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**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 10<sup>th</sup> day of July 2019, at 5:30 p.m.

The following Members were present: Pribyl, Kruzel and Chair Sparby; and none were absent.

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

**VARIANCE BOARD RESOLUTION NO. 141**

**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 142923210083, 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

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

WHEREAS, the Variance Board has made the following findings:

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

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

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

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

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

The motion for the adoption of the foregoing resolution was duly seconded by Variance Board Member Kruzel and upon vote being taken thereon, the following voted in favor: Pribyl, Kruzel and Chair Sparby; and none voted against;


WHEREUPON said resolution was declared duly passed and adopted.

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF RAMSEY    )

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

WITNESS MY HAND officially as such Manager this 10<sup>th</sup> day of July, 2019.



  
Patrick Trudgeon, City Manager