

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

Resolution No. 2002-106

**A RESOLUTION REGARDING TWO VARIANCES
TO THE SHORELAND STANDARDS**

In R-1 Zoning District

To

Bob and Dianne McAdam and Bob Mogren

WHEREAS, at its September 9 and September 23, 2002 meetings, the Lake Elmo Planning Commission reviewed and heard testimony regarding the application of and Bob and Dianne McAdam and Bob Mogren, to vary from the standards of Section 325.06 – Shoreland Standards Subd. 4.A Placement, Design, and Height of Structures; Setback from the Ordinary High Water (table), and Setback from the Right-of-way Line (table), of the Lake Elmo City Code with respect to the property generally described as follows:

Part of Government Lot 7, Section 9, Township 29 North, Range 21 West, Washington County, Minnesota, lying easterly of Lake Jane Manor No. 1, and northerly of the centerline of Lake Jane Trail North.

WHEREAS, said variances are to construct a Principal Structure 56 feet from the Ordinary High Water level of Lake Jane where 100 feet are required, and 25 feet from the right-of-way line of Lake Jane Trail North where 30 feet are required.

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

1. It is questionable whether this site can be put to reasonable use without some degree of variance. The applicant has agreed to measures regarding preservation of natural site features to preserve the purpose and intent of the Ordinary High Water setback standard of the Zoning Ordinance.
2. The physical circumstances of the site are somewhat unique. Very few, if any, parcels exist in the City of two acres that are as constrained by setbacks as this site. The physical circumstances of the site pre-date the Ordinary High Water setback requirements, and therefore, they were not created by the present landowner.
3. Construction of a house on the site will not change the essential character of the neighborhood.
4. Economic considerations are not the only basis for the variance request.


BE IT FURTHER RESOLVED, that the Lake Elmo Planning commission does hereby recommend the City Council grant this variance. Subject to the following conditions:

1. Compliance with the tree preservation proposal of the applicant, staff dated September 19, 2002.
2. A covenant shall be recorded on the deed of the site prior to issuance of a building permit that insures maintenance of the tree preservation plan. The covenant shall be prepared by the applicants' attorney and approved/recorded by the City Attorney.
3. The covenant shall also specify that the existing parcel shall not be reduced in size or subdivided in the future.
4. The preserved area of the site shall remain undisturbed from its natural state, including ground vegetation and tree cover.
5. All lake frontage except the fifty foot wide beach shall remain undisturbed in its natural state.
6. Minimize disturbance of any vegetation within the fifty foot wide corridor, including at the shoreline.

7. All trees of twelve-inch diameter and greater at breast height within the fifty foot corridor to the lake shall be retained.
8. No grading or filling shall be permitted below the Ordinary High Water level.
9. The covenant must be recorded before issuance of any building or development permit, or sale of property by Bob Mogren.

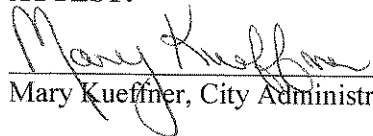
BE IT FURTHER RESOLVED, that this variance is granted.

ADOPTED, by the Lake Elmo City Council this 1st day of October, 2002.



Lee Hunt, Mayor Hunt

ATTEST:



Mary Kueffner, City Administrator