

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
JANUARY 15, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, January 15, 2019 at City Hall at 6:00 pm.

Zoning Administrator Kopischke opened the meeting and administered the oath with Commissioners Dan Engebretson, Rick Galewski, Jeremy Henninger, and Tom McBroom answering.

Roll Call: Commissioners: Shawn Anderson, Dan Engebretson, Rick Galewski, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: None.

Zoning Administrator Kopischke asked for nominations from the floor for Chairperson. On motion by Galewski, seconded by McBroom, to nominate Anderson for Chairperson. All voting in favor, motion declared carried.

Kopischke then asked for nominations from the floor for Vice Chairperson. On motion by Anderson, seconded by Engebretson, to nominate Galewski for Vice Chairperson. All voting in favor, motion declared carried.

Chairperson Anderson then took his place at the table presiding at the meeting.

(Commissioner Jeremy Henninger stepped away from the table while the variance request was being discussed.)

On motion by McBroom, seconded by Engebretson, all voting in favor, to remove from the table and take under consideration, the request of Jeremy Henninger, the property owner of 182 Ridge Road NE, Elysian, Le Sueur County, Minnesota, for a variance to build a 60 foot by 80 foot outbuilding with a 30 foot by 40 foot entertaining room on the front. All adjoining property owners have been noticed and notice was also published in the Elysian Enterprise.

On motion by Engebretson, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:05 pm.

The purpose of the Public Hearing is to consider the request of Jeremy Henninger, the property owner of 182 Ridge Road NE, Elysian, Le Sueur County, Minnesota, for a variance to build a 60 foot by 80 foot outbuilding with a 30 foot by 40 foot entertaining room on the front.

The variance request was discussed at the December 4, 2018 Planning and Zoning Commission public hearing and was tabled to this meeting to provide the applicant an opportunity to address the issues identified by the Commission and owners of adjoining properties. The issues are size, exterior design and location of the shed.

Jeremy Henninger, applicant, stated he believed the whole process was mishandled at the December Planning and Zoning Meeting. It was mishandled by the board, his neighbors, other people in the community and himself. This is a variance meeting about the size of a shed he wants to build. It is not a meeting to speculate what could happen in the future.

This is he and his wife's personal property. It is not a development and it is not a business. This is land that he and his wife own, and they are building a home on it and want to build the shed that they want and should be able to have on their land. He understands the setback and building permit requirements and that the shed is larger than is allowed in Elysian. He

understands he needs a variance. At the time they decided to design the shed he never would have thought in a million years that he would have to go through what he has gone through now. They have felt ganged up on and the discussion has turned a lot different than he expected.

In regard to the three aspects of a variance:

Reasonableness: He believes it is reasonable to have a shed this size. The issue is that it is in City limits. Most people including himself, did not even realize this property was in City limits. His lot is 401,623 square feet and with the driveway, patios, home, attached garage, shed and sidewalks, the lot coverage will be below 24,000 square feet. That is less than 6% lot coverage and the city maximum lot coverage is 25%. So, is this reasonable? He believes it is.

Uniqueness: Henninger stated he understands the purpose of a variance is control. This is a 9.2 acre lot. City lots you want to build the same on all. But there are no other 9 acre lots within the city limits. And that is exactly why this lot is unique.

Essential character: Will the shed look out of character on the lot. That is a matter of opinion. He feels it will make the lot look better and that the building will definitely fit the essential character of a 9.2 acre lot.

Henninger stated that this is their personal lives and not a business deal. He has been a contractor for 16 years and has never had to deal with what they are dealing with here. The City, DNR, MPCA, Sheriff's Department. Henninger stated they are being harassed every day. The neighbor's opinions were heard at the last meeting and if they would have had enough respect to come and talk to them beforehand a lot of this could have been prevented. A lot of time and money could have been saved. There is only one property owner here who has talked to them.

Henninger stated this is going to cost them \$10,000 but they are still not going to act out of spite. They have decided to move the building to the far southeast corner of the property. This will virtually make the building invisible from both County Road 11 and County Road 14 which is the most important thing to consider and the building will now not impair anyone's view.

He provided a rendering of what the property may look like and also renderings of the proposed view from the adjoining properties. He asked the Commission to vote on the facts alone.

Jill Wolf, Lot 5 Taylor Drive NE, stated they had not ganged up on Henninger. If they would have known what was proposed it could have been discussed like adults. Like Steve said initially, "we don't know you". There is no hate. We were surprised and shocked to see the size of the shed. It is four times the length and two times the height of what is allowed in the City of Elysian. We came to Elysian and live in a camper in our dream spot and this is hard to swallow. We are glad for you. We just genuinely do not want to look at a large building and not see the sunset. We are sorry it started out this way. We will be neighbors for a long time and need to get along. We just are upset that we can't see the sunset.

Henninger stated there have been complaints to the MPCA, the DNR. Now he has to hire ISG or Bolton and Menk to draw a plan because of everything that has happened there. Wolf stated that Henninger did not know if it was them who had called. It is not a personal attack.

John Kiese, 1224 Taylor Drive NE, stated they were never told about the shed until they received the notice in the mail. They do not want a gigantic shed next to the road. There is

space to move it. They just asked him to move it. They have never threatened Henninger. Kiese stated he did call the sheriff because there is big equipment using and wrecking the private road. This has been documented and if it is not fixed, they will proceed with further action.

Robert Rotter, 1250 Taylor Drive NE, asked if Henninger intended to fix all the ruts and damage out there. Henninger stated that was his intention.

Written Comment:

January 2, 2019

To the Planning and Zoning Commission

Approximately 20 years ago the Elysian Planning and Zoning Commission held a zoning hearings to classify the property at 182 Ridge Road residential rather than commercial, they must have felt at that time it was the best fit for the City's future.

At the December hearing Mr Henningers request was to build an out building approximately four times the size allowed by the zoning ordinance for an out building, as well as sixty percent taller side walls than allowed in the same ordinance. This would make one think this was mixed use rather than residential area.

Relocation of the building on the same property further from the neighbors was discussed as a possible solution at the hearing but as of today we as neighbors have received no further information if relocation was even being considered by Mr Henninger.

If the building has not been relocated or re sized from the December hearing, I would request that the variance not be allowed.

Thank you

Daryl and Karen Ring  
1182 Taylor drive N.E.

No further written comments were received.

Jill Wolf asked why the shed was not relocated to the northwest corner of the lot as proposed at the December meeting.

Doug Blom, Lots 9 and 10 Taylor Drive, noted that at the December meeting Henninger had been asked to change the location, size and shape. Henninger has moved it to the southeast corner which is a great spot. You will hardly be able to see the shed when you drive on the road. The people on Taylor Drive do not look at the road, they have lake property and look at the lake. This shed is not offensive and will not lower anyone's property values. Instead of fifteen spec homes or multiple townhomes, Henninger is building one home with a really big shed that Blom is jealous of. Henninger has done what he was asked to do. A 9 to 10 acre lot can have a shed this size.

Engebretson asked Henninger why he was proposing the southeast corner rather than the northwest corner.

Henninger stated the southeast corner made more sense when looking at the screening and the construction. The building will be virtually invisible from the county roads.

On motion by Anderson, seconded by McBroom, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:36 pm.

Anderson stated that it appears that the building has been moved to one of the two areas that the Commission had suggested at the December meeting. The building is optimally placed to not be blocking views of every property on Taylor Drive NE. Personally, he felt that everything that had been asked for has been addressed.

Engebretson questioned if the reasons Henninger had listed for the variance were legally enough to approve the request. Because of the size of the lot and the area that it is in and the concession he has made to move the building, does that meet the legal criteria to grant a variance.

Galewski stated he did not feel reasonableness was an issue as the lot was larger and it was staying residential so it would be reasonable to have a larger building on it and the building will be matching the residence. The essential character is the same reasons. The only question would be the uniqueness.

McBroom stated he felt that Henninger had addressed each criteria very well.

Kopischke read the criteria for uniqueness: *The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.*

Does the shed need to be larger because the lot is larger or because the landowner would "prefer" it to be larger?

Anderson stated that is the uniqueness. Due to the size of this shed it would not fit on Anderson's lot, but because of the size of the Henninger lot, it will fit there.

Engebretson stated he agreed with the uniqueness factor that Henninger had stated that there aren't other properties in the City that are 9+ acres.

Engebretson apologized to Henninger and the neighbors if this has been a stressful situation. He hoped things would be smoother moving forward and thanked them for their patience and cooperation.

Galewski stated Henninger had gone above and beyond with moving the shed to a location his neighbors preferred and providing the renderings of what their views will be.

On motion by Engebretson, seconded by McBroom, all voting in favor, to recommend City Council approval of the variance request of Jeremy Henninger, the property owner of 182 Ridge Road NE, Elysian, Le Sueur County, Minnesota, to build a 60 foot by 80 foot outbuilding with a 30 foot by 40 foot entertaining room on the front, based on the following findings of fact:

Reasonableness: The property is 9.2 acres, and in a rural type setting with low density housing abutting up to it. A building that size is less than 3% of the property and would be considered reasonable.

Uniqueness: The property is unique in size and setting. Even though it sits in the City, it is in a rural type setting with seasonal cabins abutting up to it and with wildlife running through it. By building one simple outbuilding instead of multiple high density 2 or 4'plexes, he is unique in leaving some of the rural tranquil setting within the City limits.

Essential Character: The shed will match the home. The land currently has a wilderness look and being 9.2 acres the essential character it will still be kind of a wilderness look. He is tucking

the shed into the berm and using the topography of the land. He has moved the shed so it will be obscured and will not obstruct the neighboring property owners view of the sunsets. You are keeping more of a rural look with having only two buildings on the lot than having the townhomes.

The Planning and Zoning recommendation to approve the variance request of Jeremy Henninger will be considered by the City Council at their meeting on February 11, 2019.

(Commissioner Jeremy Henninger returned to the table upon completion of the discussion on the variance request.)

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

On motion by McBroom, seconded by Henninger, all voting in favor, to approve the minutes of the December 4, 2018 Regular Meeting as presented.

Kopischke reported that Minnesota Valley Council of Governments has done a restructure and has hired a staff member that specializes in Planning and Zoning – Travis Higgs. Higgs has agreed to work on implementing the new DNR Shoreland Ordinance into the City of Elysian Zoning Ordinance.

Engebretson noted there are a lot of cars and some other “junk” sitting outside at the Waseca Christian Assembly at 212 Park NE. He questioned if there is a home occupation being run at the house across the street. Staff will get some pictures and send a letter to the property owner.

On motion by Anderson, seconded by Engebretson, all voting in favor, meeting adjourned at 6:56 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
MARCH 5, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, March 5, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: Commissioner Rick Galewski.

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

On motion by Engebretson, seconded by McBroom, all voting in favor, to approve the minutes of the January 15, 2019 Regular Meeting as presented.

Commissioners discussed regulation of VRBOs within the City limits. The proposed County regulations, a current City issued conditional use permit and the rental ordinance were all discussed. Commissioners also discussed their own experiences with VRBOs. VRBOs are currently not allowed within City limits as a permitted or a conditional use. The distributed materials will be studied, and this item will be discussed again at the April meeting.

Staff investigated the property at 213 Park Avenue NE regarding reports of a nuisance property with home business. Pictures of the property were provided. There are several vehicles parked at the property across the street – 212 Park Avenue NE which is owned by Christian Assembly Church. The Church was contacted, and they are aware of the parked cars and have an agreement with the owner of 213 Park Avenue NE that he can park the cars there in exchange for him mowing the lawn and shoveling. License and tabs on the cars are current and the cars appear to be in good shape. There were two cars on the property of 213 Park Avenue NE that may have been on blocks, but it was difficult to tell with all the snow. There was no signage indicating a business. There was consensus for no action at this time. Staff will check the property again when the snow melts and report back to the Commissioners.

Travis Higgs, Program Administrator, Minnesota Valley Council of Governments introduced himself and explained he has compared the City of Elysian Shoreland Ordinance with the revised Minnesota Department of Natural Resources (DNR) Shoreland Ordinance. The only difference he encountered was the allowed building height. The DNR allows a maximum building height of 25 feet and the City of Elysian allows 30 feet. Higgs contacted the area DNR Hydrologist and he is not concerned with that. Proposed revisions to the ordinance include inserted graphics, an expanded definition of impervious surfaces which includes decks and patios, and a more detailed definition of water-oriented structure. If the only change is the insertion of graphics there will not be a need for a public hearing on the revision. If the language is changed, a public hearing will be required, and the changes will need to be submitted to the DNR for approval. Commissioners will review the proposed changes, and this will be discussed at the April meeting.

On motion by Engebretson, seconded by McBroom, all voting in favor, meeting adjourned at 6:54 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
APRIL 2, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, April 2, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: Commissioner Rick Galewski.

On motion by Anderson, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:00 pm.

The purpose of the Public Hearing is consideration of the request of Kristine L Miller, the property owner of 205 Main Street East, Elysian, Le Sueur County, Minnesota, for an interim use permit to allow the property to be used for a General Residential R-1 permitted use (residence) while located in the Central Business Commercial C-1 District.

Kris Miller is no longer interested in operating the Fitness Center that is located on the commercial lot at 205 Main Street E. She has had the entire property (which includes the house) for sale for quite some time now and has not been able to sell it. She is at the point where she is going to close the Fitness Center and try to rent the space out for a different use and just live in the house. The community would like to see the Fitness Center remain open. It is an asset to the City of Elysian.

Brandi Rossow, rents space in the Fitness Center building and operates a Therapeutic Massage and Wellness business from the site. Rossow is interested in buying the Fitness Center building and keeping the business going. Miller and Rossow have been looking at a way to make this happen.

The lot, 205 Main Street E, is one parcel with two buildings on it. In order to sell the Fitness Center building separate from the house, there would have to be a lot split. The parcel is zoned commercial. It has one residential used building and one commercial used building. The residential use is allowed because there is a commercial use on the same property. Once the lots are split and the house is on its own lot, that residential use is no longer a conforming use. It is a non-conforming use. So, to continue to use that house as residential, Miller would need to apply for a "interim use permit". An interim permit is defined as follows:

Subd. I

Interim Use Permits

An interim use may be permitted in accordance with the standards and conditions of this Ordinance and as specified in the permit. In addition to those standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interests of the surrounding area or the City as a whole may be imposed.

1. Purpose – To allow for a use or activity for a limited period of time that allows a property owner to reasonably utilize the property in a manner not permitted in the applicable zoning district, or, to allow a use of the property that is presently acceptable but not permitted



within the zoning district, and, with anticipated development, may not be acceptable in the future.

2. Procedure – The application for this permit, public hearing notice, and information requirements shall be the same as for a Conditional Use Permit, as provided for in Section 4, subd. G of this ordinance.
3. General Standards – An interim use shall comply with the following:
  - a. It will meet the standards of a conditional use permit set forth in Section 4, subd. G above;
  - b. It will conform to the zoning regulations of the respective zoning district and to all applicable performance standards;
  - c. It will terminate upon a tangible date or event, as specified in the permit and in the resolution, approving said interim use permit;
  - d. It will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
  - e. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
4. Termination – An interim use permit shall terminate upon the occurrence of any of the following events:
  - a. The date specified in the permit;
  - b. A violation of the conditions under which the permit was issued;
  - c. A change in the City's zoning regulations which renders the use as nonconforming, however, the City may provide a period of relief for up to one year, if warranted; or
  - d. The redevelopment of the use and property upon which it is located to permitted or conditional use as allowed within the respective zoning district.
5. No more than two interim use permits shall be granted to a single property at one time.

If the Planning and Zoning Commission believes that this interim use should be allowed, they can recommend approval to the City Council with conditions such as a termination date or event (such as sale of the home).

There are water and sewer issues that are being resolved. The City Attorney has been consulted and he is in support of the proposed solutions to those issues but has recommended that they be included as conditions to the interim permit approval.

Kris Miller stated she has appreciated the support through the years. She hopes the Fitness Center can stay open. It will be good for the community.

Engebretson thanked Miller for her effort to keep the Fitness Center open. The residents in town who use the Fitness Center really appreciate that it is going to stay in town. The Commission appreciates that she wants to continue to live in Elysian and her efforts with the business over the years.

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

On motion by McBroom, seconded by Engebretson, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:12 pm.

Anderson stated he did not see any reason not to grant the interim permit.

Henninger agreed.

Engebretson stated this would be good for the community. As long as the property owners have met and been able to work things out.

On motion by Engebretson, seconded by Henninger, all voting in favor, to recommend approval of the request for an interim permit from Kristine L Miller, for property located at 205 Main Street East, Elysian, Le Sueur County, Minnesota, to allow the property to be used for a General Residential R-1 permitted use (residence) while located in the Central Business Commercial C-1 District with the following conditions:

1. The lots be split and recordable deeds with updated legal descriptions be filed with Le Sueur County; and
2. A shared water agreement be recorded with Le Sueur County and that both parties agree to hook up to water correctly on Main Street East at such time as Main Street is reconstructed; and
3. An easement be recorded on the Fitness Center property for the sewer main that runs on the west side of the property; and
4. That the Fitness Center hook up their own individual line to the sewer main; and
5. That the interim permit being approved for 205 Main Street East to be used as a residence in a Central Business Commercial C-1 District shall terminate at such time as the current owner, Kris Miller, sells the property.

The interim permit will be considered by the City Council at their April 8, 2019 meeting.

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

On motion by Engebretson, seconded by McBroom, all voting in favor, to approve the minutes of the March 5, 2019 Regular Meeting as presented.

Commissioners discussed regulation of VRBOs within the City limits. Additional information from the City of Mankato ordinances was considered. Due to the limited number of VRBOs currently operating in the City of Elysian and the small number of complaints received on those VRBOs, the consensus was to continue to gather information and to discuss this issue again in the fall.

On motion by Engebretson, seconded by McBroom, all voting in favor, to table action on VRBOs and revisit this issue in the fall of 2019.

Staff provided an update on the property at 213 Park Avenue NE. There are two cars up on blocks in the driveway and there currently is on smashed car on the property across at 212 Park Avenue NE. There is no signage indicating a business and all cars have current plates. There was consensus for no action at this time.

Commissioners discussed the possible updates to the City of Elysian Shoreland Ordinance as presented by Travis Higgs, Minnesota Valley Council of Governments at the March 2019 meeting. There was consensus to add the illustrations and to save the other updates to include with other Zoning Ordinance changes later this year.

On motion by Anderson, seconded by McBroom, all voting in favor, meeting adjourned at 6:42 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
JUNE 4, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, June 4, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: None.

On motion by Galewski, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:05 pm.

The purpose of the Public Hearing is consideration of the request of Marjorie Slingsby, owner of the property located at 411 Sixth Street NW, Elysian, Le Sueur County, Minnesota, for a variance to allow them to build the patio / deck on their new house ten (10) feet into the 75-foot OHW setback of Lake Francis.

The Slingsbys have recently purchased the 3.7-acre property. There currently is a cabin located on the property on the lakefront that is situated entirely within the 75-foot OHW setback. If the variance is approved and the new house is positioned as requested with the proposed deck, the Slingsbys plan to remove that cabin. The new home they are building will meet all the setback and lot coverage requirements. The only encroachment will be the deck.

The proposed deck will be fifteen (15) feet wide with a twenty (20) foot patio below. The variance request is to allow the house to be positioned on the lot so that the deck will encroach into the 75-foot OHW setback by approximately five (5) feet and the patio below will encroach by ten (10) feet. The main reason for this request is to improve the sightline as the property to the west is located well into the 75-foot OHW setback on that lot.

Other factors influencing the location of the house on the lot include a required 25-foot drainage setback from a waterway on the east side of the lot, a sanitary sewer easement and a watermain easement.

As this is a variance request, the following three questions will have to be addressed: 1. Reasonableness; 2. Uniqueness; and, 3. Essential Character.

The applicants have responded to these questions as follows:

1. Reasonableness: We are looking to improve the sightline due to the cabin to the west being in front of the 75' setback.
2. Uniqueness: The cabin to the west of our property was built before we purchased the property.
3. The essential character will be greatly improved because our plan is to tear down the existing cabin that is run down and totally non-compliant with the entire structure built inside the 75' setback line.

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."

Galewski stated it was good to see that the DNR approved and it will be good to have the old cabin removed. He asked what was preventing the new house from being moved back ten feet? Ms. Slingsby responded that the cabin to the west is in the sightline.

Galewski stated this is not a hardship. This is a new home and can be located anywhere on the 3.7-acre lot. Slingsby stated that if the variance is not granted and the sightline is not improved, they plan to keep the old cabin that is located down next to the lake and use as a boathouse.

Henninger made the argument that granting the variance will not be making an exception as the encroachment already exists with the old cabin. The homeowner could simply tear down the old cabin and build on that foundation. That would not improve the situation. This will improve the situation and make it nicer.

Slingsby noted that at some point in the future they may try to split and sell the south part of the lot for possibly two houses there. That would be additional tax base.

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

On motion by Engebretson, seconded by McBroom, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:20 pm.

Engebretson stated that the sightline was really not a reason to grant the variance. Some of the other contributing factors on the lots such as the topography, the waterway and easements may be more of a reason for placing the house in the proposed location.

The Commissioners asked Slingsby about the topography. The house will be a walkout and this location is the best placement of the house to do the least amount of grading on the site to not affect the way the water is running.

On motion by Henninger, seconded by Galewski, all voting in favor, to recommend City Council approval of the request of Marjorie Slingsby, owner of the property located at 411 Sixth Street NW, Elysian, Le Sueur County, Minnesota, for a variance to allow them to build the patio / deck on their new house ten (10) feet into the 75-foot OHW setback of Lake Francis based on the following findings of fact:

1. Reasonableness: This 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. Uniqueness: 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 lakeshore itself as well as the run-off to the waterway located on the east side of the lot.
3. Essential Character: This will improve the essential character of the locality as the new home will be more modern and will remove a non-conforming structure.

And, with the following condition:

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

This recommendation will be considered by the Elysian City Council at their June 10, 2019 meeting.

On motion by Galewski, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:33 pm.

The purpose of the Public Hearing is consideration of the request of Robert Anhorn, owner of the property located at 405 First Street N, Elysian, Le Sueur County, Minnesota, for a variance to allow them to remove the existing house which is non-conforming and build a new slightly larger house in the same location. The variance 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 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. Also, the structures are pretty close now to the required rear yard setback.

As this is a variance request, the following three questions will have to be addressed: 1. Reasonableness; 2. Uniqueness; and, 3. Essential Character.

The applicants have responded to these questions as follows:

1. Reasonableness: The proposed new building and decks cover 24.7% of the property. The current building will be replaced with a new building with the same width towards the lake (north side of building) and will only be enlarging south towards and connecting to the existing two car garage.
2. Uniqueness: The property has a 10' wide easement (city easement for sewer line) crossing diagonally in the property from the driveway to the west. The easement restricted how far south (away from the lake) was available for the building site. We have improved the lakeside shore by doing a 90' wide x 20'+ deep lakeshore restoration in conjunction with the county gravel funds program. The west side of the property is adjacent to a unused section of street (2<sup>nd</sup> street NW) and currently has a drainage ditch installed and we have a fence license from the city.
3. Essential Character: We are next to the park to the west and one other property to the east with building/deck at a similar distance. We have spoken with the east side neighbor with our proposal with no concerns.

Todd Piepho, Area Hydrologist, MN Department of Natural Resources, commented as follows: "As always the Department would not support adding additional non-conformities by issuing a variance. Any new encroachment towards lake Frances 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."

Henninger commented that he was in favor of squaring off the house. That just made sense.

Anhorn explained that he had worked with the County on a restoration project to improve the drainage of the lot to the lake. He has designed and is building the house to save the trees so the runoff will not be increased.

Engebretson noted the DNR is requesting that the decks not be allowed and that trees be planted on the north side of the house between the house and the lake to screen the view. He stated there are trees that grow up and not out. Planting these types of trees would break up the look of a full three floors of house that is 27 feet tall.

Public Comment:

Larry Hohnstadt, owner of property located on County Road 11 and Frank Avenue NW, stated he is a defender of having setbacks from the lake. He is here to speak against the variance. In his lifetime, he has seen water from the lake lap up to the front of that house. He kind of wonders about this high-water mark. In his many years he has seen half the ballfield under water. And an old fella who lived there in the 20s told him that when he was a kid, he had seen water all the way up to the Terrell house. That was the edge of the lake at that time. A twelve-foot deck would put it almost right in the water. He feels sorry for someone who has the land and is trying to use it. The smart thing would be to build the house sideways and slide it back.

There were no further public comments.

Written comment:

The Building Inspector has made the following comments:

1. Side Phase 1 prior to start of Phase 2. House wrap may only be rated for 120-day weather exposure.
2. Show decks on site plan. Deck footings on lakeside may need engineering.
3. Need separate plans for decks.
4. Why put a deck in a shed? Will this be used as living quarters?

There were no further written comments.

On motion by McBroom, seconded by Henninger, all voting in favor, to close the Public Hearing and open the Regular Meeting at 7:06 pm.

Galewski stated he did not see the uniqueness in this situation especially with the DNR comments. The request including the decks will actually move the structure closer to the lakeshore rather than moving it away.

Henninger stated he understands the request and that this will increase the value of the home, but this can't happen the way it is proposed at this time. The decision can't go against the DNR comments.

Engebretson stated this is a reasonable plan but not on this lot.

Anderson stated the plan adds a lot more non-compliance. He has no issue with squaring off the foundation. It is the three decks – the deck to the west and the two to the north that are adding more non-compliance.

Henninger stated he is also okay with squaring off the building. The decks are the issue.

Anhorn asked if the east deck was okay. That would have no posts and would be four feet out from the building. Henninger stated that is something that should be clarified with the DNR.

Engebretson noted the DNR is requesting the planting of trees for screening. He felt this was a reasonable request. Anhorn asked if he could do something else in that area for screening. He did not feel there was room there for trees no matter what type they were and didn't want to look out his windows at trees. He asked if he could work with the DNR for some other type of screening.

Anderson suggested the squaring off of the building and the deck to the east of the structure be approved at this time but the two north decks and the deck to the west should not be allowed.

Galewski stated he did not agree with that. This is a non-conforming situation and adding the deck to the east only increases the non-conformity. He would support no decks at this time.

On motion by Henninger, seconded by Anderson, to recommend City Council approval of a variance request from Robert Anhorn, 405 First Street N, to allow them to remove their existing house which is non-conforming and build a new 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. This recommendation is based on the following findings of fact:

1. Reasonableness: It is reasonable to square the foundation off because if not, the addition will result in some very irregular shapes and will conform with the Phase 1 building.
2. Uniqueness: 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. Essential Character: This will be an improvement over the existing house structure and pulls together with the existing Phase 1 structure.

And with the following condition:

1. 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, also, to recommend denial of the four proposed decks based on the following findings of fact:

1. Reasonableness: 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. Uniqueness: The property is already grandfathered in as non-compliant and the additional decks would further increase the amount of non-compliance.
3. Essential Character: 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.



Engebretson stated he disagreed that the new house will not alter the essential character of the neighborhood. The character of this neighborhood is one or two story cabins. It is already out of whack with the Phase 1 addition. He just did not feel that this was an improvement to the essential character.

Anderson noted that the garage was in compliance with zoning regulations for that zone and this Phase 2 is as well except for the squaring off of the foundation. The height, lot coverage, etc., are all in compliance with the ordinance.

Engebretson suggested Anhorn could simply build the house without squaring off the foundation and without the decks and at that point he would be in compliance and he wouldn't even need a variance. He did not agree that squaring off the foundation made the building more attractive.

On motion by Galewski, seconded by McBroom, all voting in favor, to close the debate and call the question.

Voting on the motion: Aye: Anderson, Henninger, McBroom. Nay: Galewski, Engebretson. Motion passes.

This recommendation will be considered by the Elysian City Council at their June 10, 2019 meeting.

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

On motion by McBroom, seconded by Anderson, all voting in favor, to approve the minutes of the April 2, 2019 Regular Meeting as presented.

Staff presented the Commissioners with the Ordinance Amendment for Short-Term Private Lodging Rentals that was approved by the Le Sueur County Commissioners at their meeting today. The Ordinance will go into effect August 1, 2019.

Judy Williams, 1642 Scenic Hideaway Lane NE and Rita Klages, 1654 Scenic Hideaway Lane NE, stated they have been following the process of the development of the County Short Term Rental Ordinance for two years. They believe the resulting Ordinance addresses the core of what they have been looking for with the VRBO and is based a lot on common sense. They asked that the Commissioners consider recommending the Elysian City Council adopts this Ordinance to regulate the VRBOs in the City.

There was no other business to come before the Commission.

On motion by McBroom, seconded by Galewski, all voting in favor, meeting adjourned at 8:09 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
AUGUST 6, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, August 6, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: None.

On motion by McBroom, seconded by Engebretson, 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 consideration of the request of Pete Johanson, the property owner of 150 BlueBay Lane (PID#16.035.800). Elysian, Le Sueur County, Minnesota, for approval of a conditional use permit to construct a 5,904 square foot cabinet shop.

Johanson has purchased the property located on State Hwy 60 between the Knotty Bar & Grill and BlueBay Lane. He is proposing to build a cabinetry shop on the site. This property is zoned Highway Commercial C-2. This use would be allowed in the district as a conditional use. The Planning and Zoning Commission is responsible for reviewing the application and making a recommendation to the City Council for approval / denial and any conditions.

Johanson has provided a site plan, land survey, stormwater management plan, land use map, main floor plan, and shed elevations. All required setbacks are met. The City Engineer has reviewed the plans and approved the utility service connections, drainage / storm water management, and grading and erosion control. Mike Schultz, Le Sueur County Soil and Water Conservation District, has reviewed and approved the storm water management plan.

Engebretson questioned the anticipated number of employees and commented that BlueBay Lane is very narrow. Johanson stated he plans for two full-time employees to start. He does not see an issue with deliveries on BlueBay Lane. He will receive two to three deliveries per week on a large flatbed at curbside.

Galewski asked if there would be a dumpster. Johanson stated the dumpster will be located at the north end of the blacktop on a concrete pad. Galewski noted the ordinance requires the dumpster to be enclosed.

Galewski questioned the number of parking spots and also the size of the handicapped parking spot. Johanson noted three regular parking spots and one handicapped spot on his site plan. There is room for more spaces if needed.

Galewski questioned the maple trees that are proposed for screening. He stated the screening should be year-round and in the winter months, the maples will not provide any screening. Engebretson suggested that on the east and north side, there be evergreens alternated with the maples to provide more complete screening.

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

On motion by Henninger, seconded by Engebretson, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:22 pm.

The Commissioners agreed that Johanson had done a great job and the project was well thought out.

Galewski asked when the parking lot would be blacktopped. Johanson stated it would be blacktopped as soon as possible as he unloads his supplies with a forklift. He hopes to be up and running this winter.

Engebretson asked if sales are totally wholesale. Johanson stated he sells to homeowners and contractors.

On motion by Anderson, seconded by McBroom, all voting in favor, to recommend City Council approval of the request of Pete Johanson, the property owner of PID#16.035.800, Elysian, Le Sueur County, Minnesota, for a conditional use permit to construct a 5,904 square foot cabinet shop with the following conditions:

1. The parking lot will be paved bituminous within one year from date of approval of the conditional use permit.
2. That a minimum of (5) five mature evergreen trees be added to the maples screening the north and east of the property. The evergreens will be alternated with the maple trees with a minimum of (2) on the east side and (3) on the north side.
3. The handicap parking spot be built to American Disabilities Act requirements.

This recommendation will be considered by the Elysian City Council at their August 12, 2019 meeting.

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

On motion by McBroom, seconded by Galewski, all voting in favor, to approve the minutes of the June 4, 2019 Regular Meeting as presented.

Regulation of short-term rentals also known as VRBOs was discussed. Staff reported there has been an increase in reports of property being used this way in the City this summer and more complaints. To date, the use has been regulated with the rental ordinance. A moratorium on this use of property was discussed. This would give the City time to draft and pass an ordinance and would preclude any existing properties to be grandfathered in and not have to adhere to the requirements of the ordinance.

Elliott Eisman, 132 Willow Point Drive, stated he had built a guest cottage on his lot and one of the conditions of his conditional use permit was that he does not use that guest cottage as a VRBO. He asked why some property owners are allowed to do that and some are not? The Commissioners stated that it was due to that being the second habitable structure on his lot.

Eisman stated there are VRBOs popping up on the lake. Most are used by loud young kids. The boats pull up with loud rap music and the guests are not respectful of the other property owners. What will the enforcement be if an ordinance is passed?

Staff read some of the examples from other cities which includes fines for violations and revocation of license for multiple violations.

The Commissioners agreed a working group to include VRBO owners, concerned residents, and representation from the Planning and Zoning Commission should be formed to discuss and investigate this issue and develop a fair and enforceable ordinance for the City. Eisman stated he would be happy to be a member of the working group.

On motion by Engebretson, seconded by Galewski, all voting in favor, to recommend the City Council place a moratorium on short term rentals (VRBOs) effective January 1, 2020, that all known owners of properties being utilized as such be notified, and that a working group be formed and an ordinance drafted to regulate short term rentals (VRBOs) within the City of Elysian limits.

The Commissioners discussed the solar gardens that are being built in Le Sueur County. Le Sueur County and the City of Waterville have placed a moratorium on the construction, erection, placement, enlargement, and expansion of any solar energy production system and on the development and use of property for such purposes.

On motion by Henninger, seconded by Galewski, all voting in favor, to recommend City Council place a moratorium on the construction of solar energy production system within the City of Elysian limits.

There was no other business to come before the Commission.

On motion by McBroom, seconded by Henninger, all voting in favor, meeting adjourned at 7:15 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
SEPTEMBER 3, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, September 3, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski, Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: None.

On motion by McBroom, seconded by Engebretson, 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 consideration of the request of Ann and Tim Buskirk / Hobert Setzer, the property owners of 127 Willow Point Drive (PID#16.415.0280). Elysian, Le Sueur County, Minnesota, for approval of a variance to construct concrete sidewalks on the north and south side of their home and also a 15 foot by 23 foot patio on the east (street) side of the home.

The current lot coverage is 55%. The two sidewalks and patio would add an additional approximate 641 square feet of impervious surface which would increase the lot coverage to 65%.

The Buskirk's are requesting to add the sidewalks and patio due to the water issue on the lot. The water runs down the hill from the north to their property. It currently runs into the foundation of the house on the north side. It also runs toward the door on the east (street) side. It also runs past the house and down toward the lake on the south side of the house.

Cory Atherton will be doing the concrete work.

The Buskirk's have stated that the water is causing severe erosion issues on the property and a lot of work has been done on the west side of the house to preserve the lakeshore and the foundation of the house on that side.

Todd Piepho, Area Hydrologist, Minnesota Department of Natural Resources, has commented as follows:

"My suggestion would be to strongly encourage them to install a berm/graded grassed waterway instead of a concrete chute to the lake. Without knowing all the details, it seems that grading a waterway and seeding it down would address the problem without increasing impervious area on the lot. If the board decides to issue the variance maybe a raingarden could be added as a condition of the permit to allow for some settling of the water before it reaches the lake, at minimum maybe a native buffer planting at the base of the waterway to slow the flow and filter out debris. I understand the water is likely reaching the lake currently but slowing it down to allow for some settling would be a positive thing."

The applicant has addressed the Practical Difficulties questions as follows:

"Reasonableness: The purpose of our proposed project is to manage storm and rainwater runoff on our property. Historically, our lot and cabin had no issue with these natural events. However, multiple new residential projects to the north of our cabin and the raised asphalt street has significantly increased the storm and rainwater runoff into our lot. This increased storm and

rainwater runoff is blocked from flowing off our property by structures south of our lot. If our project is approved, we will utilize sound environmental techniques to protect Lake Francis.

Uniqueness: The increased amount of trapped storm and rainwater runoff has caused extensive damage to our lot and cabin. Over the last several years, visible runoff has washed earth from the slope to the lake resulting in erosion that has caused structural damage, especially on the north side of our cottage, requiring several of the columns that support our deck have had to be rebuilt. In addition, our cabin's crawl space frequently contains standing water, and the cottage has become musty for the first time.

If this project is not completed, we expect irreversible damage from the erosion and continued damage to the structures that compose the foundation of our cottage.

Essential Character: We have spent a fair amount of time ensuring that the structure that we intend to build will be visually appealing and add to our cottage and the community. The two walkways and front patio will be poured concrete and grey in color. They will be decorated with lawn furniture and ornamental flower planters. There will be adequate landscaping and maintained properly, as we feel our entire property is maintained. Our project will have a professional and well-kept appearance."

Engebretson stated he had visited the site and a berm would not be beneficial. It would only move Buskirk's water to the next property. What should have been done is terracing all the properties down the hill with rain gardens.

Tim Buskirk, 127 Willow Point Drive, stated he has been coming to this cabin since the mid 1980s and has watched the grading of all the lots. The house to the south of him covers 90% of the lot and has a retaining wall. He and his wife are willing to step up and make a structure to try to protect their property. The proposal will create an attractive structure while addressing the environmental concerns.

The proposed patio will be 15 feet and will put the house back in balance with the house next door while divert more of the water off the property and into the lake. A rain garden will also be added to the project.

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

On motion by McBroom, seconded by Galewski, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:20 pm.

Engebretson stated that Buskirk must move the water away from the structure or it will be destroyed, and he will have to rebuild. This is a good plan to build a concrete dike and divert the water to drain to a rain garden and filter it before it goes into the lake. It is a much better plan than sending it further on down the hill and making it someone else's problem.

Galewski stated that there is physically not enough room on this property to build a berm. He agreed with the installation of a rain garden but questioned if there would even be enough room to install a big enough rain garden to handle a one-inch rain event.

Buskirk stated that his neighbor to the north has a vivacious plant on his lot that filters a high amount of sediment from the water. Buskirk plans to investigate that ground cover as he believes it will be very effective.

Engebretson suggested there could be some planting terraced on the rip rap next to the lake shore.

It was noted that neither the drains and tile nor the location of the rain garden was included on the sketch provided by Cory Atherton. Buskirk approached the Commissioners and showed where the drains would be located. He asked if the Board would prefer a 4, 6, or 8-inch pipe.

The Commissioners stated the size of the pipe should be determined by the need and noted that a larger pipe will have less pressure and less tendency to clog.

Anderson stated he did not see a lot of other options for this lot.

On motion by Engebretson, seconded by McBroom, all voting in favor, to recommend City Council approval of the request of Ann and Tim Buskirk / Hobert Setzer, the property owners of 127 Willow Point Drive (PID#16.415.0280). Elysian, Le Sueur County, Minnesota, for a variance to construct concrete sidewalks on the north and south side of their home and also a 15 foot by 23 foot patio on the east (street) side of the home based on the following findings of fact:

1. Reasonableness: The installation of the concrete sidewalks and patio with drains and rain garden will divert the water away from the house and off the property. This system is needed to save the structure. Without this improvement the home and lot will be destroyed.
2. Uniqueness: The amount of water being diverted onto this lot from the five properties above is unusual. There are also five properties below this lot that will receive the water if it is not managed.
3. Essential Character: The patio will line up the setback with the property next door. The walkways and patio will be poured concrete and grey in color. There will be landscaping, and this will be an improvement to the neighborhood.

And with the following condition:

1. That a new plan be submitted by Cory Atherton that shows the location and size of drains and proposed rain garden.

This recommendation will be considered by the Elysian City Council at their September 9, 2019 meeting.

On motion by McBroom, seconded by Henninger, all voting in favor, to approve the agenda with the following addition:

1. Mark and Mary Miller, 116 Willow Point Drive

On motion by Engebretson, seconded by McBroom, all voting in favor, to approve the minutes of the August 6, 2019 Regular Meeting as presented.

Mark and Mary Miller, 116 Willow Point Drive, explained that in 2000 they built a garage and installed a culvert on their property. At that time, they were required to obtain the services of a hydrologist regarding the disruption of any water flow as a result of their structure. Since that time, the property owners of 113/114 and 117 Willow Point have installed culverts. The water retention after those culverts left the Miller garage in a "moat". He has installed fill to the approximate level of the landscape of 115 and 117 Willow Point Drive. But they continue to

have water retention behind the garage and on both sides of the driveway. The water that was stuck in the culvert froze this winter and has now heaved and broke up the driveway.

Miller stated he does not know what more to do and he asked that the Planning and Zoning look into this issue. He would like help to alleviate his water, what can be done so no further water is diverted to his property and also asked that before any further construction is granted along Willow Point, testing like the testing he had to have done be required.

The Commissioners discussed the process and goals for the workshop on VRBOs to be held Saturday, September 7, 2019 from 9:00 to 11:00 am.

Galewski reported that MnDOT's latest layout for the State Highway 60 project shows most of the shoulders being done in aggregate rather than bituminous as was shown on the previous layout. The Commissioners felt this was a definite safety issue with the rate of speed vehicles travel through this stretch of Highway 60.

There was no other business to come before the Commission.

On motion by McBroom, seconded by Henninger, all voting in favor, meeting adjourned at 7:15 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator



**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
OCTOBER 1, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, October 1, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski (arrived at 6:20 pm), Jeremy Henninger, and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: None.

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

On motion by Engebretson, seconded by Henninger, all voting in favor, to approve the minutes of the September 3, 2019 Regular Meeting as presented.

There have been two VRBO Working Group Meetings. Members of the Working Group include VRBO owners, concerned citizens, and Planning and Zoning Commissioners. The first meeting held on September 7<sup>th</sup> focused on looking at each line item in the Le Sueur County Short Term Rental Ordinance and discussing how it related to the City of Elysian's needs. Notes were drafted from that meeting and another meeting was held on September 28<sup>th</sup>. The notes were reconsidered, and slight changes incorporated into a final draft that was presented for Planning and Zoning Commissioners' discussion tonight.

The Commissioners discussed each item and then discussed options for fees, fines, penalties, and revocation of license.

The next meeting of the VRBO Working Group is scheduled for October 5, 2019 from 9 to 11 am. The agenda is to discuss proposed fines, fees, penalties and revocation of license.

There was no other business to come before the Commission.

On motion by McBroom, seconded by Engebretson, all voting in favor, meeting adjourned at 7:08 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
NOVEMBER 5, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, November 5, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski (arrived at 6:58 pm), and Tom McBroom; Zoning Administrator Lorri Kopischke. Absent: Jeremy Henninger.

On motion by Engebretson, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:01 pm.

The purpose of the Public Hearing is consideration of the request of Ron Romnes, the property owner of 708 Lakeside Drive (PID#16.460.0070) Elysian, Le Sueur County, Minnesota, for approval of a variance to build a 72 foot by 40-foot accessory building on the lot.

The proposed building would be 2,880 square feet with 12-foot side walls with 12.4 foot roof pitch. It will be placed on the southern portion of the lot away from Lake Francis. It is not located in the 75-foot OHW mark. It will meet the required side yard and rear yard setbacks.

The lot is 34,200 square feet. The current lot coverage is 4%. The proposed structure would increase the lot coverage to 13%.

A variance is required from the following requirements of the Zoning Ordinance:

Subd. Q. Accessory Structure Standards.

4. Dimensional Limits: Attached and detached accessory structures are subject to the dimensional limits established below:
  - a. Maximum height: seventeen feet (17') and a maximum side wall height of a detached structure shall not exceed ten feet (10');
  - b. Total number of detached accessory buildings per lot: two (20); and
  - c. Accessory structure(s) total building area allowed per lot: 1,800 square feet.

The applicant has addressed the Practical Difficulties questions as follows:

1. Reasonableness: I would like to use the building to store and work on lake and home projects.
2. Uniqueness: There are 6 lots on this area. Lot is separated by a road running east and west. Approximately ½ of the lot is on the north side of the road (lakeside) and ½ on the south side that currently has buildings on south end of each of the 6 lots.
3. Essential Character: Building I am looking for variance on will be a little larger than the others but consistent with surroundings. It will be relatively hidden.

Romnes stated there was one detached garage on the property and one small garden shed.

Engebretson asked why Romnes was requesting such a large shed. Romnes stated he would like to store his lake stuff, boat, etc. He would like to have room to work on cars and other projects in the shed.

Engebretson noted the area where the shed would be placed is very wooded. He asked how many trees would be removed. Romnes stated that approximately 30 trees would be removed. There are a bunch of walnut trees there that are planted too close together. He is placing the shed on the south end of the property nestled between the neighbor's shed located there. He noted the neighbors have no issues with the size or placement of the proposed shed.

Engebretson asked if there would be a road installed to access the shed. Romnes stated there will be a gravel drive with grass growing up in it.

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

On motion by McBroom, seconded by Engebretson, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:10 pm.

McBroom stated the proposed shed would improve what is there. It will be more presentable and professional.

Engebretson stated he had concern with allowing a much larger structure than is authorized in the ordinance. If these larger structures will be allowed, then possibly the Council should look at amending the zoning ordinance. He is concerned with the large size.

Anderson stated he has a similar issue with the size. He did not believe this would meet the three required criteria. There is land available to build on and this shed would not be visible or an eyesore. But criteria #2 requires that there be something unique with the land that would require this size of shed for the variance to be approved. The maximum square footage limit is in the ordinance for a reason.

McBroom asked Romnes how he had come up with the square footage he would like the shed to be? He asked if there might be some type of compromise. Romnes said he wanted the shed to be as large as possible. If it wasn't big enough, he would have to store his things somewhere else.

On motion by Anderson, seconded by Engebretson, all voting in favor, to table consideration of the request of Ron Romnes, the property owner of 708 Lakeside Drive, Elysian, Le Sueur County, Minnesota, for a variance request to build a 72 foot by 40 foot accessory building on his lot to 6:00 pm at the December 3, 2019 Planning and Zoning Meeting to provide an opportunity for Mr. Romnes to revise his request.

On motion by Anderson, seconded by McBroom, all voting in favor, in regard to the Variance Request of Ron Romnes, the property owner of 708 Lakeside Drive, Elysian, Le Sueur County, Minnesota, to build a 72 foot by 40 foot accessory building, that in accordance with Minn. Stat. 15.99, Subd. 3(f), the City is extending the maximum 60-day decision period no more than an additional 60 days. The time period is extended to allow the applicant time to consider an alternate design of the shed and present to the Planning and Zoning Commission at their meeting on Tuesday, December 3, 2019 at 6:00 pm.

On motion by Anderson, seconded by McBroom, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:24 pm.

The purpose of the Public Hearing is consideration of the request of Bruce and Barbara Starke, the property owners of 504 Lake Avenue NW (PID#16.410.0200) Elysian, Le Sueur County, Minnesota, for approval of a variance for expansion of a structure on a non-conforming lot.

Mr. and Mrs. Starke have requested a variance to demo their existing cabin and rebuild a two-story home within the same footprint on their property. The current building and the proposed

new home will be 28 feet by 16 feet. The difference being that the new home will have a second story.

This property is located in the shoreland of Lake Francis. The property is 200 feet deep by 50 feet wide or 10,000 square feet. Therefore, it is a non-conforming lot in the shoreland zone. The deed states that the owners each have 1/3 interest in this parcel. There are no specific lot lines for each home as all three homes are on one lot. So, there is no way to evaluate lot coverage or setbacks. Please note that Fifth Street NW is an open street so 70 feet of grassy area is City right-of-way.

A variance is required from the following requirements of the Zoning Ordinance:

1. Construction on Non-Conforming Lots of Record

- a. In shoreland, a nonconforming single lot of record may be allowed as a building site without variances from lot size requirements, provided that:
  - i. All structure setback distances can be met; and
  - ii. The impervious surface coverage does not exceed 25% of the lot;
- b. A variance from setback requirements must be obtained before any use or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider constraints of the lot and shall deny the variance if warranted.

City Attorney Moran has submitted the following email for consideration:

*Under our Zoning Code, before a building permit can issue the City must first establish whether proposed construction falls in any setbacks. The Starke's technically, under the letter of the law in our Zoning Code, need a variance because that we cannot establish setbacks. The parcel where the three cabins now stand was originally one parcel. When it was divided into three parcels the legal description for each parcel awards the property owners each a separate 1/3 interest in the same parcel. This is a very ambiguous legal description because you have three individuals owning a 1/3 interest in the same lot without their lots really being defined. I know that Beacon and the County have assigned separate tax identification numbers, however, it is the legal description for the three properties that causes the issue. In sum, because each owns 1/3 interest in the same lot we cannot establish lot lines and setbacks, so a variance is technically, under the letter of the Zoning Code, needed. If you find that they meet the practical difficulties test then a variance should be issued. Under this test they must show that their proposed use is reasonable and that they are not changing the scope and nature of the neighborhood. In addition, the situation must be a unique circumstance related to the property and not caused by the homeowner.*

*I hope this helps.*

*Jason L. Moran*

*Attorney at Law*

The applicant has addressed the Practical Difficulties questions as follows:

Reasonableness: Our cabin would retain the same footprint as the original building. Furthermore, and most important, it would not obstruct any of our neighbors view of the lake.

Uniqueness: We only want to modernize the cabin by expanding the living area, and because of the uniqueness of the lot, the only way to get that extra space is by going up an extra 9 feet. Right now the cabin is approximately 14 feet high.

Essential Character: The character of lake properties in the city is moving towards more modernized structures that look much nicer than our cabin currently does. We would like to adapt to this change in the neighborhood by replacing our current structure.

Engebretson asked if the entire new building including the patio would be in the same footprint. Starke confirmed it will be in the same footprint. Engebretson commented that this is definitely a unique situation with one lot being divided into three.

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

On motion by Anderson, seconded by McBroom, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:33 pm.

On motion by Engebretson, seconded by McBroom, all voting in favor, to recommend City Council approval of the request of Bruce and Barbara Starke, owner of the property located at 504 Lake Avenue NW (PID# 16.410.0200), Elysian, Le Sueur County, Minnesota, for a variance to allow them to demo their existing cabin and build a new structure on the non-conforming lot based on the following findings of fact:

1. Reasonableness: This proposal will retain the same footprint as the existing cabin. The new structure will not obstruct any property's view of the lake and will provide a modernized building.
2. Uniqueness: The lot is unique in that the legal description grants each owner 1/3 interest in the lot. There are no clear lot lines delineated on the survey.
3. Essential Character: This will improve the essential character of the locality as a new more modernized structure will fit in the with other cabins and homes in the area.

This recommendation will be considered by the Elysian City Council at their November 12, 2019 meeting.

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

On motion by McBroom, seconded by Engebretson, all voting in favor, to approve the minutes of the October 1, 2019 Regular Meeting as presented.

The notes from the VRBO Working Group meetings were forwarded to the City Attorney for formulation of a draft ordinance for Commissioner review. The Commissioners discussed each item of the draft ordinance.

(Commissioner Galewski arrived at 6:58 pm)

On motion by Anderson, seconded by McBroom, all voting in favor, to recommend City Council consideration and approval of Ordinance #95/19 – An Ordinance Regulating Vacation Rental by Owner within the City of Elysian.

Kopischke reported the EDA action with regard to the building at 118 Main Street East.

There was no other business to come before the Commission.

On motion by McBroom, seconded by Anderson, all voting in favor, meeting adjourned

at 7:12 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator

**ELYSIAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
DECEMBER 3, 2019**

The Elysian City Planning and Zoning Commission met in regular session Tuesday, December 3, 2019 at City Hall at 6:00 pm.

Present were: Chairperson Shawn Anderson; Commissioners Dan Engebretson, Rick Galewski, and Jeremy Henninger; Zoning Administrator Lorri Kopischke. Absent: Tom McBroom.

On motion by Anderson, seconded by Henninger, all voting in favor, to close the Regular Meeting and go to Public Hearing at 6:01 pm.

The purpose of the Public Hearing is consideration of the request of Ron Romnes, the property owner of 708 Lakeside Drive (PID#16.460.0070) Elysian, Le Sueur County, Minnesota, for approval of a variance to build a 64 foot by 36 foot accessory building (revised from previously requested 72 foot by 40 foot accessory building) on the lot.

The Planning Commission originally considered the request for a variance to construct a 2,880 square foot building (72 foot by 40 foot) with 12-foot side walls with 12.4 foot roof pitch. The proposed building would be placed on the southern portion of the lot away from Lake Francis and not located in the 75-foot OHW mark. It will meet the required side yard and rear yard setbacks.

The lot is 34,200 square feet. The current lot coverage is 4%. The originally proposed structure would increase the lot coverage to 13%.

A variance is required from the following requirements of the Zoning Ordinance:

Subd. Q. Accessory Structure Standards.

4. Dimensional Limits: Attached and detached accessory structures are subject to the dimensional limits established below:

- a. Maximum height: seventeen feet (17') and a maximum side wall height of a detached structure shall not exceed ten feet (10');
- b. Total number of detached accessory buildings per lot: two (2); and
- c. Accessory structure(s) total building area allowed per lot: 1,800 square feet.

At the November meeting, the Planning and Zoning Commission did not approve the variance request as it did not meet the Practical Difficulty Question #2. Uniqueness Requirement – *that the landowner's problem is due to circumstances unique to the property not caused by the landowner*. The Commissioners tabled the request to provide Mr. Romnes an opportunity to amend his request or supply further information.

Romnes has amended his variance request to a 64 foot by 36 foot accessory building with 12 foot 6 inch sidewalls. This is a 2,304 square foot accessory building. The building would meet setback requirements and the lot coverage would now be lower – 11%. However, the shed is still larger than the allowed 1,800 square feet and the sidewalls are taller than the allowed 10 foot sidewalls. The building would still require a variance.

Romnes submitted the following for Practical Difficulty #2 Uniqueness: "The lot is long and narrow (60' wide by 625' deep) 289' approx. is on south side of road. This part of the lot is

currently a location for all lot owner's current storage buildings and is not a desirable piece of property for a home. Building size would allow boats, etc. to be stored out of sight."

Henninger asked why Romnes had picked this size. Romnes stated that the Commissioners had asked him to make a revision and he had reduced the size by about one half the amount of square footage that he was in excess of the allowed size with the previous proposal.

Galewski stated that as much as he likes the look of this shed, it still does not pass the uniqueness criteria. He agreed the lot is long and narrow, but it would not preclude the building of an 1,800 square foot accessory building. It's not that an 1,800 square foot shed can't be put in the location, it is just that the homeowner can't put in the shed that he wants.

Engebretson agreed. He did not see anything in this situation to justify the variance. There is nothing unique to this lot.

Anderson agreed. The uniqueness must be due to the physical characteristics of the land and not the personal preference of the landowner.

Henninger stated that the lot size is unique. It is long and narrow and on the other side of the road from the house. It looks like a runway. He suggested an 1,800 square foot shed is too restrictive. He thought the maximum size shed allowed in the City should be revisited.

Anderson agreed that the size may be restrictive. People have much more stuff now than they did when the ordinance was written.

Engebretson stated that the Commission had to go by the rules in place. Possibly the City Council should consider revising the size limit on accessory buildings.

Henninger stated he believes this is a unique property. There is 300 feet on each side of the road. This property can fit a 72 foot building. This is a useless piece of property as it sits now. He is in favor of this request. It would result in a nice beautiful shed and beautify the property.

Romnes stated he just wanted to build a nice looking shed that was large enough to store all his stuff inside.

The Commissioners discussed the possibility of amending the zoning ordinance to allow a larger sized accessory building. There would need to be a new maximum size and conditions that would regulate the lot coverage and that it meets the required setbacks. This seems to be a natural progression as everyone has more stuff now. It would beautify the City as property would be stored inside the sheds and not be an eyesore in the yards.

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

On motion by Anderson, seconded by Engebretson, all voting in favor, to close the Public Hearing and open the Regular Meeting at 6:20 pm.

On motion by Anderson, seconded by Engebretson, all voting in favor, to recommend City Council deny the request of Ron Romnes, the property owner of 708 Lakeside Drive, Elysian, Le Sueur County, Minnesota, for a variance request to build a 64 foot by 36 foot (as revised from a 72 foot by 40 foot) accessory building on his lot as it does not meet the Practical Difficulty Factor #2 Uniqueness required to grant a variance request.

On motion by Anderson, seconded by Engebretson, all voting in favor, to recommend the City Council refer to the Planning and Zoning Commission a study to consider amending the zoning ordinance to increase the allowable maximum accessory building size subject to adherence to the required setbacks and that it results in less than 25% lot coverage.



This recommendation will be considered by the Elysian City Council at their December 9, 2019 meeting.

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

On motion by Engebretson, seconded by Henninger, all voting in favor, to approve the minutes of the November 5, 2019 Regular Meeting as presented.

The final draft version of Ordinance No. 95/19 – Short Term Rental Ordinance was distributed for review. The City Council will hold a public hearing on the draft ordinance at their December meeting.

On motion by Engebretson, seconded by Anderson, all voting in favor, to reschedule the January Planning and Zoning meeting from January 7, 2020 to January 21, 2020. This will allow for the appointment of new members at the January City Council meeting.

There was no other business to come before the Commission.

On motion by Anderson, seconded by Engebretson, all voting in favor, meeting adjourned at 6:44 pm.

Attest:

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Shawn Anderson, Chairperson

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Lorri Kopischke, Zoning Administrator