

**City of Lake Elmo
Washington County, Minnesota**

Resolution No. PZ 2001-96

**A RESOLUTION REGARDING A SHORELAND STANDARDS VARIANCE
3681 Kelvin Avenue North**

WHEREAS, at its October 22, 2001 meeting, the Lake Elmo Planning Commission reviewed and heard testimony regarding the application of Julie Pihaly and Jon Reissner, to vary from the standards of Section 325.06 – Shoreland Standards Subd. 4.A Placement, Design, and Height of Structures, of the Lake Elmo City Code with respect to the property described as follows:

3681 Kelvin Avenue North

WHEREAS, said variance is described as follows:

Enlarge a non-conforming structure situated more than 80 feet within the Shoreland District where the Ordinary High Water Level is 150 feet is required.

NOW, THEREFORE, BE IT RESOLVED, that the Lake Elmo Planning Commission does hereby make the following findings concerning said variances:

1. The site exhibits physical circumstance not generally found with sites located in the Shoreland District in Lake Elmo. The site exhibits significant topography (approximately 25 feet vertical difference) from the water level of Sunfish Lake to the location of the structure proposed to be enlarged vertically. The vertical separation between the water and the structure location mitigates the impact on the lake of foreshortened setback.
2. The applicant has documented the unique character of the living space of the existing structure as substandard in comparison with most other properties in the same district under the terms of this ordinance. Reasonable property rights will be deprived, on that basis, without the enlargement of the structure resulting from the variance.
3. The placement of the existing structure, and sewage treatment system within the OHW setback resulted from actions by the City and previous ownership, not the direct actions of the applicant.
4. The requested variances, in quantitative terms, are well within the range of those previously found to be inclusive of the intent and purposes of the Shoreland District, and therefore approved – that has not been denied, under similar quantitative circumstances to owners of other lands, structures, or buildings within the Shoreland Overlay District.
5. To accomplish overcoming the hardship documented by #2 above, the applicant has documented alternatives for the enlargement of the existing structure. The applicant has demonstrated that the enlargement alternative proposed – exclusively vertically – is the minimum required to overcome the demonstrated hardship.
6. The variance would not be materially detrimental to the purposes of the Shoreland District, as noted by Finding #1, or to property in the same zone.

BE IT FURTHER RESOLVED, that the Lake Elmo Planning Commission hereby approves and issues this order subject to the following condition:

1. Inspection by a qualified party and certification to the City as to the condition and proper functioning of the on-site sewage system prior to issuance of a building permit to modify any portion of the existing structure.

ADOPTED, by the Lake Elmo Planning Commission this 22nd day of October 2001.



Acting Vice-Chairman, Robert Helwig
Lake Elmo Planning Commission

ATTEST:



Mary Kueffner, City Administrator