

**ELYSIAN CITY COUNCIL
REGULAR MEETING
JUNE 10, 2019**

The Elysian City Council met in regular session on Monday, June 10, 2019 at City Hall at 6:00 pm.

Roll Call: Mayor Tom McBroom; Councilmembers Bobby Houlihan, Dennis Schnoor, Bryan Suemnick; City Administrator Lorri Kopischke; Public Works Director Ron Greenwald; City Attorney Jason Moran. Absent: Councilmember Mary Opsahl.

On motion by Houlihan, seconded by Schnoor, all voting in favor, to approve the minutes of the May 13, 2019 Regular Meeting and the May 21, 2019 Special Meeting as presented.

On motion by McBroom, seconded by Houlihan, all voting in favor, to approve the agenda of the June 10, 2019 Regular Meeting as presented.

Le Sueur County Chief Deputy Nick Greenig reported his office is working with the Elysian Chamber of Commerce to prepare for the 4th of July celebration. Greenig stated crime has been fairly quiet in the City.

Public Comment: None.

The Council considered Resolution No. 667/19 – Adopting Findings of Fact and Reasons for Approval of variance application of Marjorie Slingsby, 411 Sixth Street NW, to allow them to build the patio / deck of their new home ten (10) feet into the 75-foot OHW setback of Lake Francis. The Slingsbys have recently purchased the 3.7 acre property. The new home will meet all setback requirements and allowed lot coverage. The only encroachment will be the deck / patio.

There currently is a non-conforming cabin located on the property that is entirely within the 75 foot OHW setback. If approved, a condition of the variance is that the non-conforming cabin must be removed (torn down) before occupancy of the new home is allowed.

Todd Piepho, Area Hydrologist, MN Department of Natural Resource, commented as follows: “It appears the site is going to become more compliant, no comments from me.”

The Planning and Zoning Commission considered the request at their meeting on June 4, 2019 and recommended approval based on the following:

1. The property owner does propose to use the property in a reasonable manner because the proposal will remove a completely non-compliant cabin which is located in the 75-foot OHW setback of Lake Francis. This will make the entire site more compliant.
2. There are unique circumstances to the property not created by the landowner because of the elevation and slope of this hillside. If the house were to be pulled back away from the lake it would change the slope which will affect the run-off to the lake itself as well as the run-off to the waterway located on the east side of the lot.
3. The variance will improve the essential character of the locality because the new home will be more modern, and the proposal will remove a non-conforming structure.
4. And with the following condition:

- a. The existing cabin must be removed (torn down) before occupancy of the new home is allowed.

Mayor McBroom introduced the resolution and was seconded by Councilmember Schnoor.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
LE SUEUR COUNTY, MINNESOTA
RESOLUTION NO. 667/19
A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS
FOR APPROVAL FOR VARIANCE APPLICATION OF
MARJORIE SLINGSBY, 411 SIXTH STREET NW

FACTS

1. Marjorie Slingsby is the owner of a parcel of land located at 411 Sixth Street NW, Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Marjorie Slingsby has applied to the City for a variance to build the patio / deck on their new house ten (10) feet into the 75-foot OHW setback of Lake Francis as found on Exhibit B and C.
4. The proposal would vary from the City of Elysian Zoning Ordinance Section 13.0 Shoreland Overlay Zone Subd. G1. as the patio / deck would encroach into the required 75-foot OHW setback.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on June 4, 2019.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of June 10, 2019.

APPLICABLE LAW

7. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

CONCLUSIONS OF LAW

8. The property owner does propose to use the property in a reasonable manner because the proposal will remove a completely non-compliant cabin which is located in the 75-foot OHW setback of Lake Francis. This will make the entire site more compliant.
9. There are unique circumstances to the property not created by the landowner because of the elevation and slope of this hillside. If the house were to be pulled back away from the lake it

would change the slope which will affect the run-off to the lake itself as well as the run-off to the waterway located on the east side of the lot.

10. The variance will improve the essential character of the locality because the new home will be more modern, and the proposal will remove a non-conforming structure.

11. And with the following condition:

a. The existing cabin must be removed (torn down) before occupancy of the new home is allowed.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELYSIAN, MINNESOTA AS FOLLOWS:

The application to issue a variance to allow Marjorie Slingsby, 411 Sixth Street NW, to build the patio / deck on their new house ten (10) feet into the 75-foot OHW setback of Lake Francis so as to deviate from the City of Elysian Zoning Ordinance Section 13.0 Shoreland Overlay Zone Subd. G1. is hereby approved.

Passed by the City Council of Elysian, Minnesota this 10th day of June, 2019.

Mayor

Attested:

City Clerk / Administrator

Exhibit A, B and C are attached at the end of these minutes.

The Council considered Resolution No. 668/19 – Adopting Findings of Fact and Reasons for approval for variance application of Robert Anhorn, 405 First Street North, to allow them to remove the existing house which is non-conforming and build a new slightly larger house in the same location. The request also includes the addition of three (3) decks on the house and a deck on the shed, all of which are located within the required 75 foot OHW setback.

Mr. Anhorn has recently constructed what he has labeled as Phase 1 to the south of his existing house. This is a 24 x 30 foot garage with living quarters above. Phase 1 was slightly into the 75 foot OHW setback and was allowed as it was an addition to the existing house and met all the setback requirements. The Building Inspector and City staff understood that Phase 2 was only an addition to square off that building, but the applicant is proposing to remove the existing and build new.

The proposal including the decks is within the allowed 25% lot coverage. The building will be less than the allowed 30 foot height restriction.

There is a 10-foot sanitary sewer easement across the south of the lot that precludes the structures from being located further south on the lot.

Todd Piepho, Area Hydrologist, MN Department of Natural Resource, commented as follows: “As always the Department would not support adding additional non-conformities by issuing a variance.

Any new encroachment towards Lake Francis would not be supported, specifically in this case the deck being proposed ~6' from the water's edge. MN Rule 6120 prohibits placement of anything within 10' of the OHWL. I understand this is a tough site, but there are options to permit the building without creating additional encroachment towards the lake. Removing the deck on the north side of the house and planting a screening of trees could be a condition of the variance if approved to allow the building. This would limit encroachment towards the lake and screen the new structure that is being proposed within the 75' setback."

Larry Hohnstadt, owner of property located on County Road 11 and Frank Avenue NW, attended the Planning and Zoning Commission meeting and spoke against the issuance of the variance.

The Planning and Zoning Commission considered the request at their meeting on June 4, 2019 and recommended approval to allow them to remove the existing home and build a home in the same location which includes squaring off the foundation to the east and increasing the footprint by approximately 100 square feet based on the following:

1. The property owner does propose to use the property in a reasonable manner because it is reasonable to square the foundation off because if not, the addition will result in some very irregular shapes and will conform with Phase 1 building.
2. There are unique circumstances to the property not created by the landowner because the buildable area between the shoreline and the sewer easement on the south side is very shallow and this placement does the best to fit between those two limitations.
3. The variance will maintain the essential character of the locality because it will be an improvement over the existing house structure and pulls together with the existing Phase 1 structure.
4. And with the following condition:
 - a. The homeowner will work with the Minnesota Department of Natural Resources to provide some type of screening on the north side of the proposed structure.

AND:

The Planning and Zoning Commission recommends denial of the four proposed decks on the property based on the following:

1. The property owner does not propose to use the property in a reasonable manner because the north decks would actually move the property closer to the lake, the west deck is located within the required setback, and the east deck is within the 75-foot OHW setback.
2. There are not unique circumstances to the property not created by the landowner because the property is already grandfathered in as non-compliant and the additional decks would further increase the amount of non-compliance.
3. The variance will not maintain the essential character of the locality because there are no other decks built that close to the lake in this area.
4. The DNR has cited MN rule 6120 which prohibits placement of anything within 10-feet of the OHWL.

Mayor McBroom introduced the resolution and was seconded by Councilmember Suemnick.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
LE SUEUR COUNTY, MINNESOTA
RESOLUTION NO. 668/19
A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS
FOR APPROVAL FOR VARIANCE APPLICATION OF
ROBERT ANHORN, 405 FIRST STREET NORTH

FACTS

1. Robert Anhorn is the owner of a parcel of land located at 405 First Street North; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Robert Anhorn has applied to the City for a variance to remove the existing house which is non-conforming and build a new slightly larger house in the same location and three decks on the house and one deck on the shed all within the 75-foot OHW setback from Lake Francis as described on Exhibit B.
4. The proposal would vary from the City of Elysian Zoning Ordinance Section 14.0 Subd. A3. in that it would expand a non-conforming structure by approximately 100 square feet and Section 13.0 Shoreland Overlay Zone Subd. G1. as the proposed decks would encroach into the required 75-foot OHW setback
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance to allow the removal of the existing house which is non-conforming and to build a slightly larger house in the same location which includes squaring off the foundation to the east and increasing the footprint by approximately 100 square feet on June 4, 2019. The Elysian Planning and Zoning Commission recommended denial of the four proposed decks on the property.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of June 10, 2019.

APPLICABLE LAW

7. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

CONCLUSIONS OF LAW – HOUSE REMOVAL AND REBUILD

8. The property owner does propose to use the property in a reasonable manner because it is reasonable to square the foundation off because if not, the addition will result in some very irregular shapes and will conform with Phase 1 building.
9. There are unique circumstances to the property not created by the landowner because the buildable area between the shoreline and the sewer easement on the south side is very shallow and this placement does the best to fit between those two limitations.
10. The variance will maintain the essential character of the locality because it will be an improvement over the existing house structure and pulls together with the existing Phase 1 structure.
11. And with the following condition:
 - a. The homeowner will work with the Minnesota Department of Natural Resources to provide some type of screening on the north side of the proposed structure.

CONCLUSIONS OF LAW – PROPOSED DECKS

12. The property owner does not propose to use the property in a reasonable manner because the north decks would actually move the property closer to the lake, the west deck is located within the required setback, and the east deck in within the 75-foot OHW setback.
13. There are not unique circumstances to the property not created by the landowner because the property is already grandfathered in as non-compliant and the additional decks would further increase the amount of non-compliance.
14. The variance will not maintain the essential character of the locality because there are no other decks built that close to the lake in this area.
15. The DNR has cited MN rule 6120 which prohibits placement of anything within 10-feet of the OHWL.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELYSIAN, MINNESOTA AS FOLLOWS:

The first portion of the application to issue a variance to allow Robert Anhorn to allow removal of the existing house which is non-conforming and to build a slightly larger house in the same location which includes squaring off the foundation to the east and increasing the footprint by approximately 100 square feet so as to deviate from City of Elysian Zoning Ordinance Section 14.0 Subd. A3 is hereby approved. The second portion of the application to issue a variance to allow Robert Anhorn to build three decks on the new house and one deck on the existing shed so as to deviate from City of Elysian Zoning Ordinance Section 13.0 Shoreland Overlay Zone Subd. G1. is hereby denied.

Passed by the City Council of Elysian, Minnesota this 10th day of June, 2019.

Attested:

Mayor

City Clerk / Administrator

Exhibit A and Exhibit B are attached at the end of these minutes

Bill Stangler, Chairman and Lois Mack, board member, Le Sueur County Historical Society updated the Council on the status of the buildings and the organization. Mack reported the Elysian Museum is intact. The work that was being done on the three floors is only partially complete. The building needs a big cleaning. There is a dehumidifier and one air conditioner working in the museum. The basement has black mold and rust. The main and upstairs floors are stable. The art room is full of what is left from the Cleveland museum.

Mack stated the Genealogy Building looks fine. The technology needs to be updated. There is a dehumidifier and an air conditioner working in the basement. The work being done in the basement is not complete. There is art stacked on the floor that is covered.

The Le Sueur Historical Society is still under the authority of the receiver. There is a meeting on June 13 at 10 am with the judge for an update. There is a membership and board meeting June 12 at 7 pm in Le Center.

Mack stated the goal is to have the Genealogy Building open for viewing during the 4th of July celebration.

Stangler reported the goal of this Board is transparency. They are learning much as they go with \$200,000 needed to complete the work at the Ottawa Church, the Le Sueur School building being sold and all items needing to be removed by July 1, and a house in Waterville that the Board is attempting to divest themselves of.

Stangler invited the Council and the public to call him or any board member with any questions of concerns.

Residents of the Kaplan / Cedar Point area were present to discuss the garbage service. The bituminous on their private road is not real thick and the road is narrow. They would prefer to stop the big garbage trucks driving on that road. They are looking for a company who would service them with a small truck or pick up but have not found one. They asked if the City would allow them to have a dumpster with a lock located centrally in the City that they could bring their garbage to until such time as a permanent solution is determined. There are fifteen properties with fourteen being charged for garbage service. Of the fourteen, four use a 95 gallon cart, two use a 65 gallon cart, and the remaining eight use the drive by (tag) service.

West Central has been contacted and they will bring in a dumpster with a lock to the City Shop. The charge to the individual resident would remain the same as they are currently paying. The resident at 1 Cedar Point Drive NW could roll his cart to County Road 16 for pick up.

On motion by McBroom, seconded by Schnoor, all voting in favor, to allow West Central to place a temporary garbage and recycling dumpster on City property next to the City shop for use by residents of Kaplan / Cedar Point until a permanent plan is in place for collection of their garbage.

Brad Zimbrich, Tuckers Tavern, asked the Council to approve the closing of Main Street from 2nd Street NE to 2nd Street NW on July 27, 2019. He is working with Kari Voss, Event Planner, to organize a fundraiser event - "# Fight Like Hell for Veterans". Zimbrich asked that the streets be closed, and this be made into a community event. He expects at least 500 motorcycles in town. There will be two bands – one in the day and one at night. The Army is providing a rock climbing wall and the Marine Corp is bringing a pull up bar. Eight fire departments have committed to a barrel

war. There will be bouncy houses, a car show, a bike show, and a car and bike poker run. The MN Pork Producers are donating and cooking 800 pork chops. The American Legion Auxiliaries from several communities are bringing salads and desserts. Zimbrich plans to have the parking lot enclosed and sell wristbands.

Moran stated the City would require proof of insurance, security and alcohol licensing before any approval could be considered. Zimbrich and Voss will work to get those items to the City.

Public Works Director Greenwald reported that on May 24, 2019, someone hit the welcome sign on the east end of town. The planter around the bottom of the sign is damaged. In looking at different options, the cheapest will be to rebuild the planter with 6x6s. It will be approximately \$600 for materials. The Sheriff has made a report and insurance has been notified.

Greenwald noted that the City has a new F550 pick up truck on order. A number of people have approached him about the possibility of purchasing the old F550. Greenwald asked if it would be possible to take bids on the truck rather than trading it in to the dealer.

On motion by McBroom, seconded by Houlihan, all voting in favor, to advertise the F550 for sale via sealed bids to be opened at the August 12, 2019 City Council Meeting with the vehicle being available after the new truck has been received.

Councilmember Schnoor stated he would like to see the “no parking” on the south side of G Avenue lifted or moved. Trostem’s has a fifth wheel coming the 4th of July weekend and he parks there. Schnoor did not see why it needed to be no parking on both sides of the street. Staff noted there had been complaints of sight problems when coming down that hill and when turning to go up the hill. Also, there were issues when only one lane of traffic remained open due to parking on both sides of G Avenue.

On motion by McBroom, seconded by Suemnick, all voting in favor, to remove the no parking zone on the south side of G Avenue SE, to paint the curb in that area yellow for 10 feet from the intersection and to keep the no parking on the north side of G Avenue.

Commissioner Steve Rohlfing reported the Justice Center is 75% complete. The County will be doing crack filling and cleaning ditches. 48 miles of county roads will be seal coated. County road striping is almost complete. The County Commissioners approved an ordinance to regulate short term rentals that will go into effect on August 1, 2019. There will be a public hearing in July to consider the fee schedule for the ordinance. The Commissioners are still working on the broadband issue with 78% of the county being covered. The biggest concern is cost, and the commissioners are visiting with the townships to see if they are willing to contribute. The Historical Society will meet with the County Board next Tuesday. Ray’s Lake Park will be receiving some non-invasive enhanced walking paths. And, County budget work will begin in August.

Councilmember Schnoor introduced the resolution and was seconded by Councilmember Suemnick.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION NO. 669/19
RESOLUTION ACKNOWLEDGING A DONATION FROM
ELYSIAN AMERICAN LEGION POST #311

WHEREAS, the Representatives of the Elysian American Legion Post #311 and Auxiliary have met with the Elysian Park Board and the Elysian City Council and presented a proposal for a Veterans Memorial to be built at the Sunset Park in the City of Elysian, and;

WHEREAS, the Elysian City Council has agreed to the location of the Veterans Memorial within the Sunset Park; and

WHEREAS, the Veterans Memorial as proposed will be built and located within the Sunset Park at no cost to the City of Elysian or to the taxpayers.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts the donation of a Veterans Memorial to be built and located in Sunset Park in Elysian from the Elysian American Legion Post #311 and Auxiliary.

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick.

Council Members voting in the negative: None.

Adopted by the City Council of the City of Elysian this 10th day of June, 2019.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

Councilmember Schnoor introduced the resolution and was seconded by Mayor McBroom.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION NO. 670/19
RESOLUTION ACKNOWLEDGING A DONATION FROM
ELYSIAN FIRE RELIEF ASSOCIATION

WHEREAS, the City of Elysian has received a donation in the amount of \$10,600.00 from the Elysian Fire Relief Association to be used as follows: \$10,000.00 toward Fire Hall Building Improvements, and \$600.00 toward the July 4th Celebration / Fireworks;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts a donation from the Elysian Fire Relief Association in the amount of \$10,600.00 to be used as follows: : \$10,000.00 toward Fire Hall Building Improvements, and \$600.00 toward the July 4th Celebration / Fireworks.

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick.

Council Members voting in the negative: None.

Adopted by the City Council of the City of Elysian this 10th day of June, 2019.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

The Lake Francis Lake Association has been unable to recruit an employee to serve as the 2019 Watercraft Inspector at the Lake Francis public access. The Association has proposed that the City of Elysian enter into a Watercraft Inspection Services Agreement with Waterfront Restoration, LLC to contract for inspection services for the 2019 season. The City would execute the agreement and pay the invoices. Lake Francis Lake Association will then reimburse the City for the bills paid. This is an advantage for the City as the contractor will carry all insurance.

On motion by Houlihan, seconded by Suemnick, all voting in favor, to execute the agreement with Waterfront Restoration, LLC, to provide contract service for the Watercraft Inspection on the east Lake Francis public access for the 2019 season.

Each Councilmember received a copy of the Codified City Ordinances as prepared by American Legal Publishing. The Council was asked to review them and recommend any changes / additions at the August 12, 2019 Council meeting.

The Council considered various Christmas lights for the poles on Main Street. The lights are currently 25% off. On motion by McBroom, seconded by Suemnick, all voting in favor, to purchase the bell with bow, holly cluster and leaping deer in the amount of \$1,587.75 plus shipping from Temple Display. This amount will be paid from the Cable Franchise account.

Schnoor stated it is very difficult to hear the public speak. Staff will obtain quotes for a wireless microphone.

On motion by Houlihan, seconded by McBroom, all voting in favor, to schedule a workshop meeting for Monday, August 24, 2019 at 6:00 pm.

On motion by Houlihan, seconded by Schnoor, all voting in favor, bills, payroll, and transfers were approved in the amount of \$92,099.58.

Public Comment: None.

On motion by McBroom, seconded by Houlihan, all voting in favor, to adjourn the meeting at 7:38 pm.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator