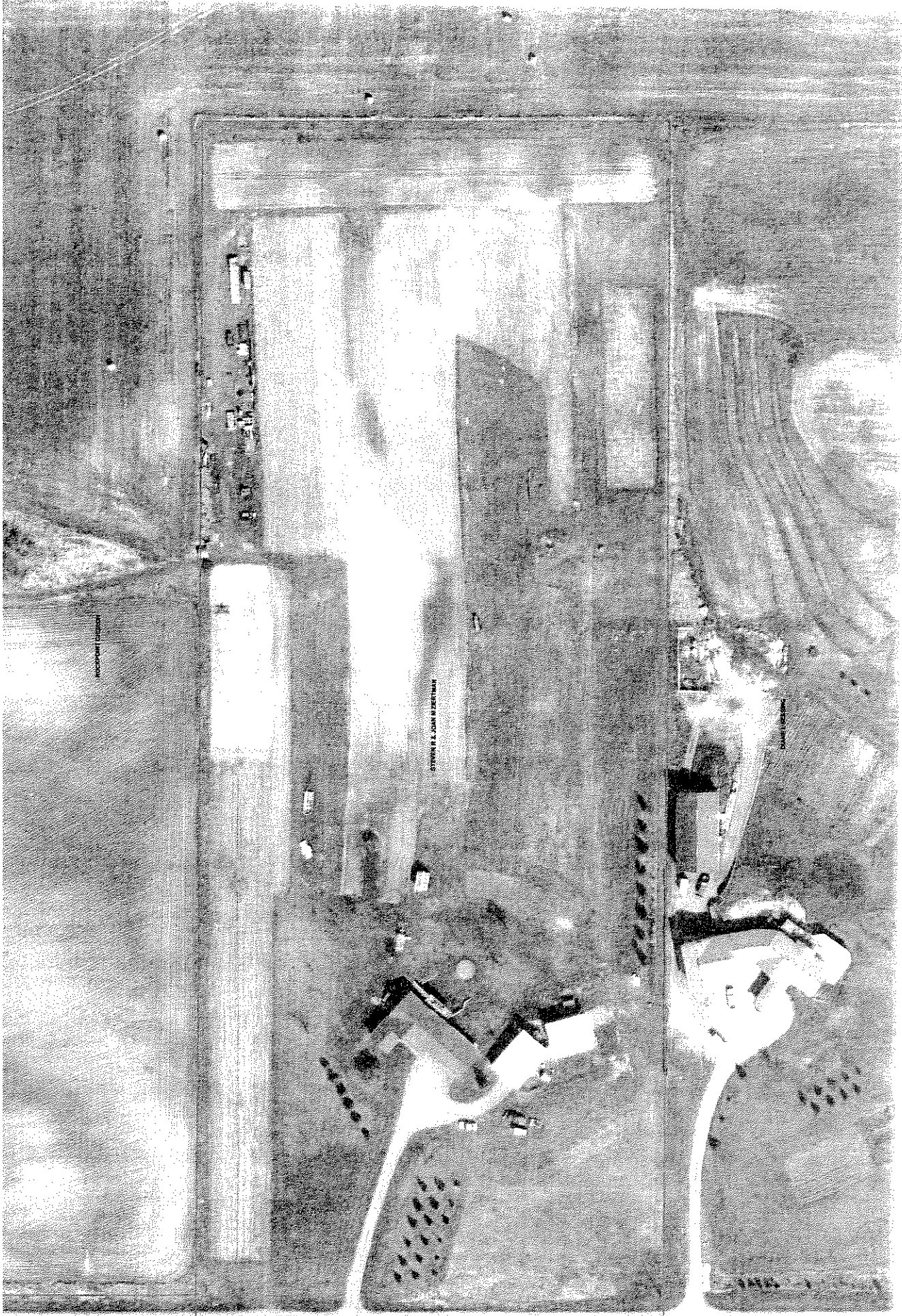












STERN & JOHN B. STERN

STERN & JOHN B. STERN

STERN & JOHN B. STERN

## Kyle Klatt

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**From:** Frank Langer [Frank.Langer@co.washington.mn.us]  
**Sent:** Friday, July 08, 2011 12:29 PM  
**To:** Kyle Klatt  
**Subject:** AY11\_LAKE ELMO\_ZIERTMAN\_02.029.21.22.0001\_CBAE.xlsx  
**Attachments:** AY11\_LAKE ELMO\_ZIERTMAN\_02.029.21.22.0001\_CBAE.xlsx

Hi Kyle,

Regarding our conversation this morning, it is my understanding that the zoning of property is the allowed legal use of a property. For property tax purpose the tax classification is based on the actual use of the property regardless of what the zoning is. An example of this could be a large agriculturally zoned piece of property where part of it is used for a gravel mining operation. This property would then have a split classification of commercial and agriculture for taxes.

The only time we look at zoning as a guide to help determine the classification for taxes is when there is no use of a property and then we look at the most likely future legal use of the property and use it as a guideline for tax classification.

Frank

# County Board

## Maintenance Change

APPROVED: \_\_\_\_\_

DENIED \_\_\_\_\_

Submit Date: 5/19/2011

Submitter Initials: FXL

Review Date: \_\_\_\_\_  
 Manager Initials: \_\_\_\_\_

MUNICIPALITY: LAKE ELMO - 800

ASMT YEAR: 2011

PAYABLE YEAR: 2012

REC'D: \_\_\_\_\_

Parcel/Geo Code: 02.029.21.22.0001

Property Address: 5761 KEATS AVE

Map Factor: Lake Elmo SFR

Name: ZIERTMAN STEVEN R & JOAN M

Mailing Address: \_\_\_\_\_

General Class: Residential

GRM \_\_\_\_\_

CAMA \_\_\_\_\_

Proofed \_\_\_\_\_

Amd Notice \_\_\_\_\_

LAND IS USED FOR INTENSIVE FARMING OF AG PRODUCTS BY THE OWNER AND SOLD TO LOCAL MARKETS,

ORIGINAL DATA:				CHANGE TO DATA:				Val Var	AC Var		
Class Code	Valuation Code	Component/Detail	Value	Acres	Class Code	Valuation Code	Component/Detail	Value	Acres	Val Var	AC Var
100 Res 1 unit	Homesite	Land (EMV)	188,700	10.70	100 Res 1 unit	Homesite	Land (EMV)	96,000	1.00	(92,700)	(9.70)
100 Res 1 unit	Homesite	Improvement (Bldg)	199,300		100 Res 1 unit	Homesite	Improvement (Bldg)	194,800		(4,500)	0.00
Linked Grp PIN			# in group	0%	Linked Grp PIN			# in group		(97,200)	(9.70)
Modifiers					Modifiers				0%		0.00
					200 Ag (2a)	Farm	Land (EMV)	94,000	9.40	94,000	9.40
					200 Ag (2a)	Farm	2a Tillable Acres (EMV)	94,000	9.40	94,000	9.40
					200 Ag (2a)	Farm	Improvement (Bldg)	4,500		4,500	0.00
					200 Ag (2a)	Other	2a Tillable Acres (EMV)	100	0.30	100	0.30
Linked Grp PIN			# in group	0%	Linked Grp PIN			# in group		192,600	19
Modifiers					Modifiers				0%		0.00
										0	0.00
										0	0.00
										0	0.00
										0	0.00
										0	0.00
Linked Grp PIN			# in group	0%	Linked Grp PIN			# in group		0	0
Modifiers					Modifiers				0%		0.00



July 2, 2011

9913 59<sup>th</sup> St. Ct. N.  
Lake Elmo

To the City of Lake Elmo

In regard to the variance to build a 2400 square building on the Ziertman farm.

I believe the Ziertman family to be good stewards of their land and good neighbors. If the building is not visible from Keats and all other requirements are met I have no problem with this structure.

Thank you  
Carolyn Flock

To whom it may concern  
9917 59th St. Ct. N Does not have  
a problem with 5761 Heats  
Building a Dutch building  
(Joan + Steve Ziertman)  
on there Property.

Linda Koslowski

JUL - 6 2011



## Kyle Klatt

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**From:** Ronald Hawkins [hawkinsimpala@gmail.com]  
**Sent:** Wednesday, July 06, 2011 8:08 PM  
**To:** Kyle Klatt  
**Cc:** ziertman@msn.com  
**Subject:** variance

Kyle, We have been informed that our neighbor Steve & Joan Ziertman at 5761 Keats Ave. No. would like to build a building to house there farm equipment. They are very good neighbors and keep there property looking very nice.I would much like to see them put the equipment in a building then setting outside.Its nice that they are keeping a little farm operations going along with the pumpkins. We as neighbor would hope that you can give them a variance to build . Thank you Ron & Sue Hawkins 9924 59th St. Ct. No. Lake Elmo

## Kyle Klatt

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**From:** JOAN ZIERTMAN [ziertman@msn.com]  
**Sent:** Thursday, July 07, 2011 7:15 AM  
**To:** Kyle Klatt  
**Cc:** Kelli Matzek  
**Subject:** Fw: variance for 2400 building

Kyle,

Here is a copy of an email that our neighbor wrote regarding our variance. He had the wrong email for you, so it bounced back. Thanks!

Joan

----- Original Message -----

**From:** Steve Chlebeck  
**To:** [kklah@lakeelmo.org](mailto:kklah@lakeelmo.org)  
**Cc:** [ziertman@msn.com](mailto:ziertman@msn.com)  
**Sent:** Thursday, July 07, 2011 6:40 AM  
**Subject:** variance for 2400 building

I just want to voice my concern that I am in favor to let the Ziertman's build another building on their property.

I do purchase Pumpkins and Corn stalks every year from the pumpkin farm and it very nice to have a small farm still left in our neighborhood. This would be a great lost for all of us if they would close the farm because of a building that they need to store the wagons and other equipment was not allowed. I saw were this building would be erected and this would not every be seen from Keats Ave. I hope the City see that giving the Ziertman's the variance is the correct thing to do.

I live at 9692 57<sup>th</sup> just west of the Ziertman's. Thank you.

---

**Steve Chlebeck**  
Territory Sales Manager

**Phone:** (612) 867-2345  
**Cell:** (612) 867-2345  
**Fax:** (952) 895-5312  
**E-mail:** [schlebeck@forceamerica.com](mailto:schlebeck@forceamerica.com)

**FORCE America Inc.**  
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**PreCise MRM**

601 East Cliff Road  
Burnsville MN 55337  
[www.forceamerica.com](http://www.forceamerica.com)  
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