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**CITY OF ORONO**  
RESOLUTION OF THE CITY COUNCIL

NO. **7232**

**A RESOLUTION  
APPROVING A VARIANCE FROM  
MUNICIPAL ZONING CODE  
SECTION 78-420 FOR BUILDING HEIGHT AND SIDE YARD SETBACK**

**FILE NO. LA21-000068**

**WHEREAS**, on September 21, 2021, The city of Orono ("Applicant"), applied for a variance from the City Code for the property addressed 365 Old Crystal Bay Road and legally described in Exhibit A, (hereinafter the "Property");

**WHEREAS**, the Applicants have made application to the City of Orono for a variance to Orono Municipal Zoning Code Section 78-420 to allow a 23 foot side yard setback where 30 feet is required, and a variance from Section 78-420 to allow a building 36 feet in defined height where 30 feet is permitted; and

**WHEREAS**, on September 27, 2021, the City Council, by unanimous action, waived reference of the variance application to the Planning Commission, as authorized by City Code Section 78-122; and

**WHEREAS**, on October 25, 2021, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the City Council held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

**WHEREAS**, on October 25, 2021, the City Council directed preparation of findings for approval of the variance.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Orono, Minnesota hereby approves the requested variance as described above based on one or more of the following findings of fact concerning the Property:

**FINDINGS OF FACT:**

1. This application was reviewed as Zoning File #LA21-000068. The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.
2. The Property is located in the RR-1B Zoning District.



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4. Economic considerations alone do not constitute practical difficulties. **Economic considerations have not been a factor in the variance approval determination.**
5. Practical difficulties also include but are not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in Minn. Stat. § 216C.06, subd. 17, when in harmony with Orono City Code Chapter 78. **This condition is not applicable.**
6. The board or the council may not permit as a variance any use that is not permitted under Orono City Code Chapter 78 for property in the zone where the affected person's land is located. **This condition is not applicable, as a municipal building is a permitted use in the RR-1B District.**
7. The board or council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. **This condition is not applicable.**
8. The special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property. **The long, narrowness of the lot, coupled with significant slope of the property are unique to the lot.**
9. The conditions do not apply generally to other land or structures in the district in which the land is located. **The use of the property for a municipal building is unique to the property and the district.**
10. The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant. **The public works nature of the building requires flexibility from standard zoning regulations which were developed primarily for residential uses.**
11. The granting of the proposed variance will not in any way impair health, safety, comfort or morals, or in any other respect be contrary to the intent of this chapter. **The reduced north side setback and height variance will not impact neighboring properties in these ways, as there are no neighbors to the north (nor will there ever be), and the height issue is caused by the significant drop in the lot.**
12. The granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable difficulty. **The plans reflect minimal amount of variance necessary to meet use requirements of the site while minimizing impact to neighboring properties.**

**CONCLUSIONS, ORDER AND CONDITIONS:**

Based upon one or more of the above findings, the Orono City Council hereby grants a variance to Orono Municipal Zoning Code Section 78-420 to allow the buildings defined height up to 36 feet, and allow the north side yard setback to reduce from 30 feet to 23 feet, subject to the following conditions:

1. Council approval is based on the entire record, above Findings.



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**Exhibit A**

That part of Tract A described below:

Tract A.       The north 10 acres of that part of the East Half of the Southwest Quarter of Section 33, Township 118 North, Range 23 West, Hennepin County, Minnesota, lying south of the right of way of the Burlington Northern and Santa Fe Railway Company, formerly the Great Northern Railway;

which lies westerly and southerly of Line 1 described below, and westerly of the westerly right of way line of Old Crystal Bay Road as now located and established:

Line 1.       Beginning at Right of Way Boundary Corner B16 as shown on Minnesota Department of Transportation Monumentation Plat No. 27-M16 as the same is on file and of record in the office of the County Recorder in and for said County; thence northerly on an azimuth of 00 degrees 16 minutes 00 seconds along the boundary of said plat for 101.45 feet to Right of Way Boundary Corner B17; thence on an azimuth of 270 degrees 48 minutes 58 seconds along the boundary of said plat for 25.65 feet to Right of Way Boundary Corner B18; thence on an azimuth of 00 degrees 48 minutes 59 seconds along the boundary of said plat for 79.00 feet to Right of Way Boundary Corner B19; thence on an azimuth of 285 degrees 18 minutes 31 seconds for 79.82 feet to Boundary Corner M23; thence on an azimuth of 270 degrees 49 minutes 00 seconds for 1183.44 feet to Boundary Corner M24 and there terminating;

containing 5.85 acres,

more or less; Subject to

the following restriction:

No access shall be permitted to Trunk Highway No. 12 from the lands herein conveyed; except that access shall be permitted to Old Crystal Bay Road.

STATE OF MINNESOTA )

) SS

COUNTY OF HENNEPIN )

The undersigned, being duly qualified and appointed City Clerk of the City of Orono, Minnesota, certifies that I compared the foregoing Resolution adopted at the meeting of the Orono City Council on November 8, 2021 with the original thereof on file in my office, and the same is a correct transcription thereof.

**WITNESS** my hand officially as such City Clerk and the Corporate seal of the City this 9<sup>th</sup> day of November, 2021.

Amal

Anna Carlson, City Clerk

(seal)

