

**ELYSIAN CITY COUNCIL
REGULAR MEETING
JUNE 8, 2020**

The Elysian City Council met in regular session on Monday, June 8, 2020 at City Hall at 6:00 pm.

Roll Call: Mayor Pro Tem Mary Opsahl; Councilmembers Bobby Houlihan, Dennis Schnoor, Bryan Suemnick; City Administrator Lorri Kopischke; Public Works Director Ron Greenwald; City Attorney Jason Moran (attended via teleconference). Absent: Mayor Tom McBroom.

On motion by Houlihan, seconded by Suemnick, all voting in favor, the minutes of the May 11, 2020 Regular Meeting and May 28, 2020 Special Meeting were approved as presented.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the agenda of the June 8, 2020 Regular Meeting with the following additions:

1. Le Sueur County Deputy Matt Shouler
2. Under 11. Add d. Bar Hours
3. Under 13. Add f. Veteran Memorial Dedication and Boat Parade July 4
4. Under 15. Additional check #25465 for VISA in the amount of \$292.81

Le Sueur County Deputy Matt Shouler stated all is well in the City. There were no questions from Council.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to close the meeting and open the Public Hearing at 6:03 pm.

The purpose of the Public Hearing is to allow public input from citizens on an Amendment to City of Elysian Ordinance §156.121 Accessory Structure Standards in regard to the maximum height and size of a detached accessory structure and permit requirements, and to §156.065 R-1 General Residential Zone in regard to the required side and rear yard setback for a detached accessory structure.

Due to an increased number of requests for larger than permitted detached accessory buildings in the City, the Council had asked the Planning and Zoning Commission to research this and present a recommendation. The Planning and Zoning Commission has spent several meetings discussing the issue and recommends the following amendment:

§ 156.121 ACCESSORY STRUCTURE STANDARDS

(A), (B), and (C) would remain the same.

Item (D). Dimensional Limits: Detached accessory structures are subject to the dimensional limits established below:

- a. Maximum height: Maximum height of accessory structure cannot exceed 21 feet. The building height is measured halfway up the pitch of the roof (gable).*
- b. Total number of detached accessory buildings per lot: two; and*
- c. Accessory structure(s) total building area allowed per lot: Not to exceed 30% of lot coverage.*

Item (E). Permit Requirements: A building permit must be secured from the Zoning Administrator prior to constructing or locating an accessory structure anywhere on the lot. Any accessory structure less than 200 square feet does not require a building permit.

Items (F) and (G) would remain the same.

AND:

§ 156.065 R-1, GENERAL RESIDENTIAL ZONE

(E) R-1 Standards

(3) Side Yard, accessory building: If accessory building is 1,200 square feet or less the required side yard setback is a minimum of three feet. If accessory building is larger than 1,200 square feet, the required side yard setback is a minimum of fifteen feet.

(5) Rear Yard, accessory building: If accessory building is 1,200 square feet or less the required rear yard setback is a minimum of three feet. If accessory building is larger than 1,200 square feet, the required rear yard setback is a minimum of fifteen feet.

Schnoor asked the reasoning for the 15-foot side and rear yard setback. Kopischke explained the Commission intended to control the size of the accessory structures in comparison to the lot size. This would be obtained with the 30% lot coverage rule and the increased setback for a larger structure.

There were no public comments. No written comments were received.

On motion by Suemnick, seconded by Schnoor, all voting in favor, to close the public hearing and open the regular meeting at 6:08 pm.

Public Comment:

Leo Brown, 117 Willow Point Drive, stated he had attended the June 2nd Planning and Zoning Public Hearing for the variance request at 114B Willow Point Drive. He noted the meeting had been a bit out of control and he apologized for his participation in that. He acknowledged the frustration and recognized the City Administrator's efforts at that meeting.

He stated he respected the Arnold's proposal. He disagrees with parts of it but with that set aside the Arnolds are not the brunt of all the problems there with the blacktop and water control. They did not deserve to be blamed.

Brown stated he has lived on Willow Point Drive for 6 years, he loves Elysian. It is a great place to live. Willow Point, a private Drive, seems to be in a state of anarchy where everyone does their own thing. This may have served a purpose 10-20 years ago when there was mainly cabins in the area, but it is not working so well now.

Brown asked the City to take more of a leadership role in the issues on Willow Point Drive to proactively solve the problems rather than create more. He suggested a Willow Point Townhall where residents would be invited to discuss common concerns and problems they would like to see addressed. Issues such as the blacktop needing to be replaced. The City has the resources to accomplish such a meeting. Ground rules could be set, and the meeting would be proactive.

Brown acknowledged Public Works Director Greenwald's good work. He also expressed his appreciation to Public Works Worker Doehling for his leadership and initiative with regard to the

garbage and recycle at Willow Point Drive. For several weeks Doehling came out and picked up all the garbage and recycle bins from the private drive and moved them to the public street for pickup and then brought them back to the residences. This reduced the damage to the private drive. Brown thanked Doehling for these efforts.

Houlihan suggested Willow Point form an association. The development where he lives, Cedar Point, has an association and it works well. Then the neighborhood can meet and come up with some options. A representative can then meet with the Council and it goes much more smoothly.

Sharon Brandt, representing the American Legion #311, reported a Veteran's Memorial Dedication will be held on July 4th at 10:00 am. They plan to have participation from five to six posts in the area and will march to or from the Memorial. There will be a celebration at the Memorial, and it is open to the public.

Jim Sather, 13 Cedar Point Lane, stated he is new to the area. He thanked the City Council for their efforts and expressed his appreciation of the area and the businesses. He stated he was here tonight to discuss the lack of internet service in his development. He has tried Frontier, mobile hotspot with Verizon, and T-Mobile. They all offer limited service or entirely no service. Sather stated he has contacted Jaguar Communications and asked if they would consider installation of fiber optics into this area to provide service. He has been told that there was an inquiry made to the City. Sather asked if the City would be interested and open to allowing Jaguar to provide service to his area.

Kopischke reported that a representative from Jaguar had called this morning and had indicated they would be emailing more information regarding their intentions. Councilmembers expressed support for the installation of Jaguar's services within City limits and stated that they would move the process forward as quickly as possible if a request was received.

The Council then considered Resolution #709/20 – Adopting Findings of Fact and Reasons for Approval for Variance Application of Kevin & Cheri Berge at 114B Willow Point Drive.

The Planning and Zoning Commission held a Public Hearing on June 2, 2020 to consider a request for a variance from Kevin and Cheri Berge to build a new home at 114B Willow Point Drive. The proposal would require the following: the required setback from the OHW is 75 feet – requested is 50 feet, the required lot width at the OHW is 75 feet – requested is 65 feet, and the required minimum lot area is 20,000 square feet – requested is 14,928 square feet.

The Berges would like to purchase the property at 114B Willow Point Drive and build a new home on the lot. The lot is currently owned by Dick and Carol Arnold. The Arnolds had a home located on 114A and 114B Willow Point which has been removed. They are now selling the lots separately.

The purchase would include PID# 16.415.0110 (lakeside) and PID# 16.411.0255 (across the private drive). For the purpose of this variance, the applicant is utilizing the square footage in both lots to achieve a total of 14,928 square feet. Per the Bolton & Menk survey dated 2/5/2020 the lakeside lot is 5,881 square feet and the out lot is 9,047 square feet.

The home would be located approximately 50 feet from the OHW. The home at 115 Willow Point Drive is located approximately 50 feet from the OHW. The home at 113 Willow Point Drive is located approximately 77 feet from the OHW.

The lot width at the OHW is approximately 65 feet.

The proposal does meet the setback requirements and at the time of the Planning and Zoning Public Hearing, it was thought that the proposal met the lot coverage requirement of a maximum of 25%.

There were quite a few residents of Willow Point Drive at the Public Hearing. Most of the opposition was due to the water issues in the subdivision. There was also opposition expressed due to impervious surface and lot coverage issues.

Based on the information the Planning and Zoning Commission had at the time, the Commission voted on a 3-1 vote to recommend Council approval of the variance based on the following findings of fact:

1. Reasonableness: The house has been designed in a manner that fits on a smaller lot. It meets the side and rear setbacks. This has been a lot of record since the development was platted.
2. Uniqueness: This lot was platted to the size standards applicable in the 1960s. The property is long and narrow. The home has been designed to fit into that area and meet the required side yard setbacks.
3. Essential Character: This is a smaller home that will fit well into the area. The proposed location will line up with the other homes along the lakeshore.

Following the Public Hearing, City Staff toured the site to investigate the allegations of impervious surface on the backside lot. The lot (16.411.0255) is covered entirely in gravel (9,047 square feet). The gravel is hard packed and in some areas is quite deep. The entire area 9,047 is impervious surface. This was not disclosed by the property owner. When the property owner redid the back area in 2018, he stated he would bring in black dirt and cover with one load of gravel.

The surface on the back lot is impervious. With the 9,046 square feet of impervious and the house, garage, driveway and covered deck, the proposal would result in 85% impervious surface.

Todd Piepho, Area Hydrologist, Minnesota Department of Natural Resources, stated "...while DNR does not have jurisdiction on this area, they always recommend that if the variance is granted, the additional impervious area above the 25% allowed should be captured in some sort of retention, rain garden, storage basin, barrels (small scale) etc. and sized accordingly to prove additional lot coverage will be stored onsite, temporarily. Impervious surface coverage is something that is likely spelled out in the local shoreland ordinance (along with MN Rule 6120.3400) and council should be aware of language and required mitigation if variances are granted. In some cases, storage may not be able to be achieved, this is where the council will need to weigh heavy on denial or alternatives...."

If the applicant intends to move forward with the 85% impervious surface, Staff recommends either 1. Denial of the variance request; 2. Council refer the variance request back to Planning and Zoning for further revision; or 3. That the 60-day extension be invoked to give time to resolve the issue.

It was noted that William Hoversten, Patton, Hoversten, & Berg, PA, had submitted a letter to City Attorney Moran requesting that the variance application be amended to include a requirement on their part of the project to include a soil correction on all of the back lot. This will create a pervious surface and consist of the removal of the top 6" of existing gravel/top soil, replacement on the entire area of the back lot with black dirt and then for that entire area to be seeded with grass.

Houlihan asked how deep the gravel was on the back lot. Kopischke stated that on one half there was a packed black dirt and gravel mixture that was compacted to an impervious state. The other

half the gravel was on an average 12 inches deep. Houlihan questioned if removing 6 inches of gravel and replacing it with 6 inches of dirt would do any good. It would be like putting 6 inches of dirt on top of a parking lot.

Dick Arnold, owner, 114B Willow Point Drive, stated the culvert is 8 to 10 inches deep on the back lot. Kopischke noted that would make it difficult to scrape off more than 6 inches.

Houlihan suggested this issue should be referred back to the Planning and Zoning Commission for further study.

William Hoversten, Patton Hoversten, & Berg, PA addressed the Council. Hoversten stated he has been authorized on behalf of Mr. and Mrs. Berge, and Dick and Carol Arnold to accommodate the concern of lot coverage that has been raised regarding their variance application following last week's approval at the Planning Commission meeting. He stated there is a difference of opinion on what is impervious and what is pervious in terms of gravel, dirt, and plant materials. But rather than argue that point, the Arnold's decided that to assist the Berge's in having their variance application approved, they would do the soil correction. They have relied on their contractors to tell them what is required, and they have advised that removing 6 inches would provide a pervious surface.

Hoversten stated that the other issue of sending it back to Planning and Zoning would be the timing. This is building time in Minnesota and Mr. and Mrs. Berge have worked hard to put this together so they would hope with this effort to do the soil correction that the variance would be issued so they could get their permit. If there was a reason to send it back to Planning and Zoning they would certainly follow Council direction but these public meetings don't necessarily fall together in June, July and August as they do in the normal meeting season so we would hope that we can answer all your questions tonight and obtain approval.

Suemnick asked if since Planning and Zoning had already recommended approval of the variance could the Council just make it a condition that the lot had to be put back to pervious surface? Moran stated he had no opposition with the Council passing the variance with this as a condition to both the variance and the building permit. The soil corrections would be added as a condition meaning that if they do not make the corrections within 60 days of the variance then the variance is null and void.

Dick Arnold noted that Randy Timm, Timm's Trucking, is the contractor who recommended the 6 inches to return the lot to a pervious condition. Arnold noted he was fine with 60 days to make the correction but noted that if the lot was worked up, there would be no place to park the trucks during construction of the new house.

Suemnick agreed that if you would drive heavy equipment on that lot right after it was improved it would be defeating the purpose. He suggested the soil correction be completed 60 days after completion of the project.

Dave Arnold, 119 Willow Point Drive, stated he had allowed the owner of 121 Willow Point Drive to park his heavy equipment on his driveway at 119. He would be happy to do the same during the construction at 114B Willow Point Drive if they needed additional area to park.

Councilmember Suemnick introduced the resolution and was seconded by Mayor Pro Tem Opsahl.

CITY OF ELYSIAN
LE SUEUR COUNTY, MINNESOTA
RESOLUTION NO. 709/20

RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS
FOR APPROVAL FOR VARIANCE APPLICATION OF
KEVIN & CHERI BERGE
AT 114B WILLOW POINT DRIVE

FACTS

1. Kevin and Cheri Berge have a signed purchase order for the parcel of land located at 114B Willow Point Drive, Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Kevin and Cheri Berge have applied to the City for a variance to build a new home as described on Exhibit B.
4. The proposal would vary from § 156.091 GENERAL STANDARDS. (B) (1) (a) 75 foot required setback from OHW, 75 foot required lot width at OHW, and 20,000 square foot required lot area in that the home would be located 50 feet from the OHW, the lot width at the OHW is 65 feet and the lot area is 14,928 square feet.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on June 2, 2020.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of June 8, 2020.

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 house has been designed in a manner that fits on a smaller lot. This has been a lot of record since the development was platted.
9. There are unique circumstances to the property not created by the landowner because this lot was platted to the size standards applicable in the 1960s. The property is long and narrow. The home has been designed to fit into that area and meet the required side yard setbacks.

10. The variance will maintain the essential character of the locality because this is a smaller home that will fit well into the area. The proposed location will line up with the other homes along the lakeshore.
11. And with the condition that: Soil correction be made to the entire back lot (Parcel ID# 16.411.0255) to create a pervious surface. This correction will consist of the removal of the top 6" of existing gravel/topsoil, replacement on the entire area of the back lot with black dirt and the entire area be seeded with grass. The correction must be made within 60 days from the completion of the construction project. If the correction is not made within 60 days, this variance will be null and void.
12. NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Kevin and Cheri Berge to build a home so as to deviate from § 156.091 GENERAL STANDARDS. (B) (1) (a) 75 foot required setback from OHW, 75 foot required lot width at OHW, and 20,000 square foot required lot area in that the home would be located 50 feet from the OHW, the lot width at the OHW is 65 feet and the lot area is 14,928 square feet is hereby Approved.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, Opsahl, Schnoor, Suemnick
Councilmembers voting in the negative: None.

Adopted by the City Council of Elysian on this 8th day of June 2020.

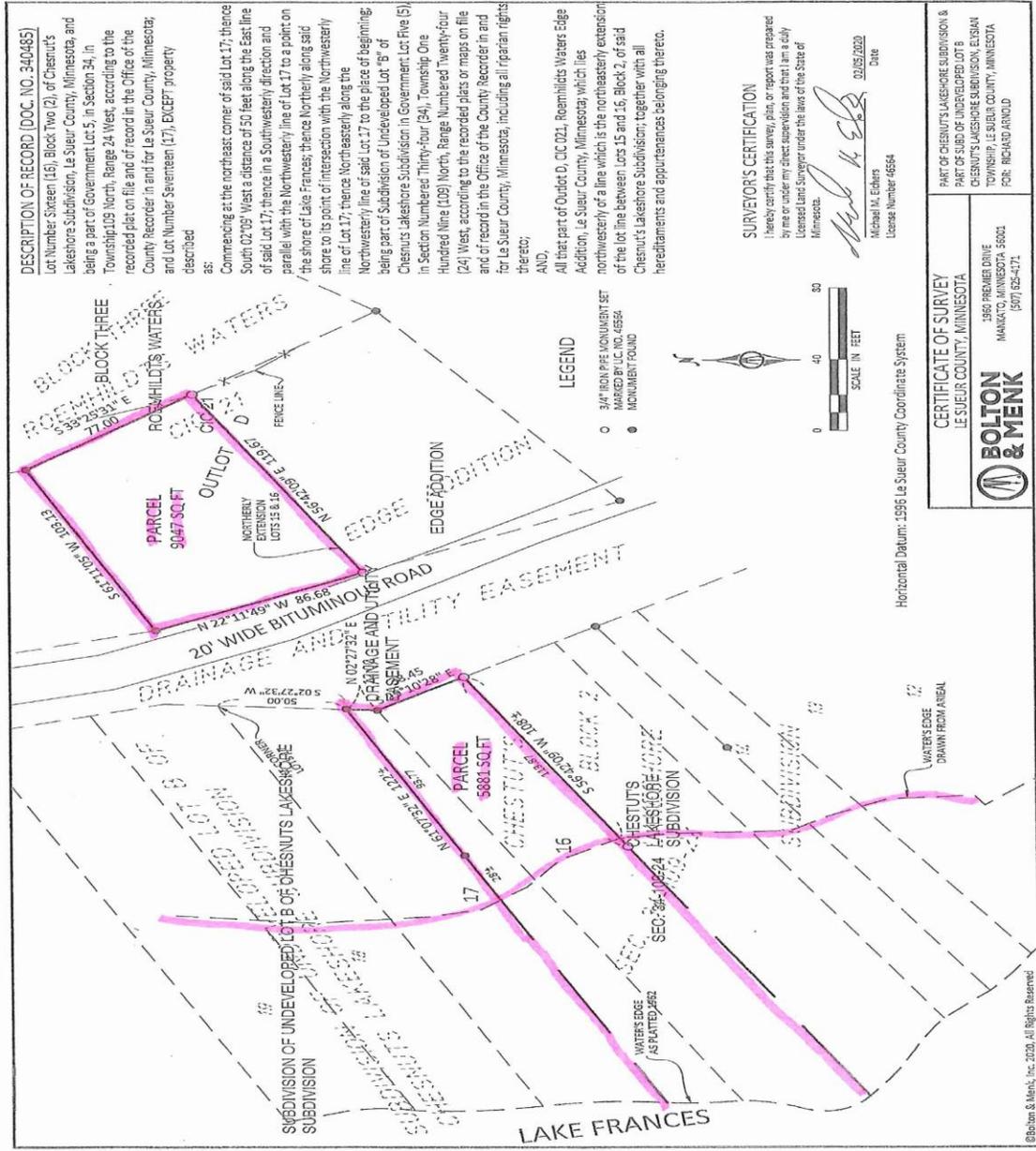
Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

Resolution 709/20. Exhibit A



DESCRIPTION OF RECORD (DOC. NO. 340485)
 Lot Number Sixteen (16), Block Two (2), of Chestnut's Lakeshore Subdivision, Le Sueur County, Minnesota, and being a part of Government Lot 5, in Section 34, in Township 109 North, Range 24 West, according to the recorded plat on file and of record in the Office of the County Recorder in and for Le Sueur County, Minnesota; and Lot Number Seventeen (17), EXCEPT property described as:

Commencing at the northeast corner of said Lot 17, thence South 02°09' West a distance of 50 feet along the East line of said Lot 17; thence in a Southwesterly direction and parallel with the Northwesterly line of Lot 17 to a point on the shore of Lake Frances; thence Northwesterly along said line of Lot 17; thence Northwesterly along the Northwesterly line of said Lot 17 to the place of beginning; being part of Subdivision of Undeveloped Lot 5 of Chestnut's Lakeshore Subdivision in Government Lot Five (5) in Section Numbered Thirty-Four (34), Township One Hundred Nine (109) North, Range Numbered Twenty-Four (24) West, according to the recorded plats or maps on file and of record in the Office of the County Recorder in and for Le Sueur County, Minnesota, including all riparian rights thereto; AND,

All that part of Outlot D, DIC 02L, Reamhills Waters Edge Addition, Le Sueur County, Minnesota, which lies northwesterly of a line which is the northwesterly extension of the lot line between Lots 15 and 16, Block 2, of said Chestnut's Lakeshore Subdivision; together with all hereditaments and appurtenances belonging thereto.

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Michael M. Eichers
 Michael M. Eichers
 License Number 46564
 Date 02/05/2020

- LEGEND**
- 3/4" IRON PIPE MONUMENT SET MARKED BY U.C. NO. 46564
 - MONUMENT FOUND



Horizontal Datum: 1985 Le Sueur County Coordinate System

CERTIFICATE OF SURVEY
 LE SUEUR COUNTY, MINNESOTA

1985 PREMIER DRIVE
 MANKATO, MINNESOTA 56001
 (507) 625-4771

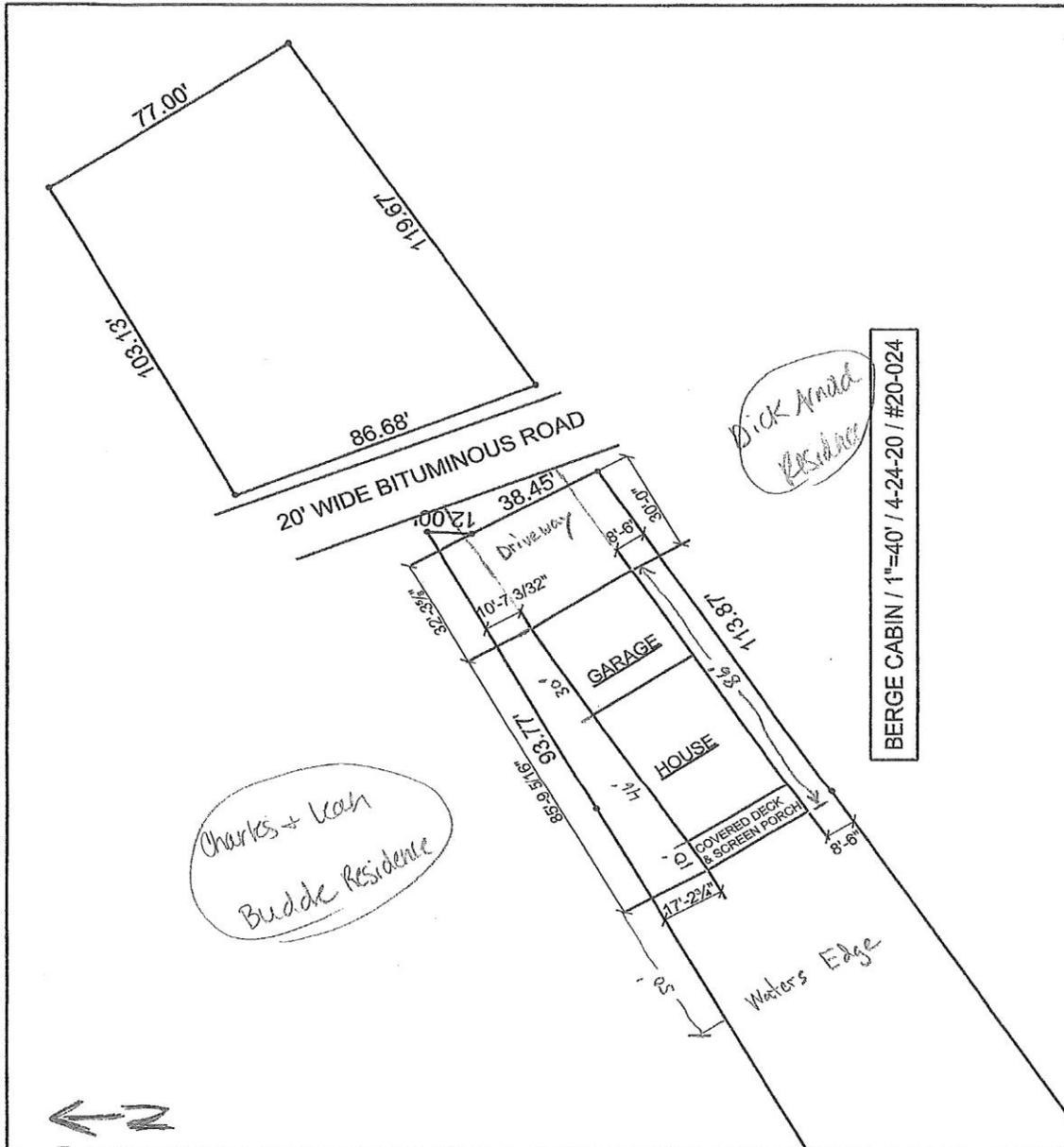
BOLTON & MENK

PART OF CHESTNUT'S LAKESHORE SUBDIVISION & PART OF SUBD. OF UNDEVELOPED LOT 5 OF CHESTNUT'S LAKESHORE SUBDIVISION, ELSBORN TOWNSHIP, LE SUEUR COUNTY, MINNESOTA FOR: RICHARD ARNOLD

Horizontal Datum: 1985 Le Sueur County Coordinate System
 JOB NUMBER: A865.124850 FIELD BOOK: SEE FILE
 035120465H
 47 557-T05M-224W
 DRAWN BY: J.A.

MINN. ST. SURV. DIV.

Resolution 709/20
Exhibit B.



The Council then considered Resolution #710/20 – Adopting Findings of Fact and Reasons for Approval for Variance Application of Timothy and Sharon Brandt at 104 Willow Point Drive.

The Planning and Zoning Commission held a public hearing on June 2, 2020 to consider a variance request from Timothy and Sharon Brandt for a variance to build a detached accessory structure on their lot at 104 Willow Point Drive. The proposal would require the following: Required maximum lot coverage 25% - requested lot coverage is 31% and the required maximum detached accessory

structure is 1,800 square feet with 10-foot side wall height – requested is 2,080 square foot with 12-foot side wall height.

The Brandts own PID# 16.415.0050. This parcel is split by Willow Point Drive running through the parcel. The lakeside parcel is 14,105 square feet and the back parcel is 25,960 square feet for a total of 40,065 square feet. The lot coverage without the two existing sheds (house, driveway, and misc. road surfaces) is 10,045 square feet which results in 26% lot coverage. Brandt does plan to remove the two old sheds. The proposed shed of 2,080 square feet will increase the lot coverage to 31%.

The lot is difficult due to City water and sewer easements. There is also a history of water flowing off the surface of this lot and across the road onto adjacent properties. The proposed location of the new accessory structure will meet the required setbacks.

During the Public Hearing, Brandt did state he would reduce the size of his requested accessory structure to 1,800 square feet with 12-foot sidewalls. This would reduce the resulting lot coverage to 30.46%.

The public comment at the hearing related to the water run-off. The Brandts stated they would be adding gutters to the new structure and they would be adding a rain garden. Last year they created a swale and dug a ditch to drain the water from the west to the north. They intend to improve upon that with this project by installing tile and a catch basin. There will not be a driveway to this building. There will be a small apron to ease the hump as you drive in.

The Planning and Zoning Commission did recommend City Council approval of the variance request based on the following findings of fact:

1. Reasonableness: The proposal will help to alleviate the water problem with the installation of a rain garden, tiling and gutters. The applicant is removing two sheds and replacing with one accessory building. This will match the accessory building on the adjacent property in terms of side-wall height.
2. Uniqueness: The City water and sewer utility easements preclude the placement of the accessory building at any other location on the lot.
3. Essential Character: This accessory structure will match the one on the adjacent property and will not affect the view of Lake Frances. The appearance of the rain garden will enhance the area.

Councilmember Suernick introduced the resolution and was seconded by Councilmember Houlihan.

CITY OF ELYSIAN
LE SUEUR COUNTY, MINNESOTA
RESOLUTION NO. 710/20
RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS
FOR APPROVAL FOR VARIANCE APPLICATION
OF TIMOTHY AND SHARON BRANDT AT 104 WILLOW POINT DRIVE

FACTS

1. Timothy and Sharon Brandt are the owners of a parcel of land located at 104 Willow Point Drive, Elysian, Minnesota; and,
2. The subject property is legally described as Chesnuts Lakeshore SUB-DIV Lot-006 Block-001 & E ½ of Lot 7 & E .50 AC OF G.L#7 Lying S of Driveway & N of Lot 6-7 in Chesnuts Lakeshore SUB-DIV; and,
3. Timothy and Sharon Brandt have applied to the City for a variance to build an 1,800 square foot detached accessory building as described on Exhibit A.
4. The proposal would vary from § 156.091 GENERAL STANDARDS (b) (1) (A) 25% maximum lot coverage and § 156.121 ACCESSORY STRUCTURE STANDARDS (D) (1) Maximum height: 17 feet and a maximum side wall height of a detached structure shall not exceed ten feet, in that it would result in a lot coverage of 30.46% and be 21 feet with a side wall height of 12 feet.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on June 2, 2020.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of June 8, 2020.

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 help alleviate the water problem with the installation of a rain garden, tiling and gutters. The homeowner is removing two sheds and replacing with one accessory building. This will match the accessory building on the adjacent property.
9. There are unique circumstances to the property not created by the landowner because the City water and sewer utility easements preclude the placement of the accessory building at any other location on the lot.
10. The variance will maintain the essential character of the locality because this accessory structure will match the height of the accessory structure on the adjoining property and will not affect the view of Lake Frances. The appearance of the rain garden will enhance the area.

11. NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Timothy and Sharon Brandt to build an 1,800 square foot detached accessory building so as to deviate from § 156.091 GENERAL STANDARDS (b) (1) (A) 25% maximum lot coverage and § 156.121 ACCESSORY STRUCTURE STANDARDS (D) (1) Maximum height: 17 feet and a maximum side wall height of a detached structure shall not exceed ten feet, in that it would result in a lot coverage of 30.46% and be 21 feet with a side wall height of 12 feet is hereby Approved.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, Opsahl, Schnoor, Suemnick

Councilmembers voting in the negative: None.

Adopted by the City Council of Elysian on this 8th day of June 2020.

Approved:

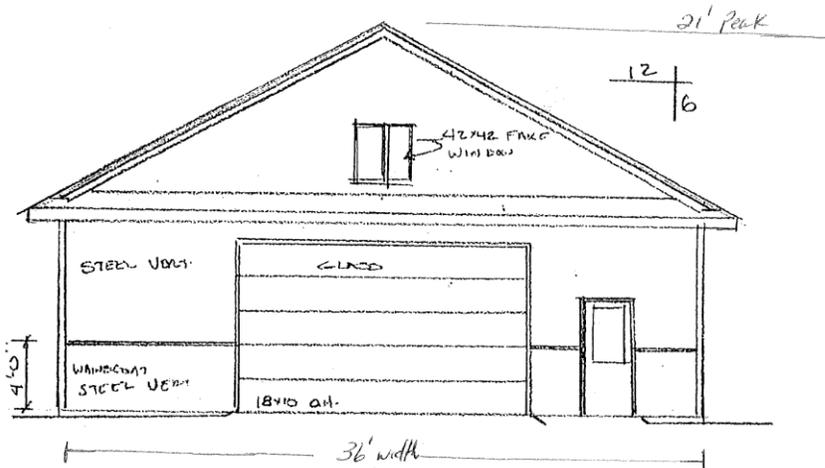
Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

11/18/19

Resolution 710/20
Exhibit A



The Council then discussed the proposed amendments to the City of Elysian Zoning Code Ordinance §156.121 Accessory Structure Standards and §156.065 R-1, General Residential Zone.

It was noted that the 15-foot side and rear setback was meant to control the size of the detached accessory. If the lot was not large enough to accommodate the setback then the size of the structure would need to be reduced.

On motion by Schnoor, seconded by Opsahl, all voting in favor, to approve the proposed amendments to the City of Elysian Zoning Code Ordinance §156.121 Accessory Structure Standards and §156.065 R-1, General Residential Zone as follows:

§ 156.121 ACCESSORY STRUCTURE STANDARDS

(A), (B), and (C) would remain the same.

Item (D). Dimensional Limits: Detached accessory structures are subject to the dimensional limits established below:

- a. Maximum height: Maximum height of accessory structure cannot exceed 21 feet. The building height is measured halfway up the pitch of the roof (gable).*
- b. Total number of detached accessory buildings per lot: two; and*
- c. Accessory structure(s) total building area allowed per lot: Not to exceed 30% of lot coverage.*

Item (E). Permit Requirements: A building permit must be secured from the Zoning Administrator prior to constructing or locating an accessory structure anywhere on the lot. Any accessory structure less than 200 square feet does not require a building permit.

Items (F) and (G) would remain the same.

AND:

§ 156.065 R-1, GENERAL RESIDENTIAL ZONE

(E) R-1 Standards

(3) Side Yard, accessory building: If accessory building is 1,200 square feet or less the required side yard setback is a minimum of three feet. If accessory building is larger than 1,200 square feet, the required side yard setback is a minimum of fifteen feet.

(5) Rear Yard, accessory building: If accessory building is 1,200 square feet or less the required rear yard setback is a minimum of three feet. If accessory building is larger than 1,200 square feet, the required rear yard setback is a minimum of fifteen feet.

This Amended Ordinance shall be effective and be in force after its passage and publication.

Staff reported that a parcel of property owned by Jeremy and Tiffany Henninger, 182 Ridge Road NE, PID # 16.035.0700, was potentially in violation of the City's nuisance code. According to the nuisance code, Ordinance No. 16, no grass shall be allowed to grow longer than 6 inches. In the event of non-compliance, the City can mow it and assess the costs, or a citation can be issued for a violation of the grass ordinance. A violation is a misdemeanor.

The Henningers were sent a notice of the violation on May 26, 2020 and asked to have the lawn mowed prior to June 1, 2020. Mr. Henninger responded on May 27, 2020 via email as follows: "I have an extreme amount of money into that Minnesota Wild grass and CRP planting, I do need to cut the Wheat one more time but I will NOT be cutting it and keeping it at 6 inches." Staff then received an additional communication from Justin Weinberg, Taft Law Firm on May 29, 2020 via email stating: "...Concerning the balance of the property, there is professionally planted wild flowers and other ornamental landscaping plants – not grass or weeds as set forth in the attached ordinance. Neither the attached ordinance, or any other ordinance, require those plantings to be mowed at regular intervals and kept at a height under 6 inches...."

The entire lot was cut on June 5, 2020 and is ready to be raked and baled. So, the lot is now in compliance. Staff asked Council for direction on how to proceed with this lot in the future.

Public Works Director stated the crop around the outside of the parcel is a mixture of alfalfa and brome. The lighter color crop closer to the house is a cover crop of wheat. Greenwald was unable to determine if there was anything else growing in that area. It would take 2 to 3 years for ornamental flowers to grow and bloom.

Kopischke stated this is an enforcement issue for staff. There was an inquiry this week from a different resident who would like to grow alfalfa.

Moran stated that this property is developed to its maximum potential. It is not going to be developed any further. If the City has a long grass ordinance, we need to enforce it.

Council discussed the issue at length. There was consensus that the City Ordinance needs to be enforced for all property owners. Staff was authorized to send a letter to Henninger to advise him that the grass needs to be kept at 6 inches going forward and that the City Ordinance will be enforced.

Staff provided an update on operations in regard to the Coronavirus COVID-19 Pandemic. It was noted that the State of Minnesota Stay at Home Order that was in place until May 18 had been changed to Stay Safe Minnesota and that some businesses were allowed to open with restrictions.

City Hall and the City Shop opened to the public on May 18, 2020 and all full-time employees have resumed normal work hours. The part-time Public Works employees including the brush pile employees have also returned to work. All public meetings will now be live. There was Council direction to open the Tourism Center as of June 9, 2020. Staff reported the City does need to create and adopt a COVID19 Preparedness Plan and that will be presented for approval at the July Council Meeting.

The City parks and City beach are now fully opened including the bathrooms. Signs stating "Use Playground and Bathroom at Your Own Risk" have been installed.

The Outdoor Café Resolution will continue. The American Legion has requested Main Street be closed in front of their business. The type of fencing and use of tents was discussed. Fencing was left to Public Works discretion. There was Council consensus to not allow big tents on Main Street. There was Council consensus to amend the conditions of the Outdoor Café Resolution to allow businesses to resume their normal business hours.

Schnoor asked that with the Governor opening things up if it was still necessary to have the Local Emergency Declaration in place. City Attorney Moran stated it was a good idea to keep it in place at this time in case COVID-19 were to get worse and things start shutting down again.

Greenwald reported there were three applicants for the temporary summer mowing position. Staff is recommending Levi Bowman be offered the position for the 2020 season.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve Levi Bowman for the 2020 temporary summer mowing position.

Chris Cavett, SEH Engineering, reported he had met with Le Sueur County Engineer Dave Tiegs regarding the mill and overlay that was done on Main Street East. Tiegs stated there are no County funds available to help with the 2020 work. He stated he would see what he could do about programming in the overlay for the remainder of Main Street in 2021.

Cavett reported that Tiegs also looked at the sinkhole on CSAH11 next to Lake Francis. That sinkhole has gotten to be a bigger issue than just standard maintenance for the City. Tiegs asked the City to do what they can to maintain it until later this summer and the County will dig it up at their expense and determine what is happening there.

The Council considered draft Ordinance #98/20 – An Ordinance Establishing Fees for Emergency Protection Fire Service. This ordinance is necessary so that the City can bill for fire calls and responding to motor vehicles accidents. The City will not bill to respond to medical calls.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to set a Public Hearing for July 13, 2020 at 6:00 pm to consider Ordinance #98/20 – An Ordinance Establishing Fees for Emergency Protection Fire Service.

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

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION NO. 711/20
RESOLUTION APPROVING 2020 ELECTION JUDGES
FOR BOTH THE STATE PRIMARY AND GENERAL ELECTIONS

BE IT RESOLVED, by the Council of the City of Elysian, County of Le Sueur and County of Waseca, State of Minnesota, that the following persons are appointed as 2020 Election Judges for the August 11th State Primary and the November 3rd General Election contingent upon receiving necessary training hours as required by the MN Secretary of State. Their hourly rate of pay will be \$11.00, and they will receive mileage reimbursement for training if applicable. The City will provide election judges with snacks along with one meal per shift.

Judges for Elections: Janice Evans, James Hansen, Charlene Howe, Lorri Kopischke, Patricia Nusbaum, Judith Quiram, Roger Quiram, Sarah Reindl, Marilyn Sandquist, and Brian Van Asperen.

BE IT FURTHER RESOLVED, head election judge duties will be performed by Marilyn Sandquist, Brian Van Asperen and Lorri Kopischke, Elysian City Clerk/Administrator. Head Election Judge(s) shall have authority to designate additional election judges should an emergency arise.

Upon vote being taken:

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

Councilmembers voting in the affirmative: Houlihan, Opsahl, Schnoor, Suemnick.

Councilmembers voting in the negative: None.

Adopted by the City Council of the City of Elysian this 8th day of June, 2020.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

Mayor McBroom, Councilmember Houlihan, Public Works Greenwald, and City Administrator Kopischke met with Jeff Bertram, Don Williamson, and James Handt of West Central Sanitation on May 20, 2020 to discuss garbage pickup on private drives. Houlihan reported at that meeting that Kaplan/Cedar Point residents are satisfied with bringing their garbage into town to the dumpsters. Several possibilities were discussed for the other private drives in the City and staff will be contacting those affected to discuss options. The use of smaller trucks could be explored but West Central noted there will be an increase in cost with that option.

The West Central Sanitation contract is set to expire September 30, 2020. Staff is recommending renewal of the West Central Contract for another three years.

Don Williamson, Owner, West Central Sanitation, agreed that the May 20th meeting was productive. West Central is open to working with the City in a way they feel best meets their needs. It was noted that most of the roads in question are private development roads and one of the options discussed was to bring the cans out to the road which could result in a reduction in rates overall. Other issues could be addressed on a seasonal basis such as the spring issue on Willow Point Drive.

Williamson stated West Central will submit a contract for Council review.

Staff continues to investigate solutions for IT support. A meeting is scheduled with representatives of MARCO this week.

Thank you to the Van Asperen Family for cleaning Tustin Park. Thank you to Jerry and Cheryl Ellingsworth for planting the flowers beds on the east and west end of the City. Thank you to Lake Area Women for supplying the flowers for the pots on Main Street and to Greenwalds Greenhouse for planting the pots.

There will be a Veterans Memorial Dedication at Sunset Park on July 4 at 10:00 am. The Boat Parade on Lake Frances will be held on July 4 at noon.

City Attorney Moran reported on discussion with the DNR in regard to the wayside rest property. He and the City Administrator met via telephone with representatives of the DNR and they are interested in conveying to the City three properties including the wayside rest and parking lot, the DNR owned property on the next area to the east, and the alley property on the area between State Highway 60 and the businesses on Main Street East. This conveyance would be without any compensation.

Moran stated his concern is that the wayside rest building and parking lot are in need of repair, the costs of upkeep and maintenance and the encroachment issues on the second and third properties that will need to be cleared up.

There was Council consensus to have staff and the City Attorney continue discussions with the DNR to attempt to secure DNR funding for this conveyance.

Kopischke presented check #25465 to VISA in the amount of \$292.81 for disposable facemasks and digital wind speed anemometer, and asked that it be included in the bills, payroll, and transfers for consideration. This would result in a total of \$133,415.33 for approval.

On motion by Schnoor, seconded by Houlihan, all voting in favor, bills, payroll, and transfers were approved in the amount of \$133,415.33.

Public Comment: None.

On motion by Houlihan, seconded by Suemnick, all voting in favor, to adjourn the meeting at 7:36 pm.

Approved:

Mary Opsahl, Mayor Pro Tem

Attested:

Lorri Kopischke, City Administrator