

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

**RESOLUTION NO. 2012-014**

*A RESOLUTION DENYING LOT AREA AND WIDTH VARIANCES TO ALLOW A MINOR  
SUBDIVISION AT 5577 LAKE ELMO AVENUE*

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

**WHEREAS**, Steven Weber, 12729 22<sup>nd</sup> Street North, West Lakeland, MN (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for variances to the minimum lot size and lot width requirements for a Rural Residential Zoning District to allow the subdivision of a 5.11-acre parcel at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size; 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 February 13, 2012 and continued this hearing until its February 27, 2012 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 March 6, 2012; and

**WHEREAS**, the City Council considered said matter at its March 6, 2012 meeting, and tabled discussion on said matter until its April 3, 2012 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 variances are to allow the subdivision of property at 5577 Lake Elmo Avenue into two separate lots that do not meet the minimum requirements of the RR – Rural Residential zoning district, and include the following components:

- a) Variances from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district in order to create two new lots of 2.27 and 2.84 acres in size.
  - b) Variances from the minimum lot width requirement of 300 feet in a RR – Rural Residential zoning district in order to create two new lots that are 195 and 95 feet in width.
- 4) That the Variance will be located on property legally described as follows:

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 1, Township 29 North, Range 21 West, Washington County, Minnesota described as follows: Commencing at the Southwest corner of said Southwest 1/4 of the Northwest 1/4; thence North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) along the West line of said Southwest 1/4 of the Northwest 1/4, a distance of 334.70 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4, and the point of beginning of this description; thence continuing North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) a distance of 494.71 feet; thence North 87 degrees 32 minutes 27 seconds East (recorded as N 89 degrees 03' 24" E) a distance of 618.20 feet to the West line of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4; thence South 01 degrees 19 minutes 29 second East, along said West line of the East 695.22 feet, a distance of 502.85 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4; thence South 88 degrees 17 minutes 37 seconds West, along said North line of the South 334.70 feet, a distance of 616.33 feet to the point of beginning, together with an easement for roadway purposes over and across the North 60.00 feet of the South 334.70 feet which lies West of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4, excepting therefrom the North 209.00 feet of the South 639.40 feet of the West 417.42 feet of said Southwest 1/4 of the Northwest 1/4.

More commonly known as 5577 Lake Elmo Avenue.

- 5) That the strict enforcement of Zoning Ordinance would **not** cause practical difficulties and that the property owner **does not** propose to use the property in a reasonable manner not permitted by an official control. *Specific findings:*
- a) *That the subdivision of an existing 5-acre parcel into two smaller parcels in a zoning district that requires a minimum lot size of 10 acres is not a reasonable use of the property.*
  - b) *That the proposed subdivision is not reasonable because the property as it exists can be used for a single family residential home. Reasonable use of the property already exists, and the variance is not needed in order to make use of the parcel under the Rural Residential zoning district requirements. The current configuration of the lot is not relevant to the establishment of*

*reasonable use because the lot would not have been usable for a single family home without this additional area.*

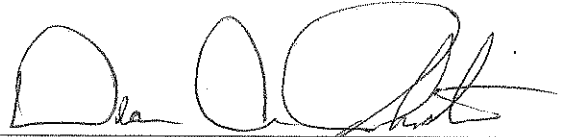
- 6) That the plight of the landowner is **not** due to circumstances unique to the property **and was** created by the landowner. *Specific findings:*
- a) *That the applicant's property is not unique because the property is able to support a single family home, and because a large majority of parcels outside of Open Space Preservation developments in the Rural Residential zoning district are larger than the lot owned by the applicant. The ability to find a suitable use for the areas outside of the immediate building location is not something that is unique to the applicant's site since the intent of the Rural Residential district is to promote the preservation of open space and rural character, and therefore, the uses and densities allowed in the district are intentionally limited.*
  - b) *That the proposed lot was created by the land owner and met the minimum lot size requirements when it was subdivided. The land owner was able to build on the lot and has been able to use the property as a single family residential lot for over 30 years.*
- 7) That the proposed variance **will** alter the essential character of the locality in which the property in question is located. *Specific findings:*
- a) *That the applicant's property is located in a portion of the City that is guided for Rural Agricultural Density (RAD) development, which corresponds to the City's RR - Rural Residential Zoning District. This district requires a minimum lot size of 10 acres, and the applicant's request to create two lots of under 2.5 acres in size represents a substantial departure from the district requirements. Although there are existing non-conforming lots in the vicinity of the applicant's property, the continued subdivision of lots less than 10 acres will continue to alter the character of the area and create a denser, more urban environment in an area that is not intended to be served by municipal water or sewer services.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question **but will** substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings:*
- a) *That the proposed variance will have a negative effect on adjacent properties and traffic because the proposed driveway to serve the new home would not comply with the City's access management policies and guidelines. In particular, new driveway accesses are discouraged along streets classified as Minor Arterials (such as Lake Elmo Avenue) at the traffic levels that are forecast for this road. The proposed driveway would also fail to comply with the City's use of best management practices for spacing guidelines, which include:*

*minimizing new access locations and reducing/consolidating existing access points, protecting and improving intersection functional and sight distance areas, and proper design of driveways and intersections. The creation of a new driveway/lot will create a safety concern and add to congestion on Lake Elmo Avenue by adding an access point to Lake Elmo Avenue in a location that has reduced visibility dues to an incline in the roadway.*

**CONCLUSIONS AND DECISION**

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

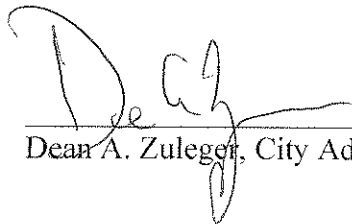
Passed and duly adopted this 3rd day of April 2012 by the City Council of the City of Lake Elmo, Minnesota.



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Dean A. Johnston, Mayor

ATTEST:



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Dean A. Zuleger, City Administrator