

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

RESOLUTION NO. 2009-045

*A RESOLUTION APPROVING A VARIANCE FROM THE REQUIRED FRONT YARD
SETBACK AT 11140 20th STREET COURT NORTH*

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

WHEREAS, James Burns, 11140 20th Street Court North (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a variance to allow the construction of an addition to an existing residence that would be set back 22.8 feet from a front 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 November 9, 2009 and continued this hearing to its November 23, 2009 meeting; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated December 1, 2009; and

WHEREAS, the City Council considered said matter at its December 1, 2009 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

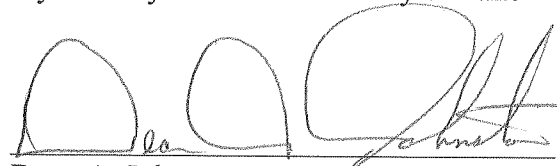
- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said 154.017 have been met by the Applicant.
- 3) That the proposed variance is to allow the construction of an addition to the existing residence at 11140 20th Street Court North that would be set back 22.8 feet from a front property line, which is 3.2 feet closer than would be required using the average setback of the immediately adjacent structures.

- 4) That the Variance will be located on property legally described as Lot 2, Block 2, Schwartz-Martinco Addition, Washington Co., Minnesota.
- 5) The proposed addition cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *It is not possible to build an addition in another location on the property and still have adequate access to sunlight. The applicant had to reconfigure his plans for the house when it was built due to the previous placement of fill material on the property and the proposed addition follows the current topography of the site. The additional living area cannot be moved to another location and still connect properly to the existing living areas in the home. The paved portion of the cul-de-sac is not centered within the public right-of-way and leaves an unusually large boulevard area in front of the applicant's house.*
- 6) The plight of the landowner is due to the physical conditions unique to the land and are not applicable to other lands, structures, or buildings in the same zoning district. *The previous placement of fill on the property before the home was built and the irregular placement of the paved street within the right-of-way (and resulting large boulevard area) are unique to this site.*
- 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 applicants' lot was created before the City's current zoning regulations were adopted. The placement of fill on their property and the construction of the street took place before the home was built on the site. The reconfiguration of the house due to the previous placement of fill limits access to the sun due to the orientation of the lot.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted.

Passed and duly adopted this 1st day of December 2009 by the City Council of the City of Lake Elmo, Minnesota.


Dean A. Johnston, Mayor

ATTEST:


Bruce Messelt, City Administrator