

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

**RESOLUTION NO. 2011-026**

*A RESOLUTION APPROVING A VARIANCE TO ALLOW THE RECONSTRUCTION OF A  
DETACHED ACCESSORY BUILDING OVER 500 SQUARE FEET IN SIZE IN A FLOOD  
FRINGE DISTRICT WITH INTERNAL FLOOD PROOFING*

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

**WHEREAS**, Douglas L. Lovett, 9940 59<sup>th</sup> Street Court North (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow an accessory building of over 500 square feet to be rebuilt with internal flood-proofing techniques in a Flood Fringe District; 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 July 11, 2011; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated July 19, 2011; and

**WHEREAS**, the City Council considered said matter at its July 19, 2011 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 additional criteria concerning Variances for structures located within a Floodplain District are found in Section 152.10, Subd. C (3) of the City Code.
- 3) That all the submission requirements of said 154.017 and 152.10 have been met by the Applicant.

- 4) That the proposed variance is to allow an accessory building of over 500 square feet to be rebuilt with internal flood-proofing techniques in a Flood Fringe District. The proposed building would replace a slightly larger structure that was damaged and eventually torn down due to heavy snow loads over the past winter.
- 5) That the Variance will be located on property legally described as follows:

Legal Description

PART OUTLOT A LYING WESTERLY FOLLOWING DESCRIBED LINE COMMENCING AT MOST SOUTHWESTERLY CORNER OUTLOT A THENCE AZ 89DEG50'23" ALONG MOST SOUTHERLY LINE SAID OUTLOT 233.95 FEET POB LINE DESCRIBED THENCE AZ 26DEG27'40" 202.19 FEET THENCE AZ 38DEG43'28" 193.71 FEET TO POINT ON MOST SOUTHERLY LINE LOT 1 BLOCK 4 SAID PRAIRIE HAMLET 448.98 FEET E OF SOUTHWEST CORNER SAID LOT 1 & THERE TERMINATING & PART SAID OUTLOT A LYING NORTHERLY & WESTERLY FOLLOWING DESCRIBED LINE BEGINNING AT MOST SOUTHEASTERLY CORNER SAID LOT 1 BLOCK 4 THENCE AZ51DEG58'02" 64.01 FEET TO ANG POINT IN MOST WESTERLY LINE OUTLOT B SAID PLAT THENCE AZ 40DEG21'05" ALONG MOST NORTHWESTERLY LINE SAID OUTLOT B 32.78 FEET THENCE AZ 359DEG21'05" 745.89 FEET TO POINT ON MOST NORTHERLY LINE SAID OUTLOT A 908.97 FEET WEST OF NORTHEAST CORNER SAID OUTLOT A & SAID LINE THERE TERMINATING & LOT 1 BLOCK 4 SAID PLAT SUBJ TO EASE Lot A SubdivisionCd 00255 SubdivisionName PRAIRIE HAMLET

Commonly known as 5761 Keats Avenue.

- 6) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. ***Specific findings:***
  - a) ***There have been no known previous incidents of flooding of the previous accessory building or the principal structure on the applicant's property.***
  - b) ***The property owner would be allowed to construct the structure with the same dimensions had it not been located in a flood plain.***
  - c) ***An accessory structure of only 500 square feet, which is what is allowed with internal flood proofing within the Flood Fringe District, is not large enough to fulfill the needs of the applicants farming activities that currently occur. Therefore, an accessory structure of this size would significantly limit their ability to continue their farming activities.***
- 7) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific findings:***
  - a) ***In 2008, The Federal Emergency Management Agency updated the Lake Elmo Flood Insurance Rate Map, which resulted in the accessory structure on the Lovett property being included within a Flood Fringe District where the structure previously was not designated as such.***

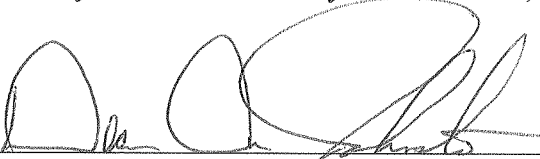
- b) The designated flood plain boundaries extend well beyond the ordinary high water level of the pond on the applicant's property, which is not common for other inland water features within the City.*
  - c) The damage caused by heavy snow loads made the structure unsafe, necessitating new construction*
- 8) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings:*
  - a) The structure existed in the same location before being included within a Flood Fringe District.*
  - b) The proposed internal flood-proofing techniques will allow the structure to be rebuilt in its historic location.*
  - c) The structure will not be visible from State Highway 36 or other adjacent properties.*
- 9) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings:*
  - a) Replacing the damaged structure, as opposed to leaving a dilapidated structure on this property, will ensure that property values do not diminish in the neighborhood.*
- 10) That with regards to the City's Floodplain Management ordinance:
  - a) That the granting of the Variance will not result in an increase in flood levels during the base flood discharge.*
  - b) That the application has demonstrating good and sufficient cause for the granting of the Variance.*
  - c) That the failure to grant the variance would result in exceptional hardship to the applicant.*
  - d) That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.*
  - e) That the variance is the minimum necessary, considering the flood hazard, to afford relief.*

### CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

- 1) The structure must be anchored to resist flotation, collapse, and lateral movement.
- 2) All portions of the structure located below the Base Flood Elevation (BFE) must be constructed of flood-resistant materials.
- 3) The structure be designed to allow for the automatic entry and exit of flood waters.
- 4) Mechanical and utility equipment must be elevated or flood proofed at or above the BFE.
- 5) The structure shall comply with the floodway encroachment provisions of the National Flood Insurance Program (NFIP) Regulations.
- 6) The structure shall be limited to parking and storage.
- 7) Compliance with these conditions must be satisfied at the time a building permit is issued for the structure and will be verified during routine inspections required as part of the building permit.

Passed and duly adopted this 19<sup>th</sup> day of July 2011 by the City Council of the City of Lake Elmo, Minnesota.



Dean A. Johnston, Mayor

ATTEST:



Bruce Messelt, City Administrator