

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

RESOLUTION NO. 2011-020

A RESOLUTION APPROVING A 25 FOOT VARIANCE FROM THE REQUIRED 75 FOOT SETBACK TO THE ORDINARY HIGH WATERLINE AT 8242 HIDDEN BAY TRAIL NORTH

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

WHEREAS, Danette Jahnke and Richard Leonard, 8242 Hidden Bay Trail (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a variance to allow the construction of a replacement septic system 25 feet from the Ordinary High Waterline where a 75 foot setback is required, 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 April 25, 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 May 17, 2011; and

WHEREAS, the City Council considered said matter at its May 17, 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 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 a replacement septic system at 8242 Hidden Bay Trail that would be set back 25 feet from the Ordinary High Waterline, which is 50 feet closer to the line. The septic system proposed is a mound system.

- 4) That the Variance will be located on property legally described as Lot 4, Block 1, Oace Acres 4th Addition, Washington Co., Minnesota.
- 5) The proposed septic system cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *This property is unable to hook up to a 201 system (city-owned community septic system) and is not guided for city sewer in the 2030 Lake Elmo Comprehensive Plan. A private system is necessary to serve the existing home with wastewater services. The physical constraints of the lot, the lack of other options to sewer the house, and the need for wastewater management for the existing home to continue to be inhabitable make this situation unique.*
- 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. *In 1970, it was determined this lot could be utilized for residential purposes and a building permit was issued for a new home. The property is just over half an acre in size where a 1.5 acre minimum lot size is required and is located on a lake which, in combination with the house location, create a difficult situation in which to find a conforming location for a replacement septic system.*
There are floodplains on this property as well as a weir which was installed in the mid 1980's by the Valley Branch Watershed District to control water levels for Olson Lake and Lake Demontreville. The weir is identified on the applicant's site plan along the northeastern property line from Hidden Bay Trail down to the lake.
Soil borings identified rock embedded in the ground the closer to the weir, which is not conducive to a septic system. Therefore land near the weir was unsuitable for the proposed replacement system. The location of the home, driveways, well, existing septic system, floodplain and weir are all restrictions that severely limit the potential location sites at which the septic tanks and drainfield could be built.
- 7) The variance will not change the essential character of the neighborhood. *A septic system is a standard requirement for homes throughout the city, many of which have a mound system in their yard. The proposed septic system is a mound system which will be visible from the adjacent neighbors as an elevated and grassy rise. However, a raised system would have minimal, if any impact to neighbors and would not effect the character of the neighborhood.*

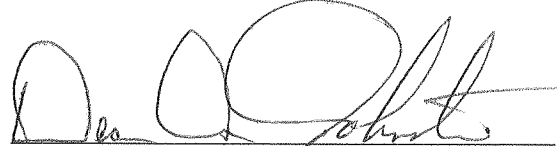
CONCLUSIONS AND DECISION

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

- 1) No adverse impacts are allowed to the adjacent lots. Existing drainage patterns must be maintained.
- 2) The mound system must be constructed outside the FEMA floodplains.

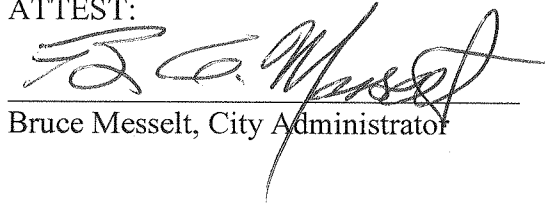
- 3) The system shall be monitored for proper operation once in each of the first two years.
- 4) The applicant is encouraged to work with the Valley Branch Watershed District to reduce erosion on or near the weir.

Passed and duly adopted this 17th day of May 2011 by the City Council of the City of Lake Elmo, Minnesota.



Dean A. Johnston, Mayor

ATTEST:



Bruce Messelt, City Administrator