

ROSEVILLE
VARIANCE BOARD
REGULAR MEETING AGENDA

Wednesday, July 10, 2019 at 5:30 p.m.

Roseville City Hall Council Chambers, 2660 Civic Center Drive

- 1. Call to Order**
- 2. Roll Call & Introductions**
- 3. Approval of Agenda**
- 4. Review of Minutes:** November 7, 2018
- 5. Public Hearing**
 - a.** Consider a Variance from City Code Section §1011.04.J.8 “Replacement Tree Locations”, to permit reduced tree replacement and seek relief from the required Tree Replacement Fee for property at 3056 Hamline Avenue (PF19-012).
 - b.** Consider a Variance from City Code Section §1011.04.J.8 “Replacement Tree Locations”, to permit reduced tree replacement and seek relief from the required Tree Replacement Fee for property at 907 Burke Avenue (PF19-013).
- 6. Adjourn**



**Variance Board Regular Meeting
City Council Chambers, 2660 Civic Center Drive
Draft Minutes – Wednesday, November 7, 2018 – 5:30 p.m.**

- 1 **1. Call to Order**
2 Vice Chair Gitzen called to order the regular meeting of the Variance Board meeting at
3 approximately 5:30 p.m. and reviewed the role and purpose of the Variance Board.
4
- 5 **2. Roll Call & Introductions**
6 At the request of Vice Chair Gitzen, City Planner Thomas Paschke called the Roll.
7
8 **Members Present:** Vice Chair Chuck Gitzen and Member Julie Kimble
9
10 **Members Absent:** Chair James Daire and Alternate Member Peter Sparby
11
12 **Staff Present:** City Planner Thomas Paschke and Senior Planner Bryan Lloyd
13
- 14 **3. Approval of Agenda**
15
16 **MOTION**
17 **Member Kimble moved, seconded by Member Gitzen to approve the agenda as**
18 **presented.**
19
20 **Ayes: 2**
21 **Nays: 0**
22 **Motion carried.**
23
- 24 **4. Review of Minutes: October 3, 2018**
25 **MOTION**
26 **Member Kimble moved, seconded by Member Gitzen to approve the October 3,**
27 **2018 meeting minutes.**
28
29 **Ayes: 2**
30 **Nays: 0**
31 **Motion carried.**
32
- 33 **5. Public Hearing**
34 Vice Chair Gitzen reviewed protocol for Public Hearings and public comment and
35 opened the Public Hearing at approximately 5:32 p.m.
36
37 **a. PLANNING FILE 18-027**
38 **Request for a variance from Section 1004.06H “Surface Parking” of the City**
39 **Code to allow the redevelopment of the existing Presbyterian Homes care facility**
40 **and site at 1910 County Road D.**
41 City Planner Thomas Paschke reviewed the variance request for this property, as
42 detailed in the staff report dated November 7, 2018.

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Member Kimble asked how big in density this redevelopment is after the new construction is completed compared to what is there now.

Mr. Paschke indicated he did not know what the difference is between the beds that will be provided in the one facility compared to the beds in the senior facility. He knew this would achieve co-compliance from the standpoint of what is allowed.

Member Kimble asked if there were any responses from the neighbors.

Mr. Paschke stated he has not received any responses related to this. He indicated the comments staff has received are more related to traffic and staff has worked very hard to separate the uses and try to minimize those impacts on the neighborhood, specifically on the residential street. He noted Ramsey County is allowing an access point off of County Road D, which will be utilized by the trucks that will provide the deliveries which will eliminate some of the more impactful use that is there.

Member Kimble asked if this project would have required an open house.

Mr. Paschke indicated it would not because it is not one of four types of land use projects that would require an open house. He noted the everything in the proposed project is a permitted use except for the parking lot design.

Vice Chair Gitzen asked if the parking lot out front made this pre-existing non-conforming now.

Mr. Paschke stated it was because the current design was built before the 2010 Zoning Ordinance and does not comply with a number of the design standards or site layout standard in the City Code and is now considered pre-existing, non-conforming. From the standpoint of what the Commission is discussing the parking lot would not necessarily be allowed where it is under current codes.

Vice Chair Gitzen asked if both phases go through the only non-conforming would be the parking.

Mr. Paschke stated the parking would become conforming because a variance would be granted. Once the variance is approved for the two lots the parking would achieve compliance.

Vice Chair Gitzen stated originally there were two accesses off the north, is the applicant only asking for one access now.

Mr. Paschke stated the County is only allowing one access.

Vice Chair Gitzen asked if the variance covered both parking lots.

Mr. Paschke indicated it would.

90
91 • **Ms. Debora Zarbok, Senior Housing Partners**

92 Ms. Zarbok made a presentation to the Commission.
93

94 Ms. Zarbok stated as far as a neighborhood meeting, there was one held and
95 approximately twenty people were in attendance. Since that time, she has had the
96 opportunity to meet with a couple neighbors and walk the property lines to see what
97 some of the neighborhood concerns were. She thought there would be some
98 opportunities to address the neighborhood concerns.
99

100 Ms. Zarbok stated as far as the size of the building, in the second phase there will also
101 be underground parking. The underground parking for the eighty independent
102 apartment buildings will be underground. This was done to eliminate any additional
103 need for surface parking and also to meet the greenspace requirements as well.
104

105 Member Kimball asked in regard to the density, is the applicant replacing one
106 building with two.
107

108 Ms. Zarbok stated over time the existing building has gone down in the amount of
109 people who are occupying the building so the new transitional care building will have
110 fifty apartments and will fluctuate due to it being a transitional care and long-term
111 facility. The first phase will be a smaller development.
112

113 Mr. Gerald Oatie, 3074 Evelyn Street

114 Mr. Oatie asked how many occupants there will be when all the phases are done.
115

116 Ms. Zarbok indicated there will be eighty independent apartments total in phase two
117 and fifty in phase one.
118

119 Mr. Oatie stated he liked the way the building is design so there will not be anyone
120 looking into the other residents' backyards. He asked what the distance was from
121 Evelyn Street to the corner of the building.
122

123 Ms. Zarbok thought it would be more than fifty feet away from Evelyn Street.
124

125 Senior Planner Bryan Lloyd stated the building would be in excess of one hundred
126 feet judging by the graphic scale of the bottom of the schematic.
127

128 Vice Chair Gitzen closed the public hearing at 5:49 p.m.
129

130 **MOTION**

131 **Member Kimble moved, seconded by Member Gitzen, to Adopt a Variance**
132 **Board Resolution (Attachment E) approving a variance to §1004.06.H, Surface**
133 **Parking, of the Roseville Zoning Code, to allow the Senior Housing Partners**
134 **redevelopment project to move forward as designed, at 1910 County Road D.**
135

136 Member Kimble stated the variance before the Commission is only related to the
137 surface parking and so it relates to the design and project, it is a permitted use and
138 would go through the typical City process for approval. She was in support of the
139 variance to the surface parking components in both the new parking lots.

140 Vice Chair Gitzen indicated he would also support this.

141
142
143 **Ayes: 2**

144 **Nays: 0**

145 **Motion carried.**

146
147 Vice Chair Gitzen reviewed protocol for Public Hearings and public comment and
148 opened the Public Hearing at approximately 5:51 p.m.

149
150 **b. PLANNING FILE 18-029**

151 **Request for a variance from Section 1004.8 “Low Density Residential (One-**
152 **Family) -1 (LDR-1) District” of the City Code to permit building of an enclosed**
153 **front porch that would encroach within the front yard setback at 1276 Eldridge**
154 **Avenue.**

155 Senior Planner Bryan Lloyd reviewed the variance request for this property, as
156 detailed in the staff report dated November 7, 2018.

157
158 Member Kimble noted a neighbor phoned into staff in support of this proposal.

159
160 Mr. Lloyd stated he received an e-mail earlier in the week in support of this project as
161 well.

162
163 Vice Chair Gitzen asked what the minimum setback is usually required.

164
165 Mr. Lloyd stated the thirty-foot setback applies to the enclosed portions of the house.
166 An open front porch without walls can extend into the setback area, as close as
167 twenty-two feet from the front property line. If this addition were an open porch, it
168 would also require a variance because the ten-foot depth would come closer than
169 twenty-two feet from the front property line. This is enclosed addition space which is
170 subject to the thirty-foot setback requirement.

171
172 Vice Chair Gitzen asked if the Public Works Department has looked at this as far as
173 site distance on a corner lot. Are there any concerns with that?

174
175 Mr. Lloyd indicated there were not any concerns with that addressed in the DRC
176 review earlier last month after the application was received. This is not something
177 the Public Works Department noted was a concern.

178
179 **• Ms. Sarah Barsel, owner and applicant at 1276 Eldridge Avenue**

180 Ms. Barsel stated her family has been in the home since 1992 and have done what
181 was needed to make it accessible internally. She indicated she has multiple sclerosis
182 and no way to know what the progression of that will be. She stated the anticipation

183 of it is at some point she will need to use a walker and beyond that a wheelchair
184 which will limit her use of portions of the home. She stated her family would like to
185 put this addition on now, so it can be used and if necessary, make any other
186 modifications in order for her and her husband to age in place. She noted her, and her
187 husband do not have any intention to move into senior housing at any point in their
188 lives.

189
190 Ms. Barsel stated her family has been very careful with landscaping. She reviewed
191 some of the landscaping around her home with the Commissioners. She stated her,
192 and her husband are trying really hard to make their home as friendly and accessible
193 As possible and have talked to assorted neighbors and have talked with an architect to
194 develop the plans. She indicated it is the same architect that did the reconfiguration
195 of the downstairs internal to the home. She stated everyone seems excited by this
196 possibility and nobody is concerned this will block any view while backing out of the
197 driveway.

198
199 Ms. Barsel indicated there was some mention of a stormwater plan and her husband
200 happens to be the head of Minnesota Stormwater City Organization and does a
201 number of things regarding that on the National and Federal level. She indicated her
202 husband is willing to talk to the City about a stormwater plan as well. She stated
203 when the house was purchased her family did not know there were minimum lot
204 sizes, nobody informed her family that the house was non-conforming. She noted the
205 house across the street, which is the original farm house, is also closer to the street
206 line than her property and her house is on the site where the original outbuildings had
207 been on the original farm.

208
209 Vice Chair Gitzen asked where the steps were coming into the new addition where
210 the ramp would be if one were needed.

211
212 Ms. Barsel stated that was correct. She noted it would be pretty close to ADA proper
213 slope for a ramp.

214
215 Member Kimble noted a condition in the proposal where a survey would be
216 completed to ensure the home addition will not stand less than seventeen feet from
217 the front property line. If the addition does not stand less than the seventeen feet
218 from the property line what is the outcome.

219
220 Mr. Lloyd stated the intent there was to acknowledge an existing setback of twenty-
221 seven feet which may be correct and if it is then the ten-foot addition would come to
222 that seventeen-foot mark and if the existing house is actually further back then
223 twenty-seven feet from their own property line then it would not be as close as the
224 seventeen feet.

225
226 Member Kimble asked if the applicant would need to come back to the City if it went
227 beyond the seventeen feet.

228

229 Mr. Lloyd stated that was correct but was not the intent of the recommendation, but
230 he could see how that is where it gets to. He noted the variance approval could
231 accommodate the ten-foot addition as proposed and he supposed the actual distance
232 from the property line, whereas the City would specify where that would be, isn't as
233 important as the distance being facilitated in the approval.

234
235 Member Kimble asked if it would accurate to say that the survey is needed just to be
236 able to verify what the setback will in fact be under the variance.

237
238 Mr. Lloyd stated as this is being discussed he was not sure it would even be important
239 that a survey be done if the City is not limiting it to that seventeen-foot line.

240
241 Member Kimble asked if there was a setback where it would just not be safe or would
242 not work.

243
244 Mr. Lloyd stated there is a provision from the Zoning Code that are related to
245 visibility triangles, making sure that structures and other obstructions are out of a
246 certain triangle distance from an intersection and assuming the City is not approving a
247 variance specifically going into that site triangle, that would be a sort of back stop for
248 that visibility protection. The City would not need to be concerned about an absolute
249 distance that is too close. He did not see something getting into the site triangle
250 which he did not see happening so the specific distance may not be as much of a
251 concern.

252
253 Vice Chair Gitzen thought a survey may still be important to make sure there are no
254 other concerns that the applicant would have to address.

255
256 Mr. Lloyd thought a good accurate site plan, in order to account for impervious
257 surfaces is maybe more important overall if the City is not specifying what the
258 minimum distance needs to be from the front property line.

259
260 Vice Chair Gitzen asked Ms. Barsel is the property was ever surveyed.

261
262 Ms. Barsel believed it was surveyed before the property was purchased. She
263 appreciated the constraints and the concerns the City has. This is expensive to have
264 to apply for a variance and to have additional requirements in order to be able to talk
265 to a contractor makes this even more expensive. She noted she is retired and does not
266 have a great deal of social security income that she can allocate to this so if things are
267 nice to have but not absolutely necessary, her family would appreciate not having
268 them as requirements.

269
270 Ms. Kimble stated the only reason why she asked was because it was a condition in
271 the staff report but what she thought staff was stating was possibly the survey did not
272 need to be a condition of approval.

273
274 Mr. Lloyd believed that was right. He agreed after discussion that there is not a need
275 to know that it is exactly seventeen feet and no closer to the front property line

276 because there are site triangles and regulations, so he did not think a survey would be
277 needed.

278
279 Vice Chair Gitzen stated he would still like to discuss this as a Commission.

280
281 Ms. Barsel asked what the City would want done for impervious surface if the
282 addition is in excess of the amount.

283
284 Mr. Lloyd stated there is a process through the Public Works Department to quantify
285 the amount of stormwater that gets generated by the excess impervious coverage and
286 then identifying a way to help infiltrate on site or slow it down before it runs off onto
287 other properties or onto the street.

288
289 Ms. Barsel thought that would go back to such things like prairie plantings and other
290 plants with deep root systems.

291
292 Vice Chair Gitzen indicated it could also be a raingarden. He thought there were a
293 number of ways the applicant could take care of the stormwater. He did not think
294 until a site plan was brought into the City there was not a way to analyze it.

295
296 Mr. Lloyd indicated that was correct.

297
298 Ms. Barsel stated the City was now requiring a site plan in addition to the plans from
299 their architect.

300
301 Mr. Lloyd stated a site plan would be an essential part of a building permit
302 application and is not part of the variance.

303
304 Vice Chair Gitzen asked if there was anyone in the audience that wanted to make a
305 comment. No one came forward.

306
307 Vice Chair Gitzen closed the public hearing at 6:20 p.m.

308
309 Vice Chair Gitzen stated he would still like some condition where the City staff
310 would meet, feel comfortable and approve the setback to make sure there is no
311 additional items that should be taken care of with the site triangle. If staff did not feel
312 like a survey was needed that would be ok but he still thought the City should be
313 looking at the site triangle because the property is on a corner lot. Without having
314 some idea where the property line is, it would still be needed with the site plan
315 anyways.

316
317 Mr. Lloyd agreed that the property line would need to be identified with the site plan.
318 If necessary and not immediately clear where the corner monuments are then it may
319 be necessary to have somebody locate those in order to find where the property
320 corners are. He would say that it is not critical that there is a requirement or a
321 condition of approval that addresses meeting a site triangle requirement, but a
322 condition can clarify that whatever variance is being approved that it is not intended

323 to go into the site triangle. He stated the condition could be worded “the proposed
324 addition shall not encroach in the site triangle regulated by the Zoning Code.”, to
325 clarify that the addition as proposed is fine as long as it stays out of places it should
326 not be.

327
328 Mr. Lloyd stated if there is an existing survey the homeowners have on hand the work
329 would not have to be redone necessarily and could meet the needs as well.

330
331 **MOTION**
332 **Member Kimble moved, seconded by Member Gitzen, to adopt a resolution**
333 **approving the requested variance to §1004.08.B (Residential Setbacks) to allow**
334 **the proposed 10-foot home addition at 1276 Eldridge Avenue to encroach up to**
335 **13 feet into the required front yard setback, based on the proposed plans, the**
336 **testimony offered at the public hearing, and the comments and findings of this**
337 **report, with the following conditions:**

- 338
339
 - **The proposed addition shall not encroach into the site triangle.**

340
341 **Ayes: 2**
342 **Nays: 0**
343 **Motion carried.**

344
345 **6. Adjourn**

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347 **MOTION**
348 **Member Kimble, seconded by Member Gitzen, to adjourn the meeting at 6:24**
349 **p.m.**

350
351 **Ayes: 2**
352 **Nays: 0**
353 **Motion carried.**

354

Prepared By

Agenda Section
Public Hearings



Department Approval

Jamie Gundlach

Item Description: Consider a Variance pursuant to §1011.04.J.8 Replacement Tree Locations for property located at 3065 Hamline Avenue (PF19-012).

1 APPLICATION INFORMATION

2 Applicant:	Zawadski Homes
3 Location:	3056 Hamline Avenue
4 Property Owner:	Larry and Colleen Soukup
5 Application Submission:	06/11/19; deemed complete 06/13/19
6 City Action Deadline:	08/05/19
7 Planning File History:	None

8 **LEVEL OF DISCRETION IN DECISION MAKING:** Actions taken on a Variance request is quasi-judicial; the City’s role is to determine the facts associated with the request and weigh those facts against the legal standards in State Statutes and City Code.

11 BRIEF INTRODUCTION

12 Larry and Colleen Soukup are property owners of the lot at 3056 Hamline Avenue and desire to construct a single-family home. The property has a Comprehensive Plan Land Use designation of Low Density Residential (LR) and a Zoning Map classification of Low Density Residential-1 (LDR-1) District.

16 The Soukup’s are seeking a variance from §1011.04.J.8 Replacement Tree Locations, to permit reduced tree replacement and seek relief from the required fee for not being able to plant the replacement tree amount. This Code section reads as follows:

19 8. *Replacement Tree Locations: Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of space), inappropriate (available planting areas are not ideal for new plantings or would do little to enhance the site), or counterproductive to a property’s intent (i.e., would entail too much screening for a retail business) as determined by the City Forester or other degreed forester or certified arborist as assigned by the Community Development Department. When such a determination is made, the applicant shall comply with replacement requirements in one of three ways in the following manner:*

27 a. *As directed by the City, required replacement trees may be located on private property within 1000 feet of the subject development site with the consent of the property owner(s), on public improvement project sites that are not greater than 1000 feet from the development site, or on other public and private lands that are not greater than 1000 feet from the development site if such lands are deemed to be available, with priority given to locations near the affected use; or*

- 33 b. *The City may accept a cash-in-lieu tree replacement payment in accordance with the*
34 *required fee listed in the City Fee Schedule. In no instance shall a cash- in-lieu*
35 *payment exceed 10% of the Fair Market Value of the development site; or*
- 36 c. *The City may approve a combination of tree replacement in accordance with “a”*
37 *above and a payment consistent with “b” above to fulfill this requirement. (Ord. 1503,*
38 *7-11-2016)*

39 To summarize the above standards, staff offers the following list of requirements to assist in
40 understanding implementation of this section:

- 41 • A completed tree survey of the property is submitted, which includes a calculation of the
42 caliper inches of replacement trees required.
- 43 • Based on the submitted tree survey, the applicant can plant said caliper inches of trees on the
44 subject property; or
 - 45 ○ Plant some of the caliper inches of trees on the subject property and plant
46 remainder of caliper inches on properties within 1,000 feet of the subject site; or
 - 47 ○ Plant same as above and pay the City a tree replacement fee of \$500 for each 3
48 inches of trees that cannot be planted.

49 The Soukup lot has a total of 30 trees. 1 tree is dead and exempt from being counted; two trees
50 are in poor condition and exempt from being counted; and 17 are being removed. After all
51 calculations and multipliers have been added, the Soukup lot is required to replace 137.5 caliper
52 inches of trees (rounded up to 138) or 46 trees 3 caliper inches in size (see Attachment C – tree
53 preservation plan).

54 Based on the size of the lot (.64 acres), the location of the home and driveway, and the locations
55 of 10 preserved trees, the property can comfortably accommodate 12 new trees without crowding
56 other trees (see Attachment D – forester comments). This would allow a total of 36 caliper
57 inches to be implemented on site from the 138 required, resulting in a revised total of 102 inches
58 or 34 trees. The remaining required trees would either need to be planted within 1,000 feet of the
59 property or be required to pay \$500 per 3 caliper inches of replacement trees or \$17,000 in
60 replacement fees.

61 The Soukup’s narrative states their belief the requirements of §1011.04.J.8 are unreasonable and
62 burdensome for a residential home builder to absorb into the overall cost to build a new home.
63 Specifically, the requirements are unreasonable for an already wooded lot and also expensive.
64 Additionally, the applicant and/or their builder are not interested in attempting a process to seek
65 out property owners within 1,000 feet of the subject property to plant trees as it is highly unlikely
66 they could fulfill their required 34 trees, but also because that process would expend an
67 unreasonable amount of time and be overly burdensome to take on in combination with building
68 a new home (see Attachment D – narrative).

69 **VARIANCE ANALYSIS**

70 Section 1009.04C of the City Code establishes a mandate the Variance Board make five specific
71 findings about a variance request as a prerequisite for approving the variance. Planning Division
72 staff has reviewed the application and offers the following draft findings:

- 73 **a.** *The proposal is consistent with the Comprehensive Plan. The Roseville 2030 Comprehensive*
74 *Plan encourages the City to promote preservation, replacement, and addition of trees in the*
75 *community, as well as to promote well planned and coordinated development. Planning*

76 Division staff finds the proposal to construct a modest, well thought-out, designed, and
77 situated home on the lake lot at 3056 Hamline Avenue that preserves numerous trees and
78 installs the maximum number of trees consistent with tree planting standards, is consistent
79 with these Comprehensive Plan Policies.

80 **b.** *The proposal is in harmony with the purposes and intent of the zoning ordinances.* The intent
81 of §1011.04 Tree Preservation and Restoration in All Districts is to preserve as many trees as
82 possible and to replace those trees removed. In 2014, however, §1011.04 was amended to
83 include stricter standards. Three of these standards (inclusion of all non-invasive trees, a
84 replacement multiplier effect, and a mandatory replacement or a required fee) have made
85 development of single-family homes on wooded lots challenging. The Planning Division has
86 reviewed the proposed plan by the Soukup's and finds the proposed home, and its tree
87 removal, to be designed in good faith and meets the intent of §1011.04.

88 **c.** *The proposal puts the subject property to use in a reasonable manner.* Planning Division
89 staff finds the proposal makes reasonable use of the subject property given the professionally
90 prepared tree preservation and home placement plans. The new home is large but not
91 excessively large for a lake lot of this land area, complies with all other Code requirements,
92 and limits removal to 17 of 27 trees. The applicant's narrative states they are placing the
93 home in the only location that can practically accommodate a structure, that location of
94 which just happens to contain a cluster of trees that will need to be removed. In light of this,
95 Planning Division staff finds, in this instance, the requirements of §1011.04.J.8 to be overly
96 rigid, limiting home design and placement on a wooded lot. Furthermore, the Division views
97 the consequences of §1011.04.J.8 to be burdensome for single-family residential
98 construction, no matter how well-intentioned this requirement was when adopted.

99 **d.** *There are unique circumstances to the property which were not created by the landowner.*
100 The unique circumstance of this request is more directly related to the requirements of
101 §1011.04 of the Zoning Code than it is to a unique characteristic of the property. However,
102 one could observe that having a wooded lot is a unique circumstance for a residential lot in
103 Roseville. That said, §1011.04 and the heightened requirements of §1011.04.J.8 amended
104 into Code in 2014 create unintended consequences for single-family homeowners with
105 wooded lots. Although the Soukup's are removing 17 trees, many of the trees lie in the most
106 appropriate location for a home on this lake lot and the other necessary improvements like
107 driveway and retaining walls. The end result of removed trees versus preserved trees is a
108 requirement to plant 138 caliper inches of trees or 46 trees 3 caliper inches in diameter.
109 While planting 46 trees may appear to be unassuming, the applicant's narrative states the lot
110 cannot reasonably fit 46 new trees. Additionally, the process to seek out lots within a 1,000
111 feet to plant trees on is cumbersome when combined with the process of building a new
112 home. Lastly, and maybe more importantly, the proposed home cannot physically be built
113 anywhere else on the property to avoid removal of a substantial number of trees that are
114 causing the replacement figure to be so extensive.

115 **e.** *The variance, if granted, will not alter the essential character of the locality.* Planning
116 Division staff has determined the requirements of §1011.04, and more specifically
117 §1011.04.J.8, were not developed, nor intended, to be unreasonable or burdensome to single-
118 family home owners building homes on vacant wooded lots. With that said, this variance
119 seeks allowance to plant 12 trees on the property, as opposed to 46 trees. Additionally, the
120 variance seeks permission to avoid the process of being required to seek out locations within
121 1,000 feet of the lot to plant the remaining 34 trees or to pay the required replacement tree

122 fee of \$500 per tree, which results in an overall fee of \$17,000. The Planning Division has
123 determined the granting of this variance for the property at 3056 Hamline Avenue will not
124 alter or significantly change the character of the property or the surrounding neighborhood.

125 Section 1009.04 (Variances) of the City Code also explains the purpose of a variance is “to
126 permit adjustment to the zoning regulations where there are practical difficulties applying to a
127 parcel of land or building that prevent the property from being used to the extent intended by the
128 zoning.” The Planning Division concludes the proposed variance from §1011.04.J.8 aligns
129 favorably with all of the above requirements essential for approving this variance.

130 Therefore, the Planning Divisions recommends the Variance Board support the approval of the
131 requested variance from §1011.04.J.8 of the City Code, specifically in regards to the following
132 items:

- 133 • The property at 3056 Hamline Avenue will not be required to plant the remaining 34
134 replacement trees – and instead will be required to plant a minimum of 9 canopy and 3
135 coniferous trees, per the landscape plan provided;
- 136 • The Property at 3056 Hamline Avenue will not be required to seek out planting sites
137 within 1,000 feet of the subject property for the remaining 34 replacement trees; and
- 138 • The property at 3056 Hamline Avenue will not be required to pay a minimum tree
139 replacement fee of \$500 per tree (34) for a total of \$17,000.

140 **VARIANCE BOARD ACTION**

141 **By Motion, Adopt a Variance Board Resolution** (Attachment E) approving a variance to
142 §1011.04.J.8, Replacement Tree Locations, of the Roseville Zoning Code, subject to the
143 comments and findings of this report.

144 **ALTERNATIVE ACTIONS**

- 145 **a.** Pass a motion to table the item for future action. An action to table must be tied to the need
146 of clarity, analysis and/or information necessary to make a recommendation on the request.
- 147 **b.** Pass a motion denying the proposal. An action to deny must include findings of fact
148 germane to the request.

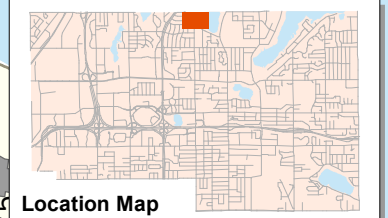
149 **NEXT STEPS**

150 The decision of the Variance Board is final unless an appeal is filed. The appeal period remains
151 open for 10 days from the date of the decision, and an appeal may be made either by the
152 applicant or by another Roseville property owner. An appeal must be submitted in writing to the
153 City Manager by noon on July 22, 2019, for a hearing before the Board of Adjustments and
154 Appeals.

Report prepared by: Thomas Paschke, City Planner | 651-792-7074
thomas.paschke@cityofroseville.com

Attachments: A. Area map B. Aerial map
C. Tree inventory/preservation Plan D. Narrative
E. Draft resolution

Attachment A for Planning File 19-012

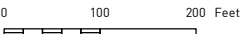


Location Map



Data Sources
 * Ramsey County GIS Base Map (4/30/2019)
 For further information regarding the contents of this map contact:
 City of Roseville, Community Development Department,
 2660 Civic Center Drive, Roseville MN

Disclaimer
 This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



Attachment B for Planning File 19-012



Prepared by:
Community Development Department
Printed: July 2, 2019



Site Location

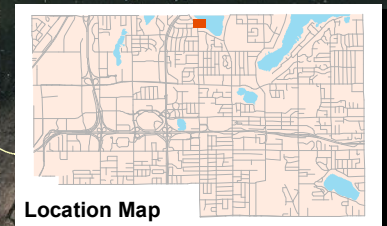
Data Sources

- * Ramsey County GIS Base Map (6/7/2019)
- * Aerial Data: Sanborn (4/2017)

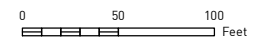
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Location Map



CERTIFICATE OF SURVEY

~for~ ZAWADSKI HOMES
 ~of~ 3056 Hamline Ave N.
 Roseville, MN

IMPERVIOUS SURFACE CALCULATION

TOTAL LOT AREA (TO OHW)..... 27,722 sq. ft.
 PROPOSED HOUSE, GARAGE, AND CANTILEVERS 2,994 sq. ft.
 PROPOSED ENTRY AND SCREEN PORCH 317 sq. ft.
 PROPOSED PATIO 273 sq. ft.
 PROPOSED DRIVEWAY + 3,230 sq. ft.
 TOTAL IMPERVIOUS SURFACE 6,814 sq. ft.
 PERCENT IMPERVIOUS 24.6%

LEGAL DESCRIPTION

(Per Certificate of Title No. 369410)

That part of Tract B, Registered Land Survey No. 189, lying southeasterly, east, and southeasterly of a line described as follows:

Commencing at the southwest corner of said Tract B, thence on an assumed bearing of North along the west line of said Tract B, a distance of 45.54 feet to the point of beginning of the line to be described; thence North 44 degrees 24 minutes 54 seconds East 35.72 feet; thence North 20.02 feet, thence North 58 degrees 05 minutes 35 seconds East to the shore of lake Josephine and said line there terminating.

NOTES

- Information shown hereon is supplemented by a survey prepared by Loucks, Inc. Dated 5-02-16.
- Field survey was completed by E.G. Rud and Sons, Inc. on 2-18-19.
- Bearings shown are on an assumed datum.
- Parcel ID Number: 03-29-23-12-0018.
- Curb shots are taken at the top and back of curb.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Tree inventory and tagging was completed by TreeBiz.

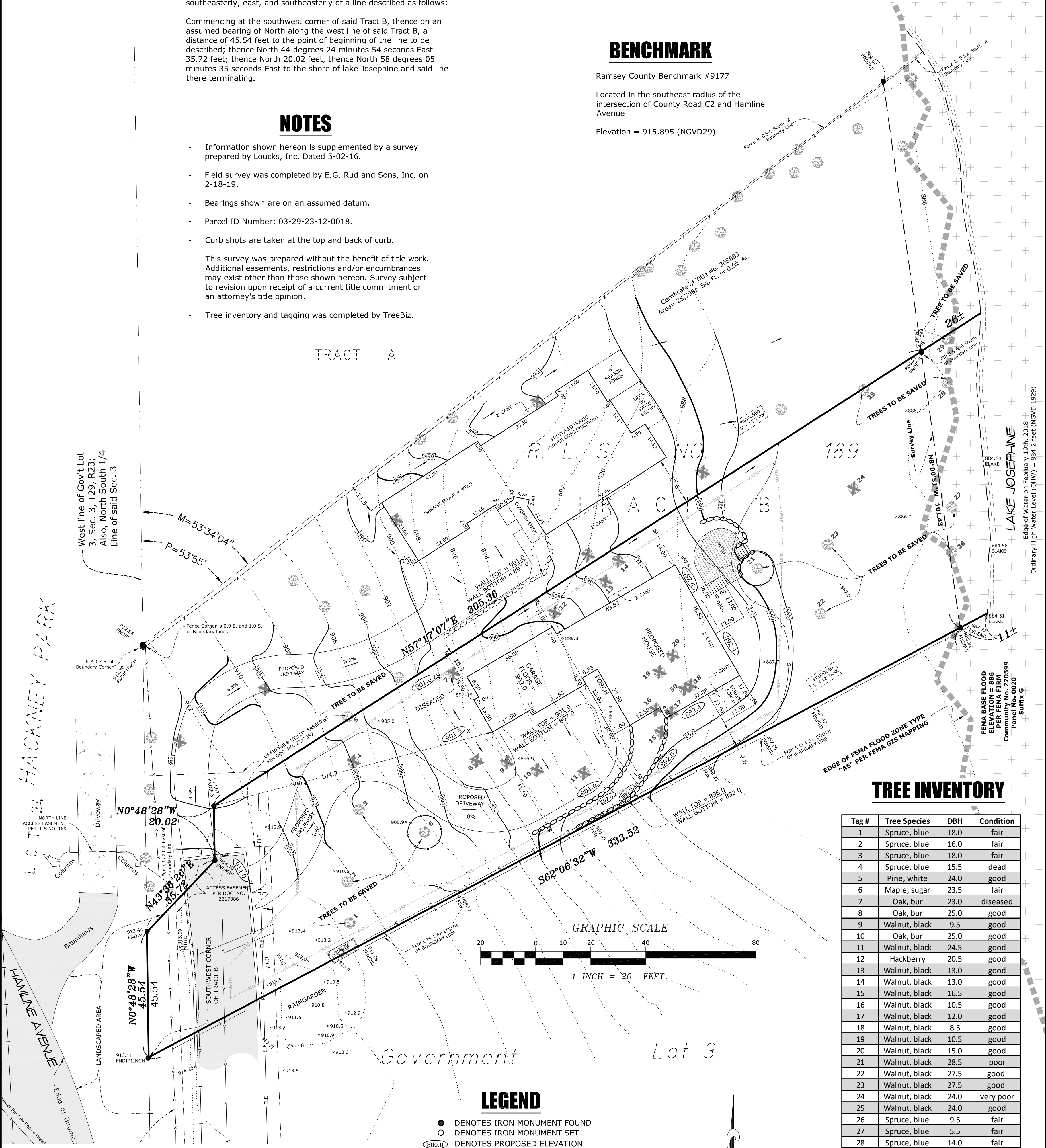
BENCHMARK

Ramsey County Benchmark #9177

Located in the southeast radius of the intersection of County Road C2 and Hamline Avenue

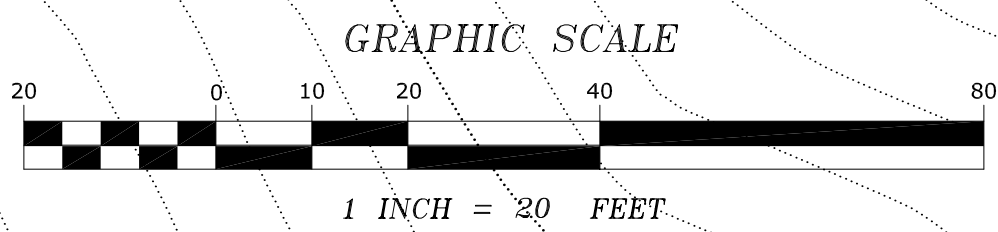
Elevation = 915.895 (NGVD29)

TRACT A



TREE INVENTORY

Tag #	Tree Species	DBH	Condition
1	Spruce, blue	18.0	fair
2	Spruce, blue	16.0	fair
3	Spruce, blue	18.0	fair
4	Spruce, blue	15.5	dead
5	Pine, white	24.0	good
6	Maple, sugar	23.5	fair
7	Oak, bur	23.0	diseased
8	Oak, bur	25.0	good
9	Walnut, black	9.5	good
10	Oak, bur	25.0	good
11	Walnut, black	24.5	good
12	Hackberry	20.5	good
13	Walnut, black	13.0	good
14	Walnut, black	13.0	good
15	Walnut, black	16.5	good
16	Walnut, black	10.5	good
17	Walnut, black	12.0	good
18	Walnut, black	8.5	good
19	Walnut, black	10.5	good
20	Walnut, black	15.0	good
21	Walnut, black	28.5	poor
22	Walnut, black	27.5	good
23	Walnut, black	27.5	good
24	Walnut, black	24.0	very poor
25	Walnut, black	24.0	good
26	Spruce, blue	9.5	fair
27	Spruce, blue	5.5	fair
28	Spruce, blue	14.0	fair
29	Spruce, blue	12.5	fair
30	Walnut, black	8.5	fair



LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- 800.0 DENOTES PROPOSED ELEVATION
- 1011.2 DENOTES EXISTING ELEVATION
- DENOTES DIRECTION OF DRAINAGE
- ⊗ DENOTES WOOD HUB/METAL SPIKE AT 11 FOOT OFFSET (UNLESS OTHERWISE NOTED)
- ○ ○ ○ DENOTES RETAINING WALL
- s- DENOTES SILT FENCE
- |— DENOTES TREE PROTECTION FENCE
- DENOTES EXISTING CONTOURS
- DENOTES PROPOSED CONTOURS
- * DENOTES TREE TO BE REMOVED

NORTH

PROPOSED ELEVATIONS

DIAG: 74.00 X 87.83 = 114.85
 (10 FOOT POURED WALL WALKOUT BASEMENT)

TOP OF WALL = 902.4
 GARAGE FLOOR = 902.0
 LOWEST FLOOR = 892.7
 TOP OF FOOTING = 892.4

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

JASON E. RUD
 Date: 6/4/2019 License No. 41578

E. G. RUD & SONS, INC.
 EST. 1977
 Professional Land Surveyors
 6776 Lake Drive NE, Suite 110
 Lino Lakes, MN 55014
 Tel. (651) 361-8200 Fax (651) 361-8701

- * BUILDER TO VERIFY HOUSE DIMENSIONS, SEWER DEPTH AND FOUNDATION DEPTH.
- * DRIVEWAYS ARE SHOWN FOR GRAPHIC PURPOSES ONLY. FINAL DRIVEWAY DESIGN AND LOCATION TO BE DETERMINED BY CONTRACTOR.
- * FINISHED GRADE ADJACENT TO HOME SHALL BE 0.5 FEET BELOW TOP OF BLOCK EXCEPT AT DRIVEWAY AND PATIO.

DRAWN BY:	CMB	JOB NO:	19089HS	DATE:	02/13/19
CHECK BY:	JER	SCANNED	<input type="checkbox"/>		
1	4/18/19	UPDATED HOUSE PLAN	CMB		
2	5/2/19	ADD FEMA INFORMATION	CMB		
3	5/20/19	ADD TREE INVENTORY	CMB		
3	6/4/19	UPDATE TREE INFORMATION	CMB		
NO.	DATE	DESCRIPTION	BY		

Attachment C

	#			Inches	%	Inches		
	Trees	Diameter	Removed	Removed	Allowed	Allowed		
Heritage	3	83.5	0					
Significant	17	338.5	7	137.5	35%	48.125	=	89.375
Common	10	101	7	74.5	35%	26.0	=	48.5
Exempt	4	86.5	4					
								137.875
<u>NOTES</u>								
Significant; removed (137.875) less allowed (48.125)						89.375		
Common; removed (74.5) less allowed (26) +						<u>48.5</u>		
						137.88		
								Revised 6/3/19

June 6, 2019

Variance Request**Re: 3056 Hamline Ave, N**

The applicant, Zawadski Homes, and its clients, Colleen and Larry Soukup, owners, seek a variance to certain conditions within Roseville's Tree Preservation and Restoration Plan. Applicants do not have an issue with the intent and purpose of the Restoration Plan, but are questioning the tree replacement formula and the onerous consequences.

To summarize in advance, applicant is removing 17 of the 30 trees on a narrow, steep, residential lot, and most all of the 17 trees are congregated in the middle of the house construction pad. The replacement formula requires 45 new, 3" trees(\$22,500 value). The lot does not have room for 45 new trees.

Background History

Recently, Colleen and Larry Soukup began looking for a retirement home in Roseville. They immediately fell in love with vacant land property at 3056 Hamline Avenue, and purchased it in December, 2018, from Thomas and Dorothy Wilmus, who we understand to be the party that subdivided the subject land into 2 properties. The land sellers made no mention of the tree ordinance when selling it to the Soukups.

The lot is scenic, and blessed with over 30 trees; this was and is a fantastic feature. The lot faces East and is on a steep hill. The lot is long and narrow, approx.. 300' by 100'. Over half of the trees are congregated in the middle of the future building pad, and the home realistically can only go in one location. The narrow, steep lot was officially platted, and a home was designed to just within the new approved property lines. The new home is of modest size. The house is only 50' wide(approx.), but with the placement of garage and porch, it fits tightly between the side boundaries without much room to spare.

Of the 17 trees that must be removed, tree # 4 is dead (see survey) and the arborist considers 2 others (#7 & #24) to be diseased/poor condition. A fourth tree, #21, was deemed poor condition, but in the spirit of tree preservation, it is being saved in the hope that it lives longer. Of the trees being removed, none of them are being eliminated for other reasons than construction conflict. Their removal is only driven by necessity. The home size was kept modest with the hope to save as many trees as possible. The lot is unique, in that every home along this embankment is set approximately the same distance back from the rear lot lines, and it is the location that makes the most sense for a walkout lower level rambler home.

Approximately 13 healthy trees remain, far more than the average residential home in the northern suburbs. We are excited to keep these trees, and plant a few more, per landscaper's recommendations.

Ordinance Replacement Calculation and Applicant's Position/Request

The calculation for tree replacement, as we understand it, is 45 trees (Tree calcs attached). This lot, while capable of receiving some new replacement trees, couldn't reasonably accommodate 45 new trees with a normal separation. If all 45 replacement trees are planted on the lot, we will end up with 58 trees on the property. While we love trees, the ordinance seems to have an unusual impact, along with associated costs. Arguably, a more reasonable approach would be to encourage replacement with a 'comfortable' number of trees to blend in with the community. Further, the recommendation for the

June 6, 2019

proper number of trees could start out with the City Forester, then Owners could agree or counter-suggest a different plan, subject to final City approval.

Another issue is tree density of the removed trees. An unusual phenomenon with the trees growing on the lot is, there are 15 trees somewhat tightly grouped in the middle of the lot, all fighting for sunlight. And 7 of these trees are all within 20 feet of each other. This isn't ideal to begin with. In a dense forest, tree location is random, and trees compete to survive. On a residential lot, however, this unusual bunching of trees is arguably problematic and not ideal for healthy trees to grow. The owners inadvertently purchased a lot with a worse case, tree clumping scenario, at least in regards to the Ordinance's replacement formula. It is likely that the Ordinance, when drafted, did not contemplate the situation unfolding with the trees on this particular lot.

Under the current ordinance, if applicants planted a realistic 10 trees, for example, that would cost owners \$4K to \$6K with the landscaper, depending on the type of tree selected. For every tree not planted, the ordinance would then require payment of a fee as follows: the remainder trees (35) X \$500 = \$17,500. The size of the assessment seems to be out of proportion to what the City might ideally want to accomplish. We aren't sure what the primary purpose of the ordinance is, but we support rules encouraging healthy flora. We doubt that the purpose is it to be a penalty to home owners by discouraging new home construction. Discouraging home construction wouldn't make sense, as the City just recently approved the subdivision, and property taxes support the City. If the ordinance is designed as a revenue generator, it seems like it might be intended for developers, and not homeowners?

The grouping of a significant number of trees in the only available building pad creates a unique hardship that would rarely be found otherwise on the typical residential lot. The most believable intent of the ordinance replacement formula seems to be for establishing responsible developments. For the few remaining unbuild vacant lots in Roseville, the Ordinance would seem to be beneficial and fare when the lot has 3-5 trees.

Regardless, Owners wish to be responsible new residents of Roseville, but feel that there are unintended consequences related to the enforcement of this ordinance as it is applied to this unique lot. We would request that the City consider either lowering the replacement number of trees to what the City Forester feels the lot could accommodate, or eliminating/minimizing the penalty fee. If the Forester believes that 10 more trees are appropriate, shouldn't this be the sole requirement? The additional fee seems to be an unnecessary hardship in this case.

Owners intend to have the home blend in with the neighborhood, and believe the home and landscaping will compliment the beautiful character of the surroundings. Roseville will be proud of this addition to the community.

Thank you for your thoughtful consideration,

Colleen and Larry Soukup, Owners

Zawadski Homes, Applicant

**EXTRACT OF MINUTES OF MEETING OF THE
VARIANCE BOARD OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the Variance Board of the City of Roseville, County of Ramsey, Minnesota, was held on the 10th Day of July 2019, at 5:30 p.m.

The following Members were present: _____;
and _____ were absent.

Variance Board Member _____ introduced the following resolution and moved its adoption:

VARIANCE BOARD RESOLUTION NO.

**A RESOLUTION APPROVING A VARIANCE TO ROSEVILLE CITY CODE §1011.04.J.8 REPLACEMENT
TREE LOCATIONS, AT 3056 HAMLINE AVENUE (PF19-012)**

WHEREAS, the subject property is assigned Ramsey County Property Identification Number 03-29-23-12-0018, and is legally described as:

SUBJ TO AND WITH ACCESS ESMT PART DESC AS LYING SELY E AND SELY OF A LINE DESC AS COMM AT THE SW COR OF TRACT B RLS 189 THENCE N ALONG THEW LINE OF SD TRACT B 45.54 FT TO THE POB THENCE N 44 DEG 24 MIN 54 SEC E 35.72 FT THENCE N 20.02 FT THENCE N 58 DEG OS MIN 35 SEC E TO THE SHORE OF LAKE JOSEPHINE AND THERE TERM OF TRACT B REG LAND SURVEY 189

WHEREAS, City Code §1011.04.J.8 Replacement Tree Locations requires:

8. *Replacement Tree Locations: Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of space), inappropriate (available planting areas are not ideal for new plantings or would do little to enhance the site), or counterproductive to a property's intent (i.e., would entail too much screening for a retail business) as determined by the City Forester or other degreed forester or certified arborist as assigned by the Community Development Department. When such a determination is made, the applicant shall comply with replacement requirements in one of three ways in the following manner:*
 - a. *As directed by the City, required replacement trees may be located on private property within 1000 feet of the subject development site with the consent of the property owner(s), on public improvement project sites that are not greater than 1000 feet from the development site, or on other public and private lands that are not greater than 1000 feet from the development site if such lands are deemed to be available, with priority given to locations near the affected use; or*
 - b. *The City may accept a cash-in-lieu tree replacement payment in accordance with the required fee listed in the City Fee Schedule. In no instance shall a cash- in-lieu payment exceed 10% of the Fair Market Value of the development site; or*
 - c. *The City may approve a combination of tree replacement in accordance with “a” above and a payment consistent with “b” above to fulfill this requirement. (Ord. 1503, 7-11-2016); and*

WHEREAS, Larry and Colleen Soukup are property owners of the lot at 3056 Hamline Avenue and desire to construct a single-family home; and

39 WHEREAS, Larry and Colleen Soukup seeking a variance from §1011.04.J.8 Replacement
 40 Tree Locations, to permit reduced tree replacement and seek relief from the required fee for not
 41 being able to plant the replacement tree amount; and

42 WHEREAS, City Code §1009.04 (Variances) establishes the purpose of a variance is "to
 43 permit adjustment to the zoning regulations where there are practical difficulties applying to a
 44 parcel of land or building that prevent the property from being used to the extent intended by the
 45 zoning;" and

46 WHEREAS, the Variance Board has made the following findings:

- 47 **a.** *The proposal is consistent with the Comprehensive Plan.* The Roseville 2030 Comprehensive
 48 Plan encourages the City to *promote preservation, replacement, and addition of trees in the*
 49 *community*, as well as to *promote well planned and coordinated development*. The Variance
 50 Board finds the proposal to construct a modest, well thought-out, designed, and situated home
 51 on the lake lot at 3056 Hamline Avenue that preserves numerous trees and installs the maximum
 52 number of trees consistent with tree planting standards, is consistent with these Comprehensive
 53 Plan Policies.
- 54 **b.** *The proposal is in harmony with the purposes and intent of the zoning ordinances.* The intent of
 55 §1011.04 Tree Preservation and Restoration in All Districts is to preserve as many trees as
 56 possible and to replace those trees removed. In 2014, however, §1011.04 was amended to
 57 include stricter standards. Three of these standards, inclusion of all non-invasive trees, a
 58 replacement multiplier effect, and a mandatory replacement or a required fee have made
 59 development of single-family homes on wooded lots challenging. The Variance Board has
 60 reviewed the proposed plan by the Soukup's and finds the proposed home, and its tree removal,
 61 to be designed in good faith and meets the intent of §1011.04.
- 62 **c.** *The proposal puts the subject property to use in a reasonable manner.* The Variance Board
 63 finds the proposal makes reasonable use of the subject property given the professionally
 64 prepared tree preservation and home placement plans. The new home is large but not
 65 excessively large for a lake lot of this land area, complies with all other Code requirements, and
 66 limits removal to 17 of 27 trees. The applicant's narrative states they are placing the home in
 67 the only location that can practically accommodate a structure, that location of which just
 68 happens to contain a cluster of trees that will need to be removed. In light of this, the Variance
 69 Board finds, in this instance, the requirements of §1011.04.J.8 to be overly rigid, limiting home
 70 design and placement on a wooded lot. Furthermore, the Variance Board views the
 71 consequences of §1011.04.J.8 to be burdensome for single-family residential construction, no
 72 matter how well-intentioned this requirement was when adopted.
- 73 **d.** *There are unique circumstances to the property which were not created by the landowner.* The
 74 unique circumstance of this request is more directly related to the requirements of §1011.04 of
 75 the Zoning Code than it is to a unique characteristic of the property. However, one could
 76 observe that having a wooded lot is a unique circumstance for a residential lot in Roseville. That
 77 said, §1011.04 and the heightened requirements of §1011.04.J.8 amended into Code in 2014
 78 create unintended consequences for single-family homeowners with wooded lots. Although the
 79 Soukup's are removing 17 trees, many of the trees lie in the most appropriate location for a
 80 home on this lake lot and the other necessary improvements like driveway and retaining walls.
 81 The end result of removed trees versus preserved trees is a requirement to plant 138 caliper
 82 inches of trees or 46 trees 3 caliper inches in diameter. While planting 46 trees may appear to
 83 be unassuming, the applicant's narrative states the lot cannot reasonably fit 46 new trees.
 84 Additionally, the process to seek out lots within a 1,000 feet to plant trees on is cumbersome

85 when combined with the process of building a new home. Lastly, and maybe more importantly,
86 the proposed home cannot physically be built anywhere else on the property to avoid removal of
87 a substantial number of trees that are causing the replacement figure to be so extensive.

88 e. *The variance, if granted, will not alter the essential character of the locality.* The Variance
89 Board has determined the requirements of §1011.04, and more specifically §1011.04.J.8, were
90 not developed, nor intended, to be unreasonable or burdensome to single-family home owners
91 building homes on vacant wooded lots. With that said, this variance seeks allowance to plant 12
92 trees on the property, as opposed to 46 trees. Additionally, the variance seeks permission to
93 avoid the process of being required to seek out locations within 1,000 feet of the lot to plant the
94 remaining 34 trees or to pay the required replacement tree fee of \$500 per tree, which results in
95 an overall fee of \$17,000. The Variance Board has determined the granting of this variance for
96 the property at 3056 Hamline Avenue will not alter or significantly change the character of the
97 property or the surrounding neighborhood.

98 AND WHEREAS, §1009.04 (Variances) of the City Code also explains the purpose of a
99 variance is “to permit adjustment to the zoning regulations where there are practical difficulties
100 applying to a parcel of land or building that prevent the property from being used to the extent
101 intended by the zoning.” The Variance Board concludes the proposed variance from §1011.04.J.8
102 aligns favorably with all of the above requirements essential for approving this variance.

103 NOW THEREFORE BE IT RESOLVED, by the Roseville Variance Board, to approve the
104 variance to §1011.04.J.8, Replacement Tree Locations of the City Code, based on the proposed
105 plan, the testimony offered at the public hearing, the above findings, and specifically in regards to
106 the following items:

- 107 • The property at 3056 Hamline Avenue will not be required to plant the remaining 34
108 replacement trees – and instead will be required to plant a minimum of 9 canopy and 3
109 coniferous trees, per the landscape plan provided;
- 110 • The Property at 3056 Hamline Avenue will not be required to seek out planting sites within
111 1,000 feet of the subject property for the remaining 34 replacement trees; and
- 112 • The property at 3056 Hamline Avenue will not be required to pay a minimum tree
113 replacement fee of \$500 per tree (34) for a total of \$17,000.

114 The motion for the adoption of the foregoing resolution was duly seconded by Variance
115 Board Member _____ and upon vote being taken thereon, the following voted in favor:
116 _____;
117 and _____ voted against;

118 WHEREUPON said resolution was declared duly passed and adopted.

119 *Variance Board Resolution No. 1__ – 3056 Hamline Avenue – Tree Replacement (PF19-012)*

120 STATE OF MINNESOTA)
121) ss
122 COUNTY OF RAMSEY)

123 I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of
124 Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and
125 foregoing extract of minutes of a regular meeting of said Roseville Variance Board held on the 10th
126 day of July 2019.

127 WITNESS MY HAND officially as such Manager this 10th day of July 2019.

128
129
130

SEAL

Patrick Trudgeon, City Manager

Prepared By

Agenda Section
Public Hearings



Department Approval

Jamie Gundlach

Item Description: Consider a Variance pursuant to §1011.04.J.8 Replacement Tree Locations for property located at 907 Burke Avenue (PF19-013).

1 APPLICATION INFORMATION

2 Applicant:	Jenny and Josh Whitcomb
3 Location:	907 Burke Avenue
4 Property Owner:	same
5 Application Submission:	06/11/19; deemed complete 06/13/19
6 City Action Deadline:	08/10/19
7 Planning File History:	None

8 **LEVEL OF DISCRETION IN DECISION MAKING:** Actions taken on a Variance request is quasi-judicial; the City’s role is to determine the facts associated with the request and weigh those facts against the legal standards in State Statutes and City Code.

11 BRIEF INTRODUCTION

12 Jenny and Josh Whitcomb are property owners of the lot at 907 Burke Avenue and desire to construct a single-family home. The property has a Comprehensive Plan Land Use designation of Low Density Residential (LR) and a Zoning Map classification of Low Density Residential-1 (LDR-1) District.

16 The Whitcomb’s are seeking a variance from §1011.04.J.8 Replacement Tree Locations, to permit reduced tree replacement and seek relief from the required fee for not being able to plant the replacement tree amount. This Code section reads as follows:

19 8. *Replacement Tree Locations: Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of space), inappropriate (available planting areas are not ideal for new plantings or would do little to enhance the site), or counterproductive to a property’s intent (i.e., would entail too much screening for a retail business) as determined by the City Forester or other degreed forester or certified arborist as assigned by the Community Development Department. When such a determination is made, the applicant shall comply with replacement requirements in one of three ways in the following manner:*

27 a. *As directed by the City, required replacement trees may be located on private property within 1000 feet of the subject development site with the consent of the property owner(s), on public improvement project sites that are not greater than 1000 feet from the development site, or on other public and private lands that are not greater than 1000 feet from the development site if such lands are deemed to be available, with priority given to locations near the affected use; or*

- 33 b. *The City may accept a cash-in-lieu tree replacement payment in accordance with the*
34 *required fee listed in the City Fee Schedule. In no instance shall a cash- in-lieu*
35 *payment exceed 10% of the Fair Market Value of the development site; or*
- 36 c. *The City may approve a combination of tree replacement in accordance with “a”*
37 *above and a payment consistent with “b” above to fulfill this requirement. (Ord. 1503,*
38 *7-11-2016)*

39 To summarize the above standards, staff offers the list of requirements to assist in understanding
40 implementation of this section:

- 41 • A completed tree survey of property is submitted, which includes a calculation of the caliper
42 inches of replacement trees required.
- 43 • Based on the submitted tree survey, the applicant can plant said caliper inches of trees on the
44 subject property; or
 - 45 ○ Plant some of the caliper inches of trees on the subject property and plant
46 remainder of caliper inches on properties within 1,000 feet of the subject site; or
 - 47 ○ Plant same as above and pay the City a tree replacement fee of \$500 for each 3
48 inches of trees that cannot be planted.

49 The Whitcomb lot has a total of 22 trees. 6 trees are in poor condition and exempt from being
50 counted; 2 trees are ash and exempt from being counted; and 6 are being removed. After all
51 calculations and multipliers have been added, the Whitcomb lot is required to replace 77 caliper
52 inches of trees or 26 trees 3 caliper inches in size (see Attachment C – tree preservation plan).

53 Based on the size of the lot (.31 acres), the location of the home and driveway, and the locations
54 of 10 preserved trees, the property can comfortably accommodate 3 canopy trees without
55 crowding other trees (see Attachment D – forester comments). However, it may be possible to
56 plant 4 canopy trees and 2 ornamental trees on the property without crowding the existing trees
57 or negatively impacting the proposed improvements to the property. This would allow a total of
58 15 caliper inches to be implemented on site from the 77 required, resulting in a revised total of
59 62 inches or 21 trees. The remaining required trees would either need to be planted within 1,000
60 feet of the property or be required to pay a \$500 per 3 caliper inches of replacement trees or a
61 \$10,500 replacement.

62 The Whitcomb’s narrative states their belief the requirements of §1011.04.J.8 are unreasonable
63 and burdensome for a residential home builder to absorb into the overall cost to build a new
64 home. Specifically, the requirements are too expensive. Additionally, the applicant and/or their
65 builder are not interested in attempting a process to seek out property owners within 1,000 feet of
66 the subject property to plant trees as it is highly unlikely they could fulfill their required 21 trees,
67 but also because that process would expend an unreasonable amount of time and be overly
68 burdensome to take on in combination with building a new home (see Attachment D – narrative).

69 **VARIANCE ANALYSIS**

70 Section 1009.04C of the City Code establishes a mandate the Variance Board make five specific
71 findings about a variance request as a prerequisite for approving the variance. Planning Division
72 staff has reviewed the application and offers the following draft findings:

- 73 **a.** *The proposal is consistent with the Comprehensive Plan. The Roseville 2030 Comprehensive*
74 *Plan encourages the City to promote preservation, replacement, and addition of trees in the*
75 *community, as well as to promote well planned and coordinated development. Planning*

76 Division staff finds the proposal to construct a modest, well thought-out, designed, and
77 situated home on the lot at 907 Burke Avenue that preserves numerous trees and installs the
78 maximum number of trees consistent with tree planting standards, is consistent with these
79 Comprehensive Plan Policies.

80 **b.** *The proposal is in harmony with the purposes and intent of the zoning ordinances.* The intent
81 of §1011.04 Tree Preservation and Restoration in All Districts is to preserve as many trees as
82 possible and to replace those trees removed. In 2014, however, §1011.04 was amended to
83 include stricter standards. Three of these standards (inclusion of all non-invasive trees, a
84 replacement multiplier effect, and a mandatory replacement or a required fee) have made
85 development of single-family homes on wooded lots challenging. Planning Division has
86 reviewed the proposed plan by the Whitcomb's and finds the proposed home, and its tree
87 removal, to be designed in good faith and meets the intent of §1011.04.

88 **c.** *The proposal puts the subject property to use in a reasonable manner.* Planning Division
89 staff finds the proposal makes reasonable use of the subject property given the professionally
90 prepared tree preservation and home placement plans. The new home is not excessively
91 large, complies with all other Code requirements, and limits removal to 6 of 22 trees. In light
92 of this, Planning Division staff finds, in this instance, the requirements of §1011.04.J.8 to be
93 overly rigid, limiting home design and placement on a wooded lot. Furthermore, the
94 Division views the consequences of §1011.04.J.8 to be burdensome for single-family
95 residential construction, no matter how well-intentioned this requirement was when adopted.

96 **d.** *There are unique circumstances to the property which were not created by the landowner.*
97 The unique circumstance of this request is more directly related to the requirements of
98 §1011.04 of the Zoning Code than it is to a unique characteristic of the property. However,
99 one could observe that having a wooded lot is a unique circumstance for a residential lot in
100 Roseville. That said, §1011.04 and the heightened requirements of §1011.04.J.8 amended
101 into Code in 2014 create unintended consequences for single-family homeowners with
102 wooded lots. Although the Whitcomb's are removing just 6 trees, three are heritage trees
103 that have a 2 to 1-inch multiplier. The end result of removed trees versus preserved trees is a
104 requirement to plant 77 caliper inches of trees or 26 trees 3 caliper inches in diameter. While
105 planting 26 trees may appear to be unassuming, the process is cumbersome when combined
106 with the process of building a new home and the fee for not seeking out lots to plant the trees
107 is overly burdensome for a residential property owner's home construction budget. Lastly,
108 an maybe more importantly, the proposed home cannot physically be built anywhere else on
109 the property to avoid removal of the heritage trees that are causing the replacement figure to
110 be so extensive.

111 **e.** *The variance, if granted, will not alter the essential character of the locality.* Planning
112 Division staff has determined the requirements of §1011.04, and more specifically
113 §1011.04.J.8, were not developed, nor intended, to be unreasonable or burdensome to single-
114 family home owners building homes on vacant wooded lots. With that said, this variance
115 seeks allowance to plant 3 to 5 trees on the property, as opposed to 21 trees. Additionally,
116 the variance seeks permission to avoid the process of being required to seek out locations
117 within 1,000 feet of the lot to plant the remaining 21 trees or to pay the required replacement
118 tree fee of \$500 per tree, which results in an overall fee of over \$10,000. The Planning
119 Division has determined the granting of this variance for the property at 907 Burke Avenue
120 will not alter or significantly change the character of the property or the surrounding
121 neighborhood.

122 Section 1009.04 (Variances) of the City Code also explains the purpose of a variance is “to
123 permit adjustment to the zoning regulations where there are practical difficulties applying to a
124 parcel of land or building that prevent the property from being used to the extent intended by the
125 zoning.” The Planning Division concludes the proposed variance from §1011.04.J.8 aligns
126 favorably with all of the above requirements essential for approving this variance.

127 Therefore, the Planning Divisions recommends the Variance Board support the approval of the
128 requested variance from §1011.04.J.8 of the City Code, specifically in regards to the following
129 items:

- 130 • The property at 907 Burke Avenue will not be required to plant the remaining 21
131 replacement trees – and instead will be required to plant a minimum of 4 canopy and 2
132 ornamental trees;
- 133 • The Property at 907 Burk Avenue will not be required to seek out planting sites within
134 1,000 feet of the subject property for the remaining 21 replacement trees; and
- 135 • The property at 907 Burke Avenue will not be required to pay a minimum tree
136 replacement fee of \$500 per tree (21) for a total of \$10,500.

137 **VARIANCE BOARD ACTION**

138 **By Motion, Adopt a Variance Board Resolution** (Attachment E) approving a variance to
139 §1011.04.J.8, Replacement Tree Locations, of the Roseville Zoning Code, subject to the
140 comments and findings of this report.

141 **ALTERNATIVE ACTIONS**

- 142 **a.** Pass a motion to table the item for future action. An action to table must be tied to the need
143 of clarity, analysis and/or information necessary to make a recommendation on the request.
- 144 **b.** Pass a motion denying the proposal. An action to deny must include findings of fact
145 germane to the request.

146 **NEXT STEPS**

147 The decision of the Variance Board is final unless an appeal is filed. The appeal period remains
148 open for 10 days from the date of the decision, and an appeal may be made either by the
149 applicant or by another Roseville property owner. An appeal must be submitted in writing to the
150 City Manager by noon on July 22, 2019, for a hearing before the Board of Adjustments and
151 Appeals.

Report prepared by: Thomas Paschke, City Planner | 651-792-7074
thomas.paschke@cityofroseville.com

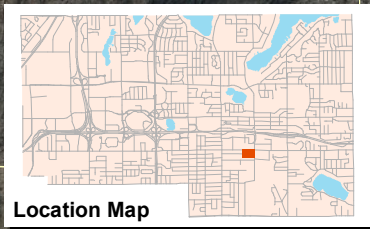
Attachments: A. Area map B. Aerial map
C. Tree inventory/preservation plan D. Narrative.
E. Draft resolution

Attachment B for Planning File 19-013



COUNTY ROAD B W

BURKE AVE



Location Map



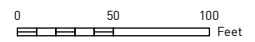
Prepared by:
Community Development Department
Printed: July 2, 2019

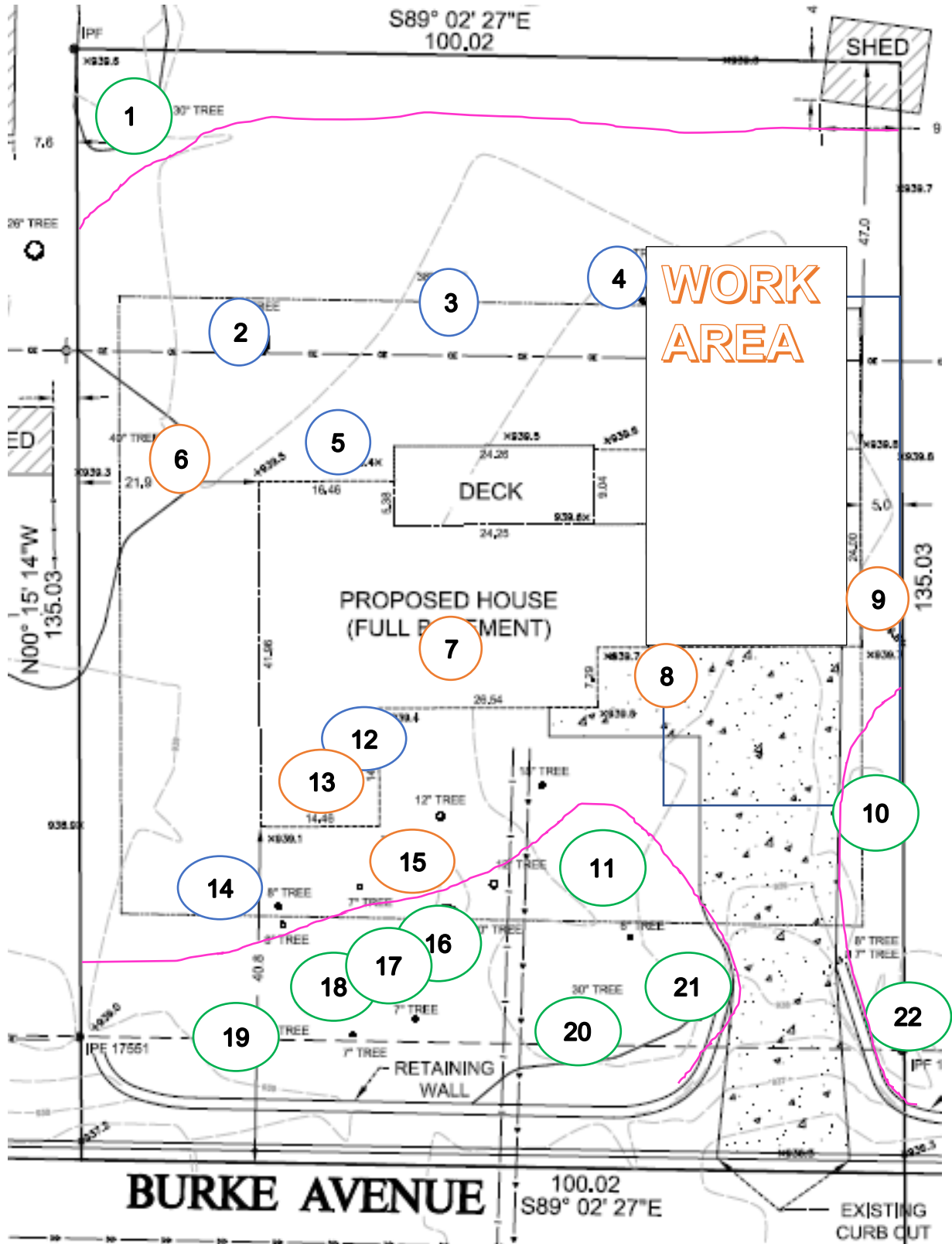


Site Location

Data Sources
* Ramsey County GIS Base Map (6/7/2019)
* Aerial Data: Sanborn (4/2017)
For further information regarding the contents of this map contact:
City of Roseville, Community Development Department,
2660 Civic Center Drive, Roseville MN

Disclaimer
This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.02, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.





= Tree Preservation Fence

			COMMON TREE 7-11" DIAMETER			SIGNIFICANT TREE DIAMETER			HERITAGE TREE DIAMETER			
			EXEMPT	TOTAL	REMOVED	EXEMPT	TOTAL	REMOVED	EXEMPT	TOTAL	REMOVED	
TOTALS IN INCHES			22	46	19	33	125	13	94	93	67	
			COMMON TREES 7-11" DIAMETER			SIGNIFICANT TREE DIAMETERS			HERITAGE TREE DIAMETERS			
ALLOWABLE REMOVAL MULTIPLIER			0.35			0.35			0.15			
ALLOWABLE REMOVAL= (TOTAL X MULTIPLIER)			16.1			43.75			13.95			
DIFFERENCE = (REMOVED - ALLOWABLE)			-2.9			30.75			-53.05			
INCENTIVE MULTIPLIERS			0.5			1.00			2.00			
TOTAL CALIPER INCHES OWED			-1.45			30.75			-106.10			-77

Six (6) trees are exempt due to poor condition. Two (2) ash trees also exempt due to Emerald Ash Borer.

1

= Save

3

= Remove

2

= Exempt (poor condition)

Legal Description and PIN

Legal Description: Tract B, RLS #580, Ramsey Co, MN

PIN: 142923210083

Narrative

Thank you for the opportunity to present to the Development Review Committee and the Variance Board our request for a variance related to our property at 907 Burke Ave. W. We have attached as Exhibit A a letter we delivered to Roseville City Planner, Thomas Paschke, which provides context around our sincere desire to build and live in Roseville; therefore, we will limit the scope of this narrative to address the specific requirements set forth in the variance request form. We respectfully ask the Committee and Board to read that letter.

In short, we are requesting the elimination of fees or a reduction of replanting requirements related to the Tree Replacement Plan for our single-family, new construction project at 907 Burke.

City Code

Let's begin with Roseville City Code Section 1009.04C. This section states that in order to approve a variance request, the Variance Board shall find that

1) The proposal is consistent with the Comprehensive Plan

Our proposal to eliminate fees or reduce the replanting requirements is indeed consistent with the Comprehensive Plan. In fact, the Comprehensive Plan sets a bold objective: ***"Maintaining diverse, safe, and affordable housing is one of the most critical matters facing the city of Roseville."*** The imposition of exorbitant fees only does the opposite – making housing in our case less accessible, less diverse and less affordable.

Moreover, the Comprehensive Plan plainly states that ***"the availability of a variety of housing types, styles, and price ranges, which allows residents to move through the life-cycle housing chain, is a key factor in maintaining a community's ability to thrive well into the future."*** Our contemporary home will most certainly contribute to the diversity of style and price range. Without the elimination of fees or reduction of planting requirements, we will be forced to sell our property and anticipate that, like most other suburban lots, it will be purchased by a developer for the purposes of building a cookie-cutter spec home, thus decreasing the diversity of style in the city.

Finally, Policy 2.3 in Section 6.1 of the Comprehensive Plan clearly articulates Roseville's support for ***"...housing renovation, redevelopment, and/or infill projects that complement existing neighborhood character and improve neighborhood desirability and longevity."*** Our infill project on Burke Avenue will complement that neighborhood's character and improve its desirability (in fact, we've seen over the past couple of years many homeowners on that block taking on renovation and improvement projects; while we can't take credit for that, we are certain that the two other single-family infill projects on the block have led to increased pride of ownership

and dedication to aesthetic quality). Furthermore, we are certain that raising our two children in our new home will surely help increase the longevity of the neighborhood; indeed, communities that do not regularly replenish the stock of youth face existential risk. As in the preceding points, we will not be able to contribute to the neighborhood without the elimination of fees or reduction in replanting requirements.

2) The proposal is in harmony with the purposes and intent of zoning ordinances

We believe the Development Review Committee and the Variance Board can determine “intent” by examining a 2014 Request for Council Action (https://www.cityofroseville.com/DocumentCenter/View/14049/14b-Discuss-Section-101104-Tree-Preservation-and-Restoration-in-All-Districts_Redacted?bidId=), in which the City Planner of Roseville indicated that the goal of a tree preservation plan was **“to develop an ordinance that was not overly restrictive and/or burdensome to understand and implement...”**

The specific part of City Code at issue is §1011.04.J.8, which states:

8. Replacement Tree Locations: Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of space), inappropriate (available planting areas are not ideal for new plantings or would do little to enhance the site), or counterproductive to a property’s intent (i.e., would entail too much screening for a retail business) as determined by the City Forester or other degreed forester or certified arborist as assigned by the Community Development Department. When such a determination is made, the applicant shall comply with replacement requirements in one of three ways in the following manner:

- a. As directed by the City, required replacement trees may be located on private property within 1000 feet of the subject development site with the consent of the property owner(s), on public improvement project sites that are not greater than 1000 feet from the development site, or on other public and private lands that are not greater than 1000 feet from the development site if such lands are deemed to be available, with priority given to locations near the affected use; or**
- b. The City may accept a cash-in-lieu tree replacement payment in accordance with the required fee listed in the City Fee Schedule. In no instance shall a cash-in-lieu payment exceed 10% of the Fair Market Value of the development site; or**
- c. The City may approve a combination of tree replacement in accordance with “a” above and a payment consistent with “b” above to fulfill this requirement. (Ord. 1503, 7-11-2016)**

In our estimation, the application of the Tree Preservation requirements – both the replanting requirements and the fees-in-lieu – are both restrictive and burdensome in our case. In fact, the Code outlines three criteria: practicality, appropriateness, and productivity. Below we will outline the ways in which the application of Tree Preservation requirements to our property run counter to those criteria.

The first phrase of note in the City Code is **“Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of**

space) ...” Indeed, the only trees we are removing that require replacement are trees that are in the way of the building site. We’ve chosen to situate the house in a particular location on the lot so as to save as many old trees as we could. We are preserving nine beautiful, large trees on the south side of the lot and one large tree on the north side. There simply is no more *practical* room for several trees, let alone the 26 three-inch trees called for by the Tree Preservation Plan.

When we asked Mark Rehder, the City Forester of the City of Roseville (and a consultant who helped develop the Tree Preservation requirements in 2015), how many more trees the lot could support after we build, he said (see Exhibit B), ***“I would say you could probably plant three trees in the backyard and give them some room to grow...”*** Obviously, this is a far cry from the 26 trees specified by the plan written by the same Mark Rehder. Moreover, when pressed to answer the question of planting 25+ trees on the lot, Rehder indicated, ***“It would be very crowded and you could expect some mortality.”*** Surely, this is not the intent or spirit of the Tree Preservation code and is in direct contradiction to the *appropriateness* and *productivity* qualifications in the code above.

There is a remedy specified by city code to the lack of planting space: a program of fees-in-lieu. Our Tree Preservation Plan would have us pay \$500 per three caliper-inches of replaceable trees. This amounts to nearly \$13,000. We cannot afford \$13,000 just for the privilege of building a home in Roseville. The fee schedule is onerous, burdensome, and restrictive to us (and other single-family builds in our situation).

3) The proposal puts the subject property to use in a reasonable manner

Our proposal to eliminate fees or reduce replanting requirements in no way contradicts the reasonable use of this low-density residential property. We are building a modest house on a modest lot – exactly as a reasonable person would expect. We are saving 10 beautiful trees and will most certainly be planting some combination of trees, shrubs, bushes, flowers, grasses and other plants in a way that we believe will in fact surpass the expectations of a reasonable person.

4) There are unique circumstances to the property which were not created by the landowner

When we purchased the land in 2016, we were thrilled about the mature trees on the lot. The idea that we could put a house down and not have to wait decades for mature trees was one of the primary features that convinced us to buy the land.

The fact is, our *house has to go somewhere*. The existing trees on this lot were not planted by us, but they are creating a unique circumstance: a risk of our own punishment by the city for the volume of existing trees.

5) The variance, if granted, will not alter the essential character of the locality

The question here is one of “essential character,” which means we must ask how to define “essential character.” Should we see it as a matter of law? We are building a single-family home in a low-density residential zone. As a matter of fitting in? We are building a single-family home not substantially bigger or smaller than the surrounding homes. As a matter of foliage? We’re

maintaining 10 trees on the lot and have plans to add more plants. As a matter of neighborhood vitality? We're adding to the tax base, infusing the neighborhood with youth, and have already established positive relationships with our neighbors.

Our proposal to eliminate fees or reduce replanting requirements has no effect on the essential character of the locality.

Minnesota State Statute

Finally, Minnesota Statute 462.357, subd. 6(2) reads:

“Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems...”

We anticipate in the coming years installing solar energy/storage systems on the property at 907 Burke Ave. If we adhere to the replanting requirements, the canopy created will not allow effective use of those devices. Implementing solar power is an environmental good deed. The replanting requirements, which are meant to be an environmental good deed themselves, would hinder our ability to do good for the planet.

Thank you for taking the time to consider our variance request. We will make ourselves available to you whenever you have questions, comments, points of clarification, requests for documentation, etc. Our sincere desire is to build and live in Roseville, but we cannot do it without this variance.

Respectfully,

Josh Whitcomb and Jenny Whitcomb

Handwritten signatures of Josh Whitcomb and Jenny Whitcomb in cursive script.

Exhibit B: E-mail from Mark Rehder

Mark Rehder <mark@rehderforestryconsulting.com>
to Jenny, Thomas, me *

Thu, Jun 6, 11:35 AM (4 days ago) ☆ ↩ ⋮

Jenny,

Thanks for the email.

I have copied the questions and will answer below.

a. How many 3-caliper-inch trees can a .31 acre lot support - particularly in light of the fact that 3-inch trees eventually grow into 5-inch, 10-inch, etc. trees?

I would say you could probably plant three trees in the backyard and give them some room to grow. Oak, hackberry, maple, disease resistance elm, would be some good options.

b. Given the location of the residence and the trees we're retaining on the lot, where could these trees be planted, keeping in mind that moving or burying the electrical line is financially burdensome for us and our neighbors?

The backyard would be the best location for the new trees and to provide screening to neighbors to the north.

c. What effect would planting 25+ trees on a lot like this have on our access to sunlight? Would there be enough space for our children to enjoy open yard space to play catch or run around?

It would be very crowded and you could expect some mortality. I would go for the park dedication fee in this instance.

Mark

**EXTRACT OF MINUTES OF MEETING OF THE
VARIANCE BOARD OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the Variance Board of the City of Roseville, County of Ramsey, Minnesota, was held on the 10th Day of July 2019, at 5:30 p.m.

The following Members were present: _____;
and _____ were absent.

Variance Board Member _____ introduced the following resolution and moved its adoption:

VARIANCE BOARD RESOLUTION NO.

A RESOLUTION APPROVING A VARIANCE TO ROSEVILLE CITY CODE §1011.04.J.8 REPLACEMENT TREE LOCATIONS, AT 907 BURKE AVENUE (PF19-013)

WHEREAS, the subject property is assigned Ramsey County Property Identification Number -23-21-0083, and is legally described as:

Tract B, RLS #580, Ramsey Co, MN

WHEREAS, City Code §1011.04.J.8 Replacement Tree Locations requires:

8. *Replacement Tree Locations: Required replacement trees shall be planted on the site being developed unless doing so is deemed to be impractical (i.e., due to lack of space), inappropriate (available planting areas are not ideal for new plantings or would do little to enhance the site), or counterproductive to a property's intent (i.e., would entail too much screening for a retail business) as determined by the City Forester or other degreed forester or certified arborist as assigned by the Community Development Department. When such a determination is made, the applicant shall comply with replacement requirements in one of three ways in the following manner:*
 - a. *As directed by the City, required replacement trees may be located on private property within 1000 feet of the subject development site with the consent of the property owner(s), on public improvement project sites that are not greater than 1000 feet from the development site, or on other public and private lands that are not greater than 1000 feet from the development site if such lands are deemed to be available, with priority given to locations near the affected use; or*
 - b. *The City may accept a cash-in-lieu tree replacement payment in accordance with the required fee listed in the City Fee Schedule. In no instance shall a cash- in-lieu payment exceed 10% of the Fair Market Value of the development site; or*
 - c. *The City may approve a combination of tree replacement in accordance with "a" above and a payment consistent with "b" above to fulfill this requirement. (Ord. 1503, 7-11-2016); and*

WHEREAS, Jenny and Josh Whitcomb are property owners of the lot at 907 Burke Avenue and desire to construct a single-family home; and

WHEREAS, the Whitcomb's are seeking a variance from §1011.04.J.8 Replacement Tree Locations, to permit reduced tree replacement and seek relief from the required fee for not being able to plant the replacement tree amount; and

38 WHEREAS, City Code §1009.04 (Variances) establishes the purpose of a variance is "to
 39 permit adjustment to the zoning regulations where there are practical difficulties applying to a
 40 parcel of land or building that prevent the property from being used to the extent intended by the
 41 zoning;" and

42 WHEREAS, the Variance Board has made the following findings:

- 43 **a.** *The proposal is consistent with the Comprehensive Plan.* The Roseville 2030 Comprehensive
 44 Plan encourages the City to *promote preservation, replacement, and addition of trees in the*
 45 *community*, as well as to *promote well planned and coordinated development*. The Variance
 46 Board finds the proposal to construct a modest, well thought-out, designed, and situated home
 47 on the lot at 907 Burke Avenue that preserves numerous trees and installs the maximum number
 48 of trees consistent with tree planting standards, is consistent with these Comprehensive Plan
 49 Policies.
- 50 **b.** *The proposal is in harmony with the purposes and intent of the zoning ordinances.* The intent of
 51 §1011.04 Tree Preservation and Restoration in All Districts is to preserve as many trees as
 52 possible and to replace those trees removed. In 2014, however, §1011.04 was amended to
 53 include stricter standards. Three of these standards, inclusion of all non-invasive trees, a
 54 replacement multiplier effect, and a mandatory replacement or a required fee have made
 55 development of single-family homes on wooded lots challenging. The Variance Board has
 56 reviewed the proposed plan by the Whitcomb's and finds the proposed home, and its tree
 57 removal, to be designed in good faith and meets the intent of §1011.04.
- 58 **c.** *The proposal puts the subject property to use in a reasonable manner.* The Variance Board
 59 finds the proposal makes reasonable use of the subject property given the professionally
 60 prepared tree preservation and home placement plans. The new home is not excessively large,
 61 complies with all other Code requirements, and limits removal to 6 of 22 trees. In light of this,
 62 the Variance Board finds, in this instance, the requirements of §1011.04.J.8 to be overly rigid,
 63 limiting home design and placement on a wooded lot. Furthermore, the Variance Board views
 64 the consequences of §1011.04.J.8 to be burdensome for single-family residential construction,
 65 no matter how well-intentioned this requirement was when adopted.
- 66 **d.** *There are unique circumstances to the property which were not created by the landowner.* The
 67 unique circumstance of this request is more directly related to the requirements of §1011.04 of
 68 the Zoning Code than it is to a unique characteristic of the property. However, one could
 69 observe that having a wooded lot is a unique circumstance for a residential lot in Roseville. That
 70 said, §1011.04 and the heightened requirements of §1011.04.J.8 amended into Code in 2014
 71 create unintended consequences for single-family homeowners with wooded lots. Although the
 72 Whitcomb's are removing just 6 trees, three are heritage trees that have a 2 to 1-inch multiplier.
 73 The end result of removed trees versus preserved trees is a requirement to plant 77 caliper
 74 inches of trees or 26 trees 3 caliper inches in diameter. While planting 26 trees may appear to
 75 be unassuming, the process is cumbersome when combined with the process of building a new
 76 home and the fee for not seeking out lots to plant the trees is overly burdensome for a residential
 77 property owner's home construction budget. Lastly, and maybe more importantly, the proposed
 78 home cannot physically be built anywhere else on the property to avoid removal of the heritage
 79 trees that are causing the replacement figure to be so extensive.
- 80 **e.** *The variance, if granted, will not alter the essential character of the locality.* The Variance
 81 Board has determined the requirements of §1011.04, and more specifically §1011.04.J.8, were
 82 not developed, nor intended, to be unreasonable or burdensome to single-family home owners
 83 building homes on vacant wooded lots. With that said, this variance seeks allowance to plant 3

84 to 5 trees on the property, as opposed to 21 trees. Additionally, the variance seeks permission to
85 avoid the process of being required to seek out locations within 1,000 feet of the lot to plant the
86 remaining 21 trees or to pay the required replacement tree fee of \$500 per tree, which results in
87 an overall fee of over \$10,000. The Variance Board has determined the granting of this
88 variance for the property at 907 Burke Avenue will not alter or significantly change the
89 character of the property or the surrounding neighborhood.

90 AND WHEREAS, §1009.04 (Variances) of the City Code also explains the purpose of a
91 variance is “to permit adjustment to the zoning regulations where there are practical difficulties
92 applying to a parcel of land or building that prevent the property from being used to the extent
93 intended by the zoning.” The Variance Board concludes the proposed variance from §1011.04.J.8
94 aligns favorably with all of the above requirements essential for approving this variance.

95 NOW THEREFORE BE IT RESOLVED, by the Roseville Variance Board, to approve the
96 variance to §1011.04.J.8, Replacement Tree Locations of the City Code, based on the proposed
97 plan, the testimony offered at the public hearing, the above findings, and specifically in regards to
98 the following items:

- 99 • The property at 907 Burke Avenue will not be required to plant the remaining 21
100 replacement trees – and instead will be required to plant a minimum of 4 canopy and 2
101 ornamental trees;
- 102 • The Property at 907 Burk Avenue will not be required to seek out planting sites within 1,000
103 feet of the subject property for the remaining 21 replacement trees; and
- 104 • The property at 907 Burke Avenue will not be required to pay a minimum tree replacement
105 fee of \$500 per tree (21) for a total of \$10,500.

106 The motion for the adoption of the foregoing resolution was duly seconded by Variance
107 Board Member _____ and upon vote being taken thereon, the following voted in favor:
108 _____;
109 and _____ voted against;

110 WHEREUPON said resolution was declared duly passed and adopted.

111 *Variance Board Resolution No. 1__ – 907 Burke Avenue – Tree Replacement (PF19-013)*

112 STATE OF MINNESOTA)
113) ss
114 COUNTY OF RAMSEY)

115 I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of
116 Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and
117 foregoing extract of minutes of a regular meeting of said Roseville Variance Board held on the 10th
118 day of July 2019.

119 WITNESS MY HAND officially as such Manager this 10th day of July, 2019.

120
121
122

SEAL

Patrick Trudgeon, City Manager