

**CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2008-17**

*A RESOLUTION APPROVING A VARIANCE TO CONSTRUCT A SEPTIC SYSTEM THAT  
ENCROACHES INTO A REQUIRED SETBACK FROM A PRINCIPAL STRUCTURE AND  
SIDE PROPERTY LINE*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Phil and Michele Eason, 7934 Hill Trail North (the "Applicant"), has submitted an application to the City of Lake Elmo (the "City") for a Variance to construct a new septic system that encroaches into the required setback from a principal structure and required side yard setback from a property line, a copy of which is on file with the City; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on March 2, 2008; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated April 1, 2008; and

**WHEREAS**, the City Council considered said matter at its April 1, 2008 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the Board of Adjustment makes the following:

**FINDINGS**

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said 154.017 have been met by the Applicant.
- 3) That the proposed Variance is to construct a new septic system that encroaches into the required setback from a principal structure and required side yard setback from a property

line. The resulting setbacks from the Variance would be 15 feet from the principal structure, six feet from a side property line, and two feet from another property line.


- 4) That the Variance will be located on property legally described as Lots two hundred seventeen (217) through two hundred twenty-six (226), both inclusive, Lane's Demontreville Country Club, together with that part of vacated Mack Avenue lying South of and abutting said lots two hundred seventeen (217) through two hundred twenty-three (223) inclusive and also together with that part of the Southwesterly one-half of vacated West Shore Lane lying Northeasterly of and abutting lot two hundred twenty-six (226), all according to the plat thereof on file with and of record in the office of the Registrar of Deeds, Washington County, Minnesota.
- 5) That certain conditions as detailed in Section 154.017 do exist, and the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *In particular, the design and location of the septic system was established by a professional septic system design company. Their review identified the proposed location as the only viable location for the system on this site given the location of the house and its close proximity to Lake Demontreville. All other locations would place the septic system closer to the Lake or in conflict with other improvements on the lot. The City's building inspector, who is a certified septic inspector, has reviewed the site and concurs with this finding.*
- 6) That the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district. *The site is unique for a number of reasons, including its odd shape, the placement of the primary structure at the far western edge of the parcel, the close proximity of Lake Demontreville to the improvements on the site, and the relatively small size of this parcel compared to surrounding lots.*
- 7) The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations. *The physical layout of the platted lot and the topography on the lot were not created by the landowner. The current septic design was compliant for a system designed nearly 40 years ago; current standards would not allow for the construction of a new system without the requested variances.*

### CONCLUSIONS AND DECISION

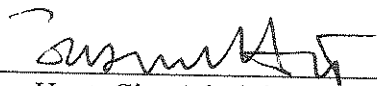
1. Based on the foregoing, the Applicants' application for a Variance is granted, provided the following conditions is met:
  - a) The extreme southwestern portion of the drain field shall be adjusted to accommodate the location of a retaining wall as depicted on the submitted site plan and certificate of survey if it interferes with the installation and function of the septic system.

- b) The installation of the septic system shall address all applicable comments from the City Engineer in a review letter to the City dated March 21, 2008.
- 2. The City may revoke a Variance if any conditions established by the City Council as part of granting the Variance request are violated.

Passed and duly adopted this 1<sup>st</sup> day of April 2008 by the City Council of the City of Lake Elmo, Minnesota.

  
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 Dean A. Johnston, Mayor

ATTEST:

  
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 Susan Hoyt, City Administrator

	Ayes	Nays
Mayor Johnston	X	
Council Members:		
Johnson	X	
DeLapp	X	
Park	X	
Smith	X	