



STAFF REPORT

DATE: 8/12/2019

REGULAR

ITEM#: 4A – PUBLIC HEARING

MOTION

TO: Planning Commission

FROM: Ken Roberts, Planning Director

AGENDA ITEM: Variance – Direct Access for a Place of Worship

REVIEWED BY: Ben Prchal, City Planner

BACKGROUND:

The City has received a request from Rev. John Burns of the Carmelite Hermitage for a variance from the City Code requirement about direct access for a place of worship. He is making this request in order to add a chapel to the Carmelite's site located at 8249 Demontreville Trail.

On December 3, 1991, the City Council approved a variance from the section of the City Code about having frontage a public road for the Carmelite Monastery. The Carmelites made this request so they could construct a building on their parcel (which does not have frontage on a public road). (See attached City Council Resolution 91-40).

ISSUE BEFORE COMMISSION:

The Commission is being asked to hold a public hearing, review and make recommendation on the above mentioned variance request.

VARIANCE REQUEST DETAILS/ANALYSIS:

Deadline for Action: Application Complete – 7/12/2019
60 Day Deadline – 9/11/2019
Extension Letter Mailed – N/A
120 Day Deadline – N/A

Applicable Regulations: Article V - Zoning Administration and Enforcement
Article XIV – Public and Semi-Public Districts

Variance Request: The Carmelite Hermitage of the Blessed Virgin Mary requests a variance from the direct access requirement for places of worship as outlined in Section 154.600(B)(2) of the City Code.

Reason for Request. The reason for the variance request is to facilitate the construction of a chapel on their site. The City Code requires places of worship (such as chapels and churches) to have “direct access” to a public street classified by the Comprehensive Plan as a major collector or arterial. The Carmelites property does not have frontage on Demontreville Trail but there is an existing easement across the neighboring property to the north that provides their property with access to Demontreville Trail. The Comprehensive Plan classifies Demontreville Trail as a major collector street.

The applicant believes their existing access to Demontreville Trail (with the easement) meets the direct access requirement of the City Code. If the City Code said that places of worship are required to have access to a major collector or arterial street, then the Carmelites site would meet that access requirement.

REVIEW AND ANALYSIS/DRAFT FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.109 before the City may grant an exception or modification to city code requirements. These criteria are listed below, along with comments from Staff about the applicability of these criteria to the applicant’s request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - “Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

***FINDINGS:** The addition of a chapel to Carmelites site has been planned since at least 1991 when the City first approved a Master Plan for their site. The Carmelites have been using the easement to Demontreville Trail for access to the site since that time. Adding another driveway or access to the Carmelites property would be a practical difficulty as the only public street their property has frontage on is Hidden Bay Trail to south. A new driveway would be about 1,500 feet in length, would require extensive tree removal and grading and would be an access onto a local street – not a collector or arterial street as the City Code requires for places of worship.*

The use of the existing driveway for access to Demontreville Trail for the addition of a chapel to site is a reasonable use of the property and the existing access.

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

***FINDINGS:** According to the applicant, the existing lot layout with the access easement to Demontreville Trail has been in place since 1904. This is a unique situation with circumstances not created by the landowner or the current land users – the Carmelite Monks.*

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

***FINDINGS:** The proposed variance will allow the Carmelites to use the existing driveway (that currently provides access to their site) for access for the proposed chapel. By using the existing*

driveway that has been in place for many years, the Carmelites will not be altering the essential character of the locality (or area) in which their property is located.

Conversely, adding another driveway to their site that would have access onto a local, neighborhood street would change the character of that locality and area of the City.

- 4) Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties 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.

FINDINGS. *The proposed variance to allow the use of the existing driveway and easement for access for the proposed chapel will not impair an adequate supply of light and air to properties adjacent to the subject property, increase congestion of public streets or substantially diminish or impair property values within the neighborhood.*

Conversely, as I noted above, if the applicant added another driveway to access the streets to the south of their site that would increase the congestion on the local public streets near their property.

FISCAL IMPACT:

Staff has not found that the proposed variance will have any impact to the City.

OPTIONS:

The Planning Commission may:

- Recommend approval of the proposed variance.
- Recommend approval of the proposed variance with recommended conditions.
- Recommend denial of the variance, citing recommended findings of fact for denial.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the request from Rev. John Burns of the Carmelite Hermitage for a variance from the City's requirement for direct access to a major collector or arterial street for a place of worship for the property located at 8249 Demontreville Trail.

“Move to recommend approval of the request from Rev. John Burns of the Carmelite Hermitage for a variance from the City’s requirement for direct access to a major collector or arterial street for a place of worship for the property located at 8249 Demontreville Trail.”

ATTACHMENTS:

- 1) Variance request narrative dated July 12, 2019 (4 pages)
- 2) Proposed Site Plan
- 3) Resolution 91-40 - Variance resolution