

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

RESOLUTION NO. 2009-003

A RESOLUTION APPROVING A VARIANCE FROM THE R-1 ZONING DISTRICT AND SHORELAND DISTRICT MINIMUM LOT SIZE REQUIREMENTS FOR 8186 HILL TRAIL N.

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

WHEREAS, James and Robbi Dillon, 8190 Hill Trail North (the "Co-Applicant") and Fredrick and Carol Paul, 8186 Hill Trail North (the "Co-Applicant"), has submitted an application to the City of Lake Elmo (the "City") for a 470 square-foot Variance from the existing lot size at 8186 Hill Trail North to allow the movement of an internal lot line between 8190 Hill Trail North and 8186 Hill Trail North, 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 January 12, 2009; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated January 20, 2009; and

WHEREAS, the City Council considered said matter at its January 20, 2009 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 470 square foot variance is to allow the movement of an internal lot line between 8186 Hill Trail North and 8190 Hill Trail North to address the maintenance of retaining walls and drainage way.

- 4) That the Variance will be located on property legally described as Lot 3, Block 1, J.L. Cohn Subdivision, Washington Co., Minnesota.
- 5) The proposed lot line adjustment cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *The two affected property owners have assumed the line between their two properties was located in an incorrect location. Previous property owners had made property improvements based on the incorrect lot line location. There does not appear to be any other options for re-aligning the shared property line in a way that would eliminate the need for a variance.*
- 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 site is unique. *The difference in elevation between the homes, the necessary maintenance of the built retaining walls, and the maintenance of the drainage way to prevent erosion problems make this a unique situation. The lot line adjustment would provide legal access for the southerly property to continue the maintenance of this area.*
- 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 subdivision creating the two affected lots was approved before the City's current zoning regulations were adopted. Although the lot sizes would have been conforming to the minimum lot size at some point in the past, the two lots are now significantly smaller than the minimum 1.5 acres required in an R-1 zone and Shoreland District.*

CONCLUSIONS AND DECISION

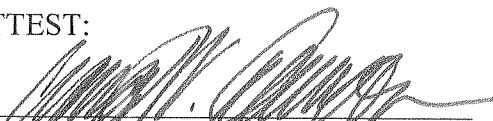
Based on the foregoing, the Applicants' application for a Variance is granted.

Passed and duly adopted this 20th day of January 2009 by the City Council of the City of Lake Elmo, Minnesota.



Dean A. Johnston, Mayor

ATTEST:



Craig Dawson, City Administrator



8190 Hill Trail North

