

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
JUNE 2, 2020**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, June 2, 2020 at City Hall and via telephone at 6:00 pm.

Present were: Chairperson Rick Galewski; Commissioners Kristina Droog, Dan Engebretson (via telephone), and Jeremy Henninger; Zoning Administrator Lorri Kopischke. Absent: Tom McBroom.

On motion by Droog, seconded by Henninger, all voting in favor, to approve the agenda as presented.

On motion by Henninger, seconded by Droog, all voting in favor, to approve the minutes of the March 10, 2020 Regular Meeting as presented.

On motion by Henninger, seconded by Galewski, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:02 pm.

The purpose of the Public Hearing is 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 cabin located on 114A and 114B Willow Point Drive and have removed the structure. 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 meets all other setback and lot coverage requirements. The lot coverage as proposed, including the deck and screened porch, house, garage, and driveway is 25%.

The applicant has provided the following practical difficulties as part of the application process:

1. Reasonableness: Property would be used as a cabin/home. We lined up the cabin with the neighbors on the lakeside and driveway side to blend in.
2. Uniqueness: The narrowness of the lot creates a longer home to be placed on the property.

3. Essential Character: Our goal is to match the setback of the neighbors on water frontage and driveway. If allowed to proceed our home will blend with the other homes and not alter the character of the area.

Daniel Petrik, Land Use Specialist, Minnesota Department of Natural Resources commented as follows: "Do you know if Dick and Carol Arnold still own this lot and the other lot with the address 114A? If 114A and 114B are adjacent and there are still owned in common by the Arnolds, state law requires them to be combined. This might not solve the setback challenge, but the riparian lot would be closer to meeting the minimum lot size. I'm not sure of the lot configuration but if the other parcel also had a component on the other side of the road, then those two out lots could be combined as well so there would be one riparian combined lot and one nonriparian combine lot."

City Attorney Jason Moran responded as follows: "The lot in question is a lot of record. This lot of record was platted prior to the City's adoption of the Zoning Code. The applicant has requested a variance for a structure on that lot of record. There are currently no structures on that lot. The applicant has an interest in a 2<sup>nd</sup> lot across a cart-way or private drive (the legal designation of the private drive is ambiguous), however, it is not a city street. It is my opinion that those two lots are contiguous and that the lot across the drive can be used for density requirement on the shore land lot. The applicant does not need to, in my reading of the statute, combine the two shore-land lots. In fact, if Arnold sells those two northern lots to Berge, Berge can only combine what he owns: only the two northern lots. We cannot force Berge to combine property which he does not own."

Galewski asked if there were always two lots on the lakeside or if there had been one lot and it had recently been split. Dick Arnold, owner of 114A and 114B Willow Point Drive stated there had always been two separate lots lakeside and two separate lots on the other side of the private drive.

Droog asked if Arnold planned to build on 114A Willow Point Drive or if it would remain vacant? Arnold stated they may sell, or they may build.

Droog questioned the side yard setbacks of the proposed house. Kevin Berge, applicant, stated there is 8.5 feet mid lot and 13 feet by the water. There is 8.5 feet on both sides of the driveway. The structure will be located 30 feet off Willow Point Drive.

Galewski asked if the lots 114A and 114B are the same width. John Arnold, handling the sale of the property, stated 114A is approximately 10-14 feet wider than 114B.

Galewski noted the rain runoff is an issue in that area. 8 feet 6 inches on each side is not a lot of room. There is a lot of water that runs through that area.

Dick Arnold noted the lots have been raised considerably.

Engbretson stated he felt the DNR had a legitimate point saying that the lake lots should be combined. Engbretson did not think it was a good thing to build two oversized houses on two undersized lots.

Public Comment:

Kevin Berge stated that the foundation of the house will be high enough to blend with the houses on either side. They intend to create a swale so the water will flow the way it should. He suggested there was more concern with water on the street side than on the lakeside.

Galewski suggested the water issues started years ago as the houses all the way up the hill were built up and just kept building and building. All the water just kept getting pushed on to the next guy and the next guy down to the bottom.

Dick Arnold stated he has accepted everyone else's water on both properties for twenty years and never complained. Now he wants to do something with his lots.

Mark Miller, 116 Willow Point Drive, stated he was required to have a hydrologist report when he installed his culvert on the street side lot. He installed the first culvert and now that other culverts are being installed, his property has become the low spot. His driveway is cracked from the freezing water and he believes he could potentially lose his garage because of the water. He requested that a hydrology report be obtained before any building be done on this lot.

Dick Arnold stated the MN DNR had approved the 200 feet of culvert on his property and determined it would not affect the quality of the water or the lake. From start to finish he has done everything he was told to do, and he has done it the right way including the permits and the drainage.

Dave Arnold, 119 Willow Point Drive, stated the problem starts at the top of the hill. Two years ago, with the heavy rains there was so much water you could kayak in the some of the yards. The problem is not down the road, it is up the road. The people at the bottom of the road are not the people to penalize for the water.

Dick Arnold stated he believes he has improved the property across the road. It used to be a dumping ground. The improvements have not changed the drainage at all.

Chuck Budde, 115 Willow Point Drive, stated that is not true. He is the direct neighbor to this property. Since Arnold has filled the back side of the lots, he has gotten a lot of water on his lot. There is nowhere for the water to go. The water goes onto his property and then onto Miller's property. The location of the water has changed since the lot was filled.

Dave Arnold stated the reason it has changed is that people have filled in all the way down the hill. He has had his cabin here since 1998. The property on the east side of Willow Point Drive used to be a swampy crappy area and everyone dumped their stuff there. Now all that property is developed. Kretlow has a nice two-story garage and every single property coming down the hill has developed that back property. It has all been filled in and sheds have been built. It looks great. This was the last of the swamp land to be filled in. It is nothing different than the other properties. It is not fair to hold this last property (114A & 114B Willow Point Drive) Arnold at bay. This issue was not caused here.

Budde agreed that Dick Arnold should be allowed to build on the lakeside property of Willow Point Drive. He just feels that Arnold could have done more on the east side of the property. He could have installed a catch basin with tile into the culvert. There is a catch basin at 115, 116, and 117 Willow Point Drive.

Droog confirmed that the variance request was to build on the lakeside at 114B Willow Point Drive. This request did not have to do with fill that was brought in previously to the property on the other side of Willow Point Drive. Henninger agreed.

Leo Brown, 117 Willow Point Drive, agreed that the uphill property owners have had the opportunity to improve their lots and that no property should be required to serve as a reservoir for any other property. He did believe however, that it was not legal to back a natural waterflow onto another property which is what the Arnold's are doing with the back lot. There was no receptacle installed on the roadside between 114 and 115 and now the water just stays there. So, Willow Point Drive is more vulnerable to damage. Since Arnold has filled that back lot there is more water back up. He filled it higher than the Budde lot next to him.

Brown stated the main issue is the splitting of the lots and putting in two big houses. There was one cabin on the lots since 1962. This proposal will change how the property is utilized contrary to past use.

Brown stated he had asked Arnold if he planned to build on the lot and his answer has always been that he would keep all options open. Brown felt there should only be one house on that entire lot.

Brown questioned the amount of impervious surface. He stated there is gravel on that back lot and he believes that area is impervious. That would increase the percentage of lot coverage / impervious surface on the property. He stated that in order to stay anywhere near the 25% lot coverage, the two lake lots would need to be joined because the back lots are all impervious surface with the exception of the back row of trees.

Dick Arnold stated again that these are two different lots owned by two separate people. He suggested the water sitting on the Miller and Budde lots (115 and 116 Willow Point) is water coming down the hill. Not water coming from his lot. The four lots being discussed are so much improved compared to what was there before.

Engbretson stated he felt these lots, as they are platted, are set up for 1950, 1960 style cabins. Putting larger style cabins on these lots will only further complicate the issues out in this area by creating more runoff.

Dave Arnold noted that the fill that was in the back lot was fill that was taken from the Paulsen lot, 121 Willow Point Drive, during their construction. That is lakeside property fill.

Kevin Berge stated he is possibly purchasing 114A Willow Point. Maybe they will need to bring some fill in to continue to improve the area.

Henninger noted there was a lot of talk about water. He had lived in the area in the past and understands the water issue is a bad deal. But that is not the subject of the variance request. He asked if the neighbors were against the building of a home on this lot.

Brown stated that he felt that a request to go from 20,000 square feet to 15,000 square feet was a significant drop in lot area. He suggested soil samples should be obtained to prove that the coverage will not be over 25% impervious.

John Arnold stated that the proposed 2,800 square foot house will fit perfectly on this lot. It meets the side and the rear yard setback requirements. If the 50 foot setback from the OHW is approved they will be set.

Henninger stated he did not believe it was right that someone would own a buildable property and then over time there are new rules, and now you can be told you can't build anything on the

property. Possibly a grading plan could be submitted to show how the water will flow on the lot once the house is built.

Engebretson stated he did not agree with taking a 5,881 square foot lot and using 3,000 square foot of that lot for a building.

Larry Howe, 113 Willow Point Drive, asked how the OHW was determined. Kopischke stated it was delineated on the Bolton & Menk survey of February 5, 2020. Howe questioned how an OHW could be determined when there is ice on the lake.

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

On motion by Henninger, seconded by Galewski, all voting in favor, to close the Public Hearing at 7:00 pm and reopen the regular meeting.

Engebretson stated he was not in favor of the variance. This is basically putting two large houses on two small lots. And there is hard surface across the road.

Henninger stated he was in favor of the variance. This lot was parceled in the 60s and was designed to place a home on it. The home being proposed is reasonable.

Galewski stated he was in favor of the variance. The owner is not trying to separate one parcel into two lots. This has been two separate lots since day one. The setbacks are reasonable. The structure will be lined up with the other homes. It would not matter if there were two smaller homes here or one larger one. It is the same. This would be allowed if the codes had not changed.

Droog stated she was in favor of the variance. The size of the lot is what it is. The house has been designed to make the proper setbacks. You have to go ahead with what you can do with the property. She did not feel this structure would make or break the water issue in this area.

On motion by Droog, seconded by Henninger, to recommend City Council approval of the request of Kevin and Cheri Berge, for a variance to build a new home at 114B Willow Point Drive, Elysian, Le Sueur County, Minnesota, with a setback at the OHW of 50 feet, a lot width at the OHW of 65 feet, and a lot area of 14,928 square feet (utilizing the area on PID# 16.415.0110 and PID# 16.411.0255) 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 yard 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.

Voting on the motion: Aye: Droog, Galewski, Henninger. Nay: Engebretson. Motion carried.

This recommendation will be considered by the Elysian City Council at their June 8, 2020 meeting.

On motion by Galewski, seconded by Droog, all voting in favor, to recess the meeting at 7:13 pm.

On motion by Galewski, seconded by Henninger, all voting in favor, to reopen the meeting at 7:19 pm.

On motion by Galewski, seconded by Henninger, all voting in favor, to close the Regular Meeting and go to Public Hearing at 7:20 pm.

The purpose of the Public Hearing is to consider a request from Timothy and Sharon Brandt for a variance to build a detached accessory building 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 in 2,080 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. Mr. 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 building would meet the required setbacks.

The applicant has provided the following practical difficulties as part of the application process:

1. Reasonableness: The request is to rebuild a new outbuilding at the same floor height as Tim & Donna Henninger's outbuilding. I am requesting a (40x52) which would be large enough to store everything inside where it would be dry and stop premature rusting of my belongings for the following reasons:
  - a. When the city water and sewer was installed, the city asked if I would grant an easement to allow the water and sewer to be a straight line from the manhole by my house to the lift station instead of following the road with curves. I was promised by the mayor and the city clerk that I could still build a new outbuilding, not over the water/sewer infrastructure. I agreed, but never knew the city way overtook on the easement in case someday a repair would need to be made compared to other properties.
  - b. After the city water and sewer project finished, the city lift station, neighbors (see details in Uniqueness section) all drain massive amounts rainwater into my out lot. Due to this, my garage now floods each time rusting tools and equipment in the garage as well as our vehicles and trailers parked outside.
  - c. Additional space is required to work on personal projects (noncommercial); hobbies without having to remove things back out into the wet environment.
  - d. I am requesting to build 40x52 sq ft outbuilding, it is only 280 square over 1800 sq ft. The 280 additional square feet only represent an additional 0.xx additional coverage. This request is also for 12 ft side walls to enable a 10' garage door for RV parking inside during the summer months.
2. Uniqueness: Previous landowner had set the height of the outbuildings to not flood during rain. When I purchased the property, it was prior to:
  1. The city water and sewer project;
  2. Neighbors at 100, 101, 105 rebuilding homes and raised the height of

properties when now drains their water runoff into my out lot. Water filtration is important to the ecology of a healthy lake system.

To support the water filtration system through my property, I would propose a water garden on the north end of the new outbuilding. This would entail planting trees that consume enormous amounts of water, tall grasses, and some other attractive plants that can thrive in heavier than normal water. Currently we have a drainage ditch going through the property at the water collection point. To move water from the road to the back of the out lot, the use of drain tile to speed up the movement of water off the road to the rain garden area (north end of lot) would be done during or shortly after the build (dependent on the build time).

3. Essential Character: The outbuilding will be consistent with the floor height as Henninger's and Sandquist buildings in the out lots. Our outbuilding request is to have 10' high garage doors which is consistent with Henninger, and some roof pitch 5/12 to be consistent with Henninger & Sandquist outbuildings and our primary residence roof lines.

Our proposal is to match the siding on our house with LP smart siding to enhance the appearance of our out-lot space and make it flow as an extension of our home. This will greatly improve the current situation of rough looking outbuildings with vehicles and trailers parked in that out lot.

Timothy Brandt, 104 Willow Point Drive, stated 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%. When it rains the water from Roemhildts Subdivision, the City lift station come down onto his property. He has tried to divert the water as to not flood out his garage. He would like to take down the old garage and rebuild an 1,800 square foot garage so he can get all his stuff inside. There will not be a driveway. It will be grass with a small apron.

Public Comment:

Ed Gehrke, 101 Willow Point Drive, asked if there would be eave troughs on the shed to divert the runoff. Brandt stated there would be and they would drain to the north of the shed.

Lois Gehrke, 101 Willow Point Drive, stated the water has run across the road onto their property since Brandt built on that property.

Galewski stated that with the installation of the rain garden that issue should be improved.

Henninger agreed this should improve the drainage with the grading on the site.

Lois Gehrke stated the fill that has been brought in is higher than the road. The water does not go in the trench build by the Brandts, it comes across the road to their property.

Sharon Brandt stated they are concerned about the lake and the quality of the water. They have lived here four years and have watched the water flow when it rains. It all flows to the center lot area. She is respectful that the area is a wetland and that the road was built so the water would run toward the center lots. Last year they created a swale and dug a ditch to drain the water from the west to the north. They intend to improve on that by installing tile and a catch basin.

Tim Brandt stated that if there is 2 to 3 inches of rain the water will not run to Gehrke's property but when there is 6 to 7 inches of rain like last summer, the water does run onto Gehrke's property.

Sharon Brandt stated they ultimately want to improve the lot, but they can only do some much at a time.

John Sandquist, 107 Willow Point Drive, stated the whole area is a swamp. All the water goes under the blacktop road to a little 6-inch culvert.

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

On motion by Galewski, seconded by Henninger, all voting in favor, to close the Public Hearing at 7:39 pm and reopen the regular meeting.

Droog stated the proposal will take down two buildings that are problematic and put up one less problematic building. This will provide better drainage and will beautify the area. It makes sense. She is pleased with the water garden. This should be an improvement for the Brandt property and hypothetically an improvement for the neighbors. She likes the gutters and hopes they help to divert the water away from the building to reduce the flooding.

Galewski stated he had no problem with the request especially with the rain garden and diverting the water away from the neighboring properties.

Henninger stated the tiling and gutters will improve the lot. The 1,800 square feet will meet the requirement. The request is reasonable.

Engebretson stated he was in favor of the request as the 12-foot sidewalls are the same as the neighboring property, the installation of the rain garden and running the water away from the neighbors.

On motion by Henninger, seconded by Galewski, to recommend City Council approval of the request of Timothy and Sharon Brandt, for a variance to build a 1,800 square foot detached accessory structure with 12 foot sidewalls at 104 Willow Point Drive, Elysian, Le Sueur County, Minnesota, resulting in a lot coverage of 30.46% 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. They are removing two sheds and replacing with one accessory building. This will match the accessory building on the adjacent property.
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.

Voting on the motion: Aye: Droog, Engebretson, Galewski, Henninger. Nay: None. Motion carried unanimously.

This recommendation will be considered by the Elysian City Council at their June 8, 2020 meeting.

There was no other business to come before the Commission.



On motion by Henninger, seconded by Droog, all voting in favor, meeting adjourned at 7:58 pm.

Attest:

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Rick Galewski, Chairperson

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Lorri Kopischke, Zoning Administrator