



# City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

**The Lake Elmo City Council  
Will conduct a Workshop on  
Monday, May 10, 2004 at 6:00 p.m.**

In Council Chambers,  
Lake Elmo City Hall  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

5-10  
2004

The City Council will discuss the Draft Fence Ordinance. The Planning Commission is invited attend, and the public is welcome. Following the Fence Ordinance Workshop,

**The Lake Elmo Planning Commission  
Will hold its regularly scheduled meeting on  
Monday, May 10, 2004 at 7:00 p.m.**

**AGENDA**

- 1) Pledge of Allegiance
- 2) Agenda
- 3) Minutes of April 26, 2004
- 4) Public Hearing: Variance from Setback for Garage – Isaacson
- 5) Public Hearing: Variance from Setbacks for Septic Drainfield – Webster
- 6) Public Hearing: Amendment to Code – Accessory Buildings – Exterior Color
- 7) City Council Update
- 8) Adjourn

The public is invited to attend.

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of May 10, 2004**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:05 p.m.  
COMMISSIONERS PRESENT: Bunn, Pelletier, Deziel, Johnson, Sedro, Sessing, Ptacek, and Berg.  
STAFF PRESENT: Martin Rafferty, City Administrator; Chuck Dillerud, City Planner; and Kimberly Schaffel, Recording Secretary.

**Pledge of Allegiance**

**Agenda**

M/S/P, Johnson/Sessing, To accept the Agenda as presented. **VOTE: 9:0.**

**Minutes of April 26, 2004**

Commissioner Sedro asked for a change to page 5, where the vote on the motion was 5:3:1. Her objection was to Finding 2 because it was not definitive enough. She felt that the word, "Primarily" meant 51%, and that percentage was not high enough.

M/S/P, Sessing/Berg, To accept the Minutes of April 26, 2004 as amended. **VOTE: 8:0:1** (Abstain: Ptacek).

**PUBLIC HEARING**

**Variance to Construct an Attached Garage – ISAACSON**

The Planner presented the circumstances related to the application for a variance from front and side setbacks, to construct an attached garage. The original home on this lot was torn down years ago, and this home was built. The current house plan had no garage included in the construction. An affidavit was signed by the applicant at that time that a variance might be necessary should they ever wish to construct a garage.

The Planner said the size of the garage is a reasonable use of the property. A two-car garage is reasonable. The plan is for a garage of 25'W X 26'D, which might be a bit larger than the base standard for a two-car garage. Part of the lot fronts onto Park Street which is platted but not built. The front yard setback is from that street which could probably be vacated.

**Findings:**

1. It has been previously demonstrated by the applicant that the property can be put to reasonable use without the granting of variances. Reasonable use must be defined in the context of contemporary housing standards and design. The proposed garage addition is in excess of the dimensions that are defined as reasonable.
2. While the property is unique in shape and dimensions, the property owner was fully aware of the size of garage possible within the prescribed setbacks at the time the house was constructed. The variances are required only because the applicant now desires a larger garage structure.
3. Granting of the variance will not change the essential character of the neighborhood.

The Planner said the choices are that the applicant could redraw the plan and amend his application or it could be denied as presented.

Commissioner Berg asked about the process for a street vacation. The Planner explained that the vacated road would be shared 50/50 with adjoining residents on either side of the road.

The Planner showed a site plan map that was created in 1998 relative to the original building permit for the house.

**William Isaacson**

Mr. Isaacson said his home as it was proposed to be constructed had the same footprint as the old home. Then the home had to be shifted over 3.5 feet to meet side yard setbacks. 24' X 24' is the size of a standard two-car garage. His neighbors' garages are very close to their property lines. With a proposed garage of 22 feet, only the southeast corner of the structure would encroach into the setback.

**THE CHAIR OPENED THE PUBLIC HEARING AT 7:23 P.M.**

Mrs. Isaacson said she has been requesting a garage for three years. They have equipment, toys, and three children. She would like it to be at least 22 feet wide, 24 feet would be better, and longer if possible.

**Gary Webster**

He said that if the applicants' proposed garage is in direct proportion to the others in the neighborhood, it should be approved.

**THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:25 P.M.**

Mr. Isaacson offered to reduce the size of the garage. After discussion, the Planning Commission and City Planner accepted the verbal adjustment to the plan.

Commissioner Deziel said this variance request is similar to the last one the Planning Commission heard which the Council redesigned. He said there is additional room on the lot to the front where the garage could be moved closer to the unbuilt street. He said he recommends a minimum of five feet from the side property line and reduce the distance to the property line in front. The platted street has massive width, even if it were built, it would not be used to that extent.

Mr. Isaacson said as planned it is seventy-four feet from the platted road.

Commissioner Sedro said she had no problem with the front setback, but it is not great on the side setback.

Commissioner Deziel noticed that a city park borders this property and that park might accommodate a common drainfield in the future. He said this is a small lot in a neighborhood of small lots, and he would not push for the vacation of the street.

The Planner explained to the applicant the 60-day state rule for applications of this type.

Commissioner Bunn said she would propose to change the setback variance to four feet from 1.5 with the same depth.

The Planner said the verbal setback differentiation probably could be passed but he would have to rewrite the Findings. He would do it if the commissioners wanted him to do it.

**M/S, Deziel/Sessing, To recommend approval of the variance application if the side yard setback is not less than six feet. TABLED (See page 3)**

Commissioner Bunn said that based upon the drawing, requiring five or six feet means the applicants will not have access to the house, and would require a structural change to the design. Given the neighbors' proximity to their property lines, she said she would allow four feet.

Commissioner Berg said he is supportive except for two unknowns, the old drawing, and the street vacation may not happen, so he would prefer tabling or denial.

The Planner said the commission can request six feet of setback at the southeast corner of the new garage based upon new drawings supplied by the applicant, and that the city may need that public land for a 201 system in the future.

Commissioner Bunn observed that this is an unusual lot and it is small in a neighborhood of small lots, She said if the applicant was willing to move the garage forward, she would approve four feet. Commissioners Deziel and Pelletier agreed.

Commissioner Johnson said she would approve four feet of setback.

Commissioner Sedro said she was not comfortable, and would like to see the new plan. She said there are other ways to get more square footage.

Commissioner Sessing said he would approve six feet because that is what the commissioners gave to the applicant of the last garage variance.

Commissioner Ptacek agreed with Commissioners Sedro and Sessing, and said he does not like to see houses right next to houses.

Chairman Helwig said he supports six feet.

Commissioner Berg would like the applicant to bring in a revised site plan.

Chairman Helwig explained to the applicant that the commission's consensus is to deny it as presented on paper. He said the City Council might help the applicant or redesign it, and asked if the applicant would sign the 60 day waiver and redraw it.

Mr. Isaacson said he would like to table it for new drawings, and to request the planner's assistance. He said maybe he can scoot the garage forward enough to get to a wider part of the lot.

M/S/P, Berg/Pelletier, To table the application for a variance at the request of the applicant, until new plans are received. **VOTE: 9:0.**

## **PUBLIC HEARING**

### **Variance to Side Yard and Structure Setback to Construct a Septic System - WEBSTER**

The Planner presented the first application for a variance under Chapter 700, the city's septic system ordinance. He advised the Commission that Chapter 700 by reference adopts Minnesota Rule 7080 - the State Rules governing standards for septic systems. He continued that Minnesota Rule 7080 allows a city to adopt a variance procedure, which Lake Elmo did in August, 2003.

The City Planner reported that this application requests a variance from setbacks from a structure and property lines to construct a drainfield 5 feet from a property line and 12 feet from the house, where 10 feet and 20 feet are required.

The City Planner suggested the following Findings be adopted regarding the Webster variance application:

1. The property can be put to reasonable use – as defined by the circumstances of this particular case – if used under the conditions of the Chapter 700 of the City Code. The

site currently has a functioning drain field that poses no imminent health threat; and complies with drain field setback standards.

2. The plight of the present land owner -- small site land area; present drain field location; and lack of a garage, were known to the present land owner (applicant) as existing conditions upon site acquisition. The variance application is solely the result of the land owner/applicant deciding to construct a garage, not a result of total drain field failure. The Public health and safety protections accorded by the prescribed drain field setbacks outweigh the any property owner hardship resulting from having no garage on the site.
3. The variances, if granted, will not alone change the essential character of the neighborhood.

The Planner recommended denial, but suggested that if the Planning Commission recommends approval, the new septic system will need monitoring by a state certified septic inspector. The Planner suggested that if the City grants this variance for an alternative system, the City may be creating another administrative burden.

Commissioner Deziel asked about the timeframe to connect the Old Village to a community system.

The Planner said it might be 2 to 10 years.

Commissioner Deziel said that surface water might cause those higher water indicators in the soil. This might contribute to the problem.

**Gary Webster**

The applicant said that the MPCA created new codes in 1996, and that in 1997, when the existing system was constructed, the installation did not meet that new code. He reported that the proposed drainfield site is the only place on the lot that percolates.

Commissioner Sedro asked where the original septic system was located.

Mr. Webster said he thinks it was under the one that exists now.

Commissioner Bunn said that even if the garage was placed on the north side, there would be no access into the kitchen of this house from the outside.

Mr. Webster said he could comply with any conditions attached to approval.

Chairman Helwig asked the Planner if this lot has to have two drain field sites.

The Planner said this lot predates the second drain field provision of the Code, but that the Building Official is still concerned there is no secondary drain field site on this parcel if the existing (functioning) drain field site is relocated as proposed.

Commissioner Pelletier asked the applicant if the east side of the house is the front of the house.

Mr. Webster said that the east side is the front of the house; and, that a garage added to the east side of the house would cover the front of the house, and would require the removal of the mature trees.

Commissioner Deziel pointed out that the proposed drainfield site could become the location for a new garage as well; and then there will be no secondary site for a septic system. He then asked whether or not those issues were considered. He said the lot is open to the west, and while the existing system is not an imminent threat, the proposed septic site is the right place for the drainfield for more than one reason. He pointed out that a garage on the west side of the lot would be more aligned with the other garages on the alley. He then asked what would happen if the existing system does fail. He said it is his inclination was that the Planning Commission would then recommend approval of a variance for new septic system on the site now proposed.

**THE CHAIR OPENED THE PUBLIC HEARING AT 8:16 P.M.**

No testimony was offered.

**THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 8:17 P.M.**

Commissioner Deziel said the applicant needs a garage and a drainfield, and what the applicant is proposing may be the best plan for both by maintaining the streetscape, and being respectful of vegetation. He said this is a good example of a drainfield variance.

Commissioner Bunn said the public safety concern is an issue at time of failure, and the proposed new system is an alternative while waiting for the Old Village Plan wastewater solution. She observed that the time frame for implementation of the plan and this alternative set together is a combination that might make a case for a variance. She said the failing drainfield site is a good location for a garage, and the proposed drainfield location is okay. She concluded that this is a unique situation.

Commissioner Deziel said it seems the location for the new drainfield is ideal; the Commission should approve the only potentially viable drainfield on the lot; and, the proposed drain field site is a substantial distance to the next door structure.

Mr. Webster distributed letters from his neighbors supporting his variance application.

The Planner said the Building Official classified the existing system as a "technically failing" system, but that the system is functioning, and is not an imminent threat to Public Health.

**M/S/F, Deziel/Bunn,** To recommend approval for a variance to the side yard setback to the property line and the setback to the house because of an existing drainfield that has been classified as a Failing System by the Building Official and an expert, in order to allow the construction of a new drainfield on the only area of the property, according to the applicant, that percolates. According to the expert, the front yard is unsuitable for a drainfield.

Commissioner Ptacek expressed sympathy for the applicant's problem but said the commission should not establish a precedent of granting variances to construct new septic systems when the existing system still functions. The commission should not base their decisions on what the lot looks like or what the neighbors think of the plan. Commissioner Berg said that public health and safety is the issue to be concerned about.

**VOTE: 2:7 – FAILED** (Deziel/Bunn).

M/S/P, Ptacek/Sessing, Based upon the Findings in the staff report dated May 6, 2004, to recommend denial of the application by Gary Webster for a variance from side yard and structure setback for the construction of a drainfield.

Commissioner Bunn said that a vote to deny this variance is a vote for no backup system. The applicant can build a garage on the only part of the parcel that percolates, without a variance.

**VOTE: 6:3 – PASSED** (Deziel/Bunn/Johnson). Commissioner Johnson said she did not originally understand that the planned garage can be built on the secondary septic system site without a variance.

**THE CHAIR CALLED FOR A FIVE MINUTE RECESS, AND RECONVENED AT 8:40 P.M.**

**PUBLIC HEARING**  
**Accessory Structures**

The Planner explained that at a recent City Council Meeting a resident spoke regarding an accessory structure that they wished to be painted a barn red while their principal structure (house) is a light grey. He said that at least two areas of the code specify that accessory structures must be of similar surfacing and color as the principal structure, or at least earth tone. The Council observed that this provision of the code might not be in keeping with architectural rural character goals; and directed staff to establish a hearing date to consider modifying the code in some fashion to allow some latitude as to color of accessory structures under certain circumstances.

**THE CHAIR OPENED THE PUBLIC HEARING AT 8:42 P.M.**

**Terry Most, 978 Lake Elmo Avenue North**

She said she and her husband purchased their home in September. She said the code specifies materials and colors must be similar or of an earthen tone, and reds are an earthen tone. She said she and her husband made an effort to design a structure that looks like an old barn to match their 90-year old home. She said there is a red barn further north, up the road in a development of new houses. She presented photographs (attached) to the Commission.

**THE CHAIR CLOSED THE PUBLIC HEARING AT 8:44 P.M.**

Commissioner Bunn asked for clarification regarding whether these standards apply to specific zoning districts.

The Planner said this section of code applies to all zoning districts except for AG, where ongoing agricultural operations exist.

Mrs. Most said her lot is a 2.5 acre site.

Commissioner Johnson said that lots on the stretch of road near the Most residence appear large. She said that the red barn Ms. Most referred to is an historic barn in a development of brand new structures that do not match that barn. She suggested that historic barns should get approval for historic colors.

The Planner asked where the city would draw the line. He said that small accessory buildings under 160 square feet are not regulated.

Commissioner Helwig said he was involved years ago with this section of the zoning ordinance, and that the Planning Commission worked hard and diligently on the design. He also said that there were members on the Council then, who still are, that agreed with this section of the code. He said the Most accessory building does not look like a barn because the roof is A-frame, and the siding is vertical. He said he could support white for this structure since there are several white barns that have a hip roof, horizontal siding, etc. in the City.

Commissioner Ptacek said that changing the code might allow lots to have a hot pink garage, and he supports the Chairman that we do not change the ordinance.

Commissioner Johnson said the city's existing barns coincide with rural character. She said the Commission providing guidance that barn-like structures may only be red might be a Pandora' Box.

Commission Sedro said she has no strong preference, and does not wish the City to be the style police. She would prefer not to see this as a variance application before the Planning Commission.

Commissioner Deziel said he has a measure of anxiety about the ordinance. He said if you are going to license paintbrushes there are other areas the city could be tougher on. The city should accept some difference in taste and variety in order to allow creativity and freedom.

Commissioner Pelletier said she agrees with earthen tone. However, she asked how open to interpretation earthen tone is. Who picks the colors?

The Planner said judgment is exercised, which is why he prefers that the term, "Earthen Tone" was not in the ordinance, and in his opinion, a red accessory structure is not earthen tone.

Terry Most said the ordinance said an accessory structure must match the primary structure, under those conditions neon green or blaze orange could be approved for both a house and garage.

Commissioner Ptacek said some of the concern is that this code applies to residential areas, not rural. He said that and property values are why we do not allow a yellow pole building next to a stucco home. He said there is a difference between barn-like versus barns. He said there are not enough situations existing that we should change the code.

M/S/P, Ptacek/Sessing, To recommend to the City Council that it is not necessary to amend the code with regard to the color of accessory structures. **VOTE: 7:1:1** (Nay: Deziel, Abstain: Sedro).

## **CITY COUNCIL UPDATE**

The Planner said the city has sent out its first Stormwater Utility Billing, that \$8,000.00 will be collected into the utility account, all the other communities are doing this so far, and that staff has perceived only one difficulty so far - multiple tax parcels that make up a homestead. He said those residents are being told to combine their parcels.

Commissioner Bunn said she will be writing a letter of resignation and will send it to the City Council because she wants to work on a project that will consume several years. She said she had enjoyed the process, learned a great deal, and is very proud of the work the commission performed on the Old Village and the Community and Staffing Study. She said she is hopeful those plans will go forward in the next several years.

The Planner said the Old Village Plan is still in the hands of the City Council for now. He said the city needs to find the money to do the streetscapes. He said the Wastewater Report was received and it would work, the Public Water was received and revealed that it would work but that the city needs more storage, the Traffic Report Draft is complete and it presented problems because the concentration of living units will require the installation of traffic signals on Highway 5 at 39<sup>th</sup> Street, and Lake Elmo Avenue North  
Lake Elmo Planning Commission Meeting Minutes of May 10, 2004



AMENDED AND APPROVED: MAY 24, 2004

and South. He said he is not sure what Mn/DOT would approve. He said the Surface Water Report is not quite complete yet, and the problem of surface flow calculations would require a lake to store the water upstream. He said now the engineers are looking at filtering the stormwater, and sending it into Sunfish Lake. He said the lake rose significantly several years ago, now we are proposing pumping into it, and his prime concern is degradation of the water quality. He said the moratorium extension on development in the Old Village will expire on June 6.

The Planner said that the purchase of the Brookfield II Building has been delayed because the sellers' counter appraisal is different from ours. He said the Facilities Committee will review it and make a recommendation. He said staff will be viewing another option on Thursday.

The Planning Commission welcomed the new City Administrator Martin Rafferty.

Adjourned 9:11 p.m.

Respectfully submitted,

Kimberly Schaffel  
Recording Secretary