

CITY OF LAKE ELMO

WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2001- 043

AN ORDER ISSUED BY THE BOARD OF ADJUSTMENTS AND APPEALS

WHEREAS, Joseph Kiesling, 9359 Jane Road North, applied for variances to Section 325.06 and Section 300.05 Subd 2 C. to enlarge his existing home at 9359 Jane Road N.

WHEREAS, the variances requested by the applicant are to enlarge the existing structure 22 feet from the Ordinary High Water Level, where 100 feet is required; and a variance to alter a non-conforming structure,

WHEREAS, at its May 14, 2001 meeting, the Planning Commission held the Public Hearing required by Code and adopted Resolution No. 2001-30 approving the variance application of Joseph Kiesling to enlarge the existing structure 22 feet from the Ordinary High Water level and a variance to alter a non-conforming structure based on Findings stated in the Resolution.

WHEREAS, on May 15, 2001, the Board of Adjustment and Appeals received from City Administrator Kueffner, a notice of appeal to the Planning Commission's decision for approval within the 5 day appeal period.

WHEREAS, the Zoning Administrator notified the applicant, the Chairperson of the Planning Commission, and the abutting property owners of the time and date of the hearing.

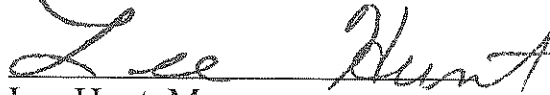
WHEREAS, at the June 5, 2001 meeting, the Board of Adjustment of Appeals held the hearing and considered the applicant's appeal to the decision of the Planning Commission,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Adjustment and Appeals deny the requested variances on the Appeal by City Administrator Kueffner based on the following findings:


1. The literal interpretation of the zoning ordinance will not deprive the applicant of reasonable rights, similar to those enjoyed by other property owners with property in similar physical circumstances. The existing home is of substantial size, with lake side decks and a two-car garage.

2. The degree of Ordinary High Water setback departure requested by the applicant, as a zoning variance, would be a special privilege that has not been accorded to other property owners in the Shoreland Overlay District. Lesser degrees of encroachment have been denied as variances.
3. No hardship, has opposed to the applicant's personal desire, has been demonstrated.
4. The requested variance is not the minimum that would alleviate the hardship, since no hardship as been demonstrated.
5. The area of this lot now above the Ordinary High Water level was, in part, was artificially created from lakebed in years past. By that action, encroachment in excess of most other lake front lots in the neighborhood has already taken place. Additional encroachment by approval of this variance would bestow a privilege to this property owner not enjoyed by other property owners in similar circumstances.

ADOPTED, by the Lake Elmo City Council this 19th day of June, 2001.


Lee Hunt, Mayor

ATTEST:


Mary Kueffner, City Administrator