

RESOLUTION NO. 23-126

CITY OF MAPLE GROVE

**RESOLUTION GRANTING A VARIANCE FOR
6419 HEMLOCK LANE NORTH, MAPLE GROVE, MINNESOTA**

WHEREAS, Mark Seidenstricker (“**Applicant**”) have made application for a front-yard setback variance for the purpose of constructing a 6-foot privacy fence on the property located at 6419 Hemlock Lane North, Maple Grove, Minnesota and shown on attached Exhibit A (“**Property**”); and

WHEREAS, the City Staff studied the matter, made a report, and provided other information to both the City Council and the Planning Commission; and

WHEREAS, the City’s Planning Commission on July 31, 2023 held a public hearing and recommended approval; and

WHEREAS, the City Council considered the matter at its meeting of August 7, 2023, at which time the City Council received the recommendation of the Planning Commission, the report from City Staff, and further information.

NOW, THEREFORE, the City Council of the City of Maple Grove, makes the following:

FINDINGS

- A. The Property is zoned R-1, Single-Family Residential District.
- B. City Code §36-265(3)a. requires a front yard setback for the Property of not less than 35 feet.
- C. The Applicant is requesting a variance from City Code §§36-265(3)a. to reduce the front yard setback to 5 feet to allow for the construction of a 6-foot privacy fence along Hemlock Lane.
- D. The land to the north of the Property is zoned R-1, Single-Family Residential District. The land to the east, south, and west of the Property is zoned R-2, Single-Family Residential District.
- E. The granting of variances within the City is governed both by the City Code and State Statute.
- F. Minn. Stat. §462.357, subd. 6, allows variances only when they are in harmony with the general purposes and intent of City Code and is consistent with the City’s comprehensive plan. Further, the applicant must

establish that there are practical difficulties in complying with the zoning ordinance.

- G. Maple Grove Code §36-121(a)(2) provides that a variance request must comply with the following:
1. Variances shall only be permitted when they are in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.
 2. Variances may only be permitted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance, meaning the property proposes to use the lot or parcel in a reasonable manner not permitted by the zoning code.
 3. The plight of the property owner must be due to circumstances that are unique to the lot or parcel and is not created by the property owner.
 4. The variance must not alter the essential character of the locality.
- H. Maple Grove Code §36-121(a)(3) defines “unique” as a property or lot having one of the following characteristics:
1. Narrowness, shallowness or shape of a specific parcel of property or a lot existing and of record on September 30, 1976;
 2. Exceptional topographic or water conditions of a specific parcel of land or lot; or
 3. An existing significant tree or tree stand which would be affected by a structure other than a building. For purposes of this subsection, the phrase "significant tree or tree stand" shall mean a tree having a diameter at breast height of at least 12 inches or a clustering of trees averaging eight inches in diameter, excluding tree diameters of four inches or less in such average calculations.
- I. Maple Grove Code §36-121(a)(4) defines “not altering the essential character of the locality” as the proposed action will not, among other things:
- a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public streets.
 - c. Increase the danger of fire or endanger the public safety.

- d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this chapter.

- J. The requested variance is in harmony with the general purpose and intent of City Code and consistent with the comprehensive plan. Although a fence near the front property line does not meet the front yard setback, neighboring lots with their rear yards or sides yards positioned on Hemlock Lane have fences installed up to their property lines. Allowing the privacy fence as requested does not alter the character of the neighborhood.

- K. The Applicant does appear to have practical difficulties and is proposing to use the lot in a reasonable manner. Hemlock Lane is heavily traveled arterial roadway which causes noise and privacy concerns for adjacent property owners. Adjacent properties have rear yards and side yards facing Hemlock Lane and are able to maintain property line privacy fences along Hemlock Lane. The Property cannot maintain such privacy fences because the front yard faces Hemlock Lane. Further, the home is situated towards the rear of the Property which leaves a rather large front yard area. If the privacy fence were to be placed at the 35-foot front yard setback, a large portion of the front yard would be separated from the home. Lastly, if the variance is not granted the fence would sit approximately 2 feet lower due to the change in grade, lessening the effectiveness of the screening.

- L. The Applicant purchased the Property in 2012 and did not contribute to the circumstances requiring a variance. A front yard fence at this location would not alter the essential character of the neighborhood. Fences are common along this stretch of Hemlock Lane due. There are also two nearby properties that have privacy fences along their front property lines – these fences were installed on top of a retaining wall near the intersection at East Fish Lake Road. The fence and retaining wall are both maintained by Hennepin County.

DECISION

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Maple Grove, based upon the information received and the above Findings, that the Applicant's request for a variance from City Code §36-265(3)a. to reduce the front yard setback to 5 feet to allow for the construction of a 6-foot privacy fence is hereby granted. The approvals granted herein and this Resolution are subject to the following:

- 1. The construction of the fence shall include a 15-foot sight visibility triangle at the intersection of the driveway and Hemlock Lane, providing increased visibility of pedestrians and vehicles.

2. The Applicant shall pay upon demand all expenses, determined by the City, that the City incurs in relation to this Resolution. Said expenses shall include, but are not limited to, staff time, including, but not limited to, hourly wage, overhead and benefits, engineering, legal and other consulting fees incurred in relation to this Resolution and the approvals granted hereunder.
3. The variance granted herein shall be subject to the applicable provisions of City Code, including, but not limited to, City Code §36-123 regarding lapse of variance.

Motion to approve the foregoing findings, conclusions, and decisions was made by _____ and seconded by _____, upon a vote being duly taken thereon, the following voted in favor thereof:

and the following were against:

and the following were absent:

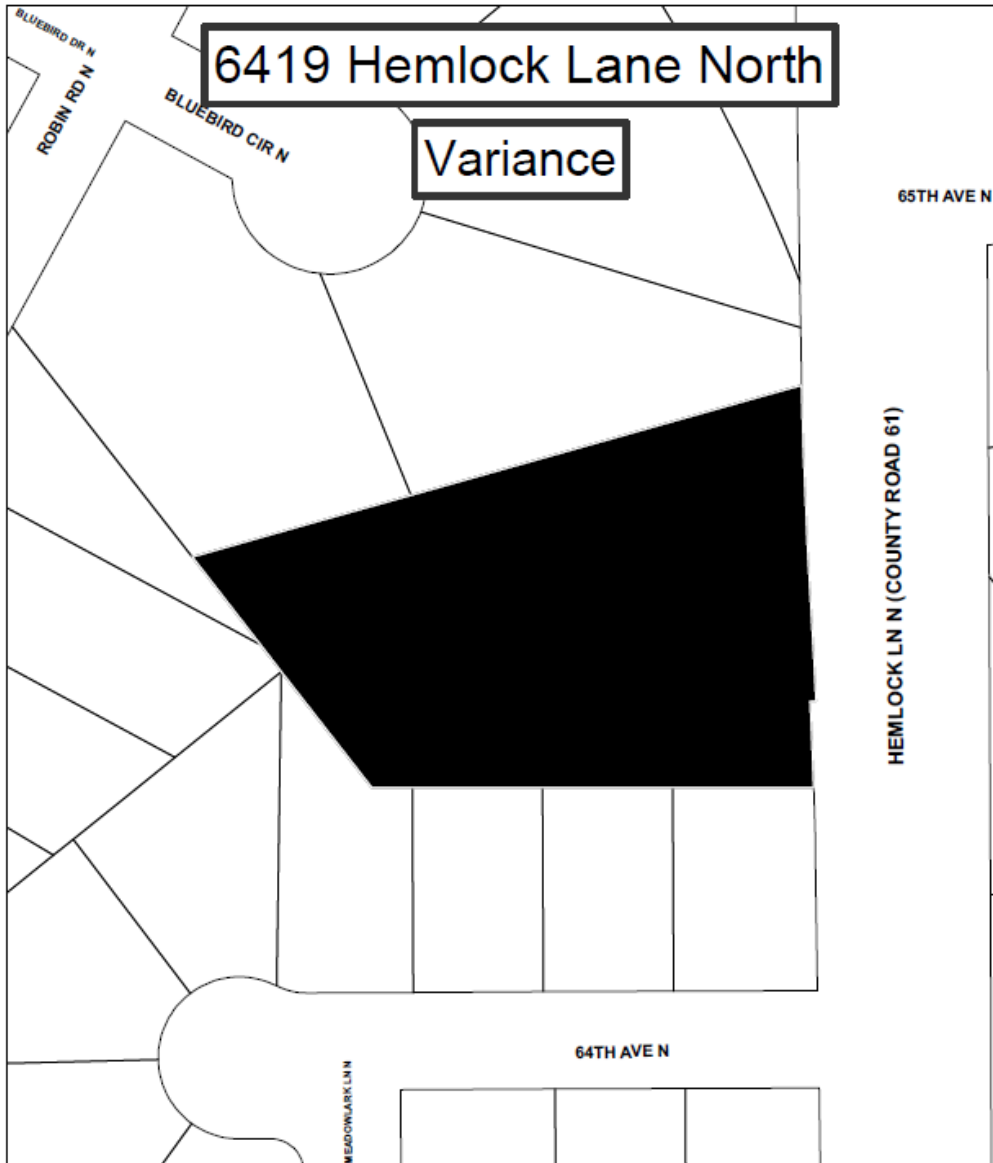
whereupon, the resolution was declared duly passed and adopted the 21st day of August, 2023.

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS.
CITY OF MAPLE GROVE)

I, the undersigned, being the duly qualified and acting Clerk of the City of Maple Grove, Hennepin County, Minnesota, a Minnesota municipal corporation, hereby certify that the above and foregoing Resolution No. 23-126 is a true and correct copy of the Resolution as adopted by the City Council on the 21st day of August, 2023.

City Clerk

EXHIBIT A



NEIGHBORHOOD LOCATION MAP

