



**CITY OF NEW GERMAN - CITY COUNCIL MEETING MINUTES
CITY OF NEW GERMAN CITY OFFICES
300 BROADWAY STREET EAST
NEW GERMAN, MN 55367
SEPTEMBER 22, 2026 – 7:00 PM**

1. **Call to Order** – Mayor Shirley Jaeger called the meeting to order at 7 PM.

2. **Roll Call** – Mayor Shirley Jaeger, Council Members; Lorn Herrmann, Paul Roepke, Thomas Miellke, and Kevin Grove.

Others Present; Justin Black City Engineer, Therese Haffner Community Development Specialist, Ben Hach, and Dave Pink .

3. **Approval of Agenda** – Grove moved and Mielke seconded approving the agenda. The motion carried.
5/0

4. **New Business**

a. Public Hearing, Variance Request – 805 Fishermans Court, New Germany

Mayor Shirley Jaeger opened the variance meeting, introducing Therese Haffner with SEH Community Development Planning, Therese provided the staff findings, analysis and recommendations. All the information was also provided on screen in a power point presentation.

Existing land use; Vacant

Future land use: Single Family Residential (R1).

Existing Zoning : R-1 (Single Family Residential District)

Size: .59 acres R1 – Residential Zoning

Ben Hach owns all the lots in the cul-de-sac.

Overview of Proposal

Ben Hach, property owner and applicant, is requesting variances from connecting to city water and sewer services. The applicant is proposing to construct a single-family home with a private well and septic and permanent exemption from municipal utility connection requirements. The applicant has discussed with the City Clerk, city engineer, and consulting the city planner on the options of installing a dry toilet and holding tank.

Analysis

SEH was asked by the City to review the variance applications requesting exemptions from connecting to city water and sewer services at 805 Fishermans Ct. The review was based on the submitted application, concept plan (Exhibit A), applicable city zoning and subdivision code requirements, and MN state statutes.

The City Clerk reached out to Carver County and the City's Building Inspector for comment.

Lori Brinkman, Environmental Services, Carver County Comments:

- The proposed SSTS area is unlikely to be comprised of original soil. (MR 7080.2150, Subp.3,D.)
- A minimum of 3 soil observations are required for the initial and replacement soil treatment area. (MR 7080.1720, Subp.4) A primary and an alternate SSTS location must be identified for a buildable lot.
- The size of the septic system required based on the number of bedrooms is not identified in the application. The 20 feet by 50 feet proposed septic system area is grossly undersized.
- The soils on these lots have been disturbed when creating this development. Historical aerial photos show this lot to be historically comprised of a driveway and a wetland in 1979. The soil survey indicates that the soils in this lot area were identified as Klossner muck which is a very poorly drained soil. Even if the fill soils which have been placed on the ground surface were shown to perc, the subsoils are not ideal for daily acceptance of water. The fill soils would require a Type III septic system which would require 3 feet of sand. Best case scenario, a 2 bedroom home with a 10-foot-wide rock bed would require a mound area of approximately 48 feet wide by 65 feet long. Again 2 SSTS areas must be identified.
- The proposed SSTS area indicated in the concept plan is not on contour based on the Carver County GIS aerial photos. A septic system will not be able to be neatly tucked away into the southwest corner of the lot.

- If the property owner were to propose a holding tank, Carver County Code 52.024(C)(1) states that holding tanks may not be used for new residential construction.
 - I also checked in with the MPCA for any comment from them. See below.
*Composting toilets are not good permanent solutions for sewage treatment because the sewage is regulated by SSTS laws, however the toilet itself is regulated under the DLI, which their laws require a permanent dwelling to have **plumbed sewage treatment**.*
 - Graywater is sewage and it must be treated according to Carver County Code Chapter 52. A dry toilet will not be allowed. Septic systems will be required to treat toilet and graywater waste. Please see references below for further explanation of the requirements.
 - o Referencing Carver County Code 52.003 Authority, Chapter 52 is enacted pursuant to M.S. §§115.55 and 115.56; M.S. §145A.01 through 145A.08; M.S. § 375.51; or successor statutes and Minn. Rules, Chapter 7080, Chapter 7081, Chapter 7082, and Chapter 7083; or successor rules as they may be amended from time to time.
 - o 7080.1100 Definitions, Subp.37. Graywater. "Graywater" means sewage that does not contain toilet waste.
 - o 7080.1100. Definitions. Subd. 38. Graywater system. "Graywater system" means a system that receives, treats, and disperses only graywater or other similar system as designated by the commissioner.
 - o 7080.1200 Administration of design standards. ISTS must be designed, constructed, and operated according to this chapter, except as modified through local ordinance in compliance with chapter 7082 and Minnesota Statutes, section 115.55. ISTS must be designed, installed, inspected, pumped, serviced, and operated by a licensed business meeting the qualifications in parts 7083.0070 to 7083.2040. ISTS must conform to all applicable state laws and rules.
 - o 7080.1500, Subpart 1. Treatment required. Sewage discharged from a dwelling, group of dwellings, or other establishment that is not served by a system issued a permit by the agency that contains effluent and discharge limits or specific monitoring requirements must be treated according to applicable requirements.
 - o Carver County Code Chapter 52.042 SSTS on lots created after January 23, 1996. All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. Rules 7080.2210 through 7080.2230 or site conditions described in Minn. Rules Chapter 7081.0270, subparts 3 through 7, as identified by a licensed SSTS designer. It shall be the responsibility of the property owner to preserve and protect the soil treatment and dispersal areas.
- City Building Inspector Comments: Dry or compost toilets would not be allowed.

Background

- The final plat (Exhibit B, Sheet 2), development agreement and construction plans for Trophy Lakes Estates IV were approved by the City Council in 2008. The approved development plan includes grading, bituminous streets, and utility installation, including the installation of city water and sewer. The subdivision was planned to be developed in phases with a total of 45 single family home lots served by a private street. The private street is owned by the Trophy Lakes Estates HOA.
- Per the development agreement, building permits shall not be issued for any building within the development until the City is able to serve the property with municipal sanitary sewer and water services.
- The City's wastewater treatment facility is at capacity. A moratorium has been placed in the City of New Germany by the MPCA limiting the number of lots being built due to compliance issues with the wastewater treatment plant. The MPCA has not authorized additional sewer connections. Additionally, water and sewer have not been extended into the subdivision, but water and sewer are available along 62nd Street which may be extended to the lots. Recently, the City was awarded a state bonding grant for wastewater facility improvements. The City's work involves providing public utilities for existing and future development in a cost-efficient and environmentally responsive manner. The City is exploring additional funding sources to assist with the costs of the wastewater facility improvements.
- According to the 2011 Zoning Map (Exhibit C), the property is zoned R-1 Single Family Residential and the 2018 Future Land Use Map within the Comprehensive Plan (Exhibit D) guides the property for Single-Family Residential. The proposed land use complies with the zoning designation and the future land use map.
- The concept plan dated 1/20/2026 meets the minimum principal structure setback requirements of the City ordinance for the R-1 zoning district. According to Section 154.066, the minimum development standards for R-1 zoning district are as follows:
 - o Min. Lot Area: 10,000 sq. ft.
 - o Min. Lot Width: 70 ft
 - o Max. structure to lot coverage: 35%
 - o Max. structure height: 35 ft
 - o Min. setback from local streets: 25 ft
 - o Min. interior side setback: 10 ft.
 - o Min. corner lot side setback: 25 ft
 - o Min. Rear setback: 30 ft.

- City Subdivision Ordinance requirements for sanitary sewer and water utilities, and streets are:

§153.073(c))

- (1) Subdivisions must be served with televised, public sanitary sewer and public water. Sewer and water systems shall be provided according to the specifications of the City Engineer, as approved by the City Council.
- (2) Public sewer and water facilities, including fire hydrants, shall be designed to serve each lot in the subdivision.
- (3) Sewer and water trunk lines shall be extended to the lot lines of abutting sites that do not have municipal sewer and water service, as required by the city.
- (4) The city may require oversizing of utilities to provide future service for more intense development of the land or to provide future service to other areas.

§ 153.072 STREET PLAN, STREET DESIGN AND LOT ACCESS STANDARDS.

(B) Street and roadway design.

- (1) All streets shall be dedicated for public use, and the roadway shall be located within the street right-of-way. If a proposed subdivision includes an **existing private roadway**, except as approved within a PUD District, **the private roadway shall be dedicated for public use and improved to public street standards.**

153.089 REQUIRED BASIC IMPROVEMENTS:

- (2) Streets shall be graded the entire width of the right-of-way and shall provide a boulevard section, in addition to the minimum pavement width, in accordance with the standards and construction plans established by the City Engineer.
- (3) All roads shall have a sub-base and shall be improved with concrete or bituminous surface, in accordance with the following:

Classification Pavement Design: Axle Load

Local streets 7-ton minimum

- **City Zoning Ordinance requirements for sanitary sewer and water utilities are:**

§ 154.066 ZONING DISTRICT REGULATIONS.

- (B) R-1 - Single-Family Residential District. (1) Purpose. The purpose of the R-1 Single-Family Residential District is to provide areas for single-family detached homes consistent with the low-density residential land use designation in the Comprehensive Plan. **Residential development within the R-1 Single-Family Residential District shall occur at densities that are less than four dwelling units per net acre and shall be served by municipal sanitary sewer and water facilities.**

§ 154.085 SEWER AND WATER FACILITIES.

- (A) All new developments shall be connected to city sanitary sewer and water facilities.
- (B) No wells for the purpose of providing domestic water for human household use shall be drilled, installed or constructed, and no existing well shall be further developed to provide potable water.

Variance Review

- A city may grant a variance if enforcement of a zoning ordinance provision, as applied to a particular piece of property, would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties (Minn.Statute 462.357, subd. 6). All three factors must be satisfied to constitute practical difficulties.

The practical difficulties factors are as follows:

Reasonableness

The property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a specific, reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.

Uniqueness

The landowner’s situation arose out of circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the piece of property and economic considerations alone cannot create practical difficulties.

Essential character

The variance, if granted, will not alter the essential character of the locality. This factor generally contemplates whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Also, variances are only permitted when:

- They are in harmony with the general purposes and intent of the ordinance, and
- The terms of the variance are consistent with the comprehensive plan.

Comprehensive Plan Goals and Policies:

Land Use

Goal #3: Manage the buildout of the community with responsible and efficient use of land and resources.

Policies: • Encourage the phasing of growth and development staging consistent with contiguous, planned extensions of public facilities.

- Limit development to areas identified as capable of receiving utilities according to utility staging plans.
- Prohibit development served by private utilities unless there are agreements in place to guarantee connection to public utilities when they become available.

Public Utilities

Goal #10: Develop and maintain a system of public utilities to efficiently meet the level of existing and anticipated development.

Policies:

- Require that all public infrastructure systems (sanitary sewer, water, stormwater, and roadways) are designed and constructed according to applicable city, county, and state standards and specifications.
- Require new development to be consistent with planned extensions of public utilities and require connection to public facilities.
- Require new development to pay reasonable costs for capacity, extension, and connection to public utility systems.
- Prohibit the establishment of any private wastewater treatment or water facilities in the city.

Chapter 7: Implementation

The Zoning and Subdivision Ordinances will allow the City to implement a number of the objectives in this plan, including the following:

2. Connection of all new development to municipal sanitary sewer and water systems.

FINDINGS AND RECOMMENDATIONS

The following provides findings and recommendations:

1. Conduct the public hearing on the variance requests. An email was received from Mark Origer, TLE IV HOA President on behalf of the Trophy Lakes Estates IV HOA and is attached hereto to be included in the public record.
 2. A variance from connecting to city water service shall be considered.
 3. A variance from connecting to city sewer service shall be considered.
 4. Deny both variance requests based on the findings of fact attached hereto, including but not limited to the following:
 - o The variances are inconsistent with the Comprehensive Plan City of New Germany (Approved May 19, 2020)
 - o The City has invested in wastewater improvements and is actively planning wastewater facility improvements to increase the capacity to allow new sewer and water connections.
- Allowing a private well and septic is not cost-efficient and burdens residents.
- o The proposed SSTS area is unlikely to be comprised of original soil. (MR 7080.2150, Subp.3,D.)
 - o A minimum of 3 soil observations are required for the initial and replacement soil treatment area. (MR 7080.1720, Subp.4) A primary and an alternate SSTS location must be identified for a buildable lot.
 - o The size of the septic system required based on the number of bedrooms is not identified in the application. The 20 feet by 50 feet proposed septic system area is grossly undersized.
 - o The soils on these lots have been disturbed when creating this development. Historical aerial photos show this lot to be historically comprised of a driveway and a wetland in 1979. The soil survey indicates that the soils in this lot area were identified as Klossner muck which is a very poorly drained soil. Even if the fill soils which have been placed on the ground surface were shown to perc, the subsoils are not ideal for daily acceptance of water. The fill soils would require a Type III septic system which would require 3 feet of sand. Best case scenario, a 2-bedroom home with a 10-foot-wide rock bed would require a mound area of approximately 48 feet wide by 65 feet long.
- Again 2 SSTS areas must be identified.
- o The proposed SSTS area indicated in the concept plan is not on contour based on the Carver County GIS aerial photos. A septic system will not be able to be neatly tucked away into the southwest corner of the lot.

- **Opening of the Public Hearing: Mayor Shirely Jaeger opened the Public Hearing for the Variance request at 7:14 PM.**

Therese Haffner with SEH, would like to make the email from Mark Origer TLE IV HOA President., public knowledge (email is below).

On behalf of the Trophy Lake Estates IV Homeowners Association, I am writing regarding the variance request for the property located at 805 Fishermans Court.

The HOA is not taking a position for or against the requested variance. The Association respectfully requests that any action taken by the City not be interpreted as waiving, modifying,

or superseding the rights and obligations established under the Trophy Lake Estates IV governing documents. Specifically:

1. The property currently has outstanding HOA dues that remain the responsibility of the property owner and are subject to the rights and remedies available to the Association under its governing documents.
2. Any proposed construction, improvements, or development of the property remain subject to the Trophy Lake Estates IV governing documents, including the requirement that building plans and specifications be submitted to and reviewed and approved by the HOA prior to the commencement of construction.

The Association appreciates the City's consideration of this request and simply wishes to ensure that any decision regarding the variance does not affect the HOA's authority or the property owner's obligations under the governing documents of Trophy Lake Estates IV.

Thank you for your consideration.

Please reach out to us with any questions.

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- **Mayor Shirely Jaeger asked the audience if there were any questions or comments.**

Public Comment:

Dave Pink asked about the timeline for resolving the wastewater-capacity issue. City Engineer Justin Black stated that the design phase would take approximately one year and could begin in 2027 if funding is secured, with construction potentially beginning in 2028.

Pink also asked when the City would be required to achieve compliance so that homes could be built in Trophy Lakes. Black explained that the City remains compliant by not permitting new construction and that no specific compliance deadline applies. In response to Pink's question about holding tanks, the City stated that holding tanks would not be allowed.

Mayor Shirley Jaeger explained that the wastewater project remains slightly underfunded. The City has reserved Minnesota bonding-bill funds and secured a federal grant, totaling approximately \$6 million.

Applicant Presentation:

Ben Hach explained that he hopes to build his forever home on the lot he owns. He stated that extending infrastructure into Trophy Lakes has been estimated to cost approximately \$3 million, which is why he is requesting a variance. Ben informed Council he did not have time to read the entire packet.

Hach complimented Therese Haffner on her findings and acknowledged that he may have undersized the proposed SSTS. He emphasized that he wants to be part of the community and identify viable solutions that would allow him and other lot owners to build. He said he does not believe his proposal would harm the community and is willing to revise the site plan, hire engineers, and take other necessary steps to make the project feasible.

Hach added that the land has no value if he cannot build on it and expressed his hope that the variance would be granted so he could construct his forever home.

Council and Applicant Discussion:

Council Member Kevin Grove noted the County's findings regarding disturbed soil and the undersized SSTS, stating that the proposed system could not be completed on the lots and that two lots could not be combined. Dave Pink agreed, explaining that under the Trophy Lakes HOA covenants, only approximately 1.5 lots could potentially be combined. Ben Hach stated that he was willing to work with the County to determine how an SSTS could be placed on the property in a way that would fit and conform to the lot.

Council Member Kevin Grove and Justin Black reminded Ben with the disturbed soil there is no way a SSTS can be placed on the property.

Justin Black, City Engineer – the state requirement for wetlands is 75 ft setback on all setbacks, on Ben's lot the deepest point is 145 ft, narrowest is 75 ft.

- **Mayor Shirley Jaeger closed the Public Hearing at 7:34 PM.**

Council Discussion:

Members discuss the variance, ask questions, and review findings of fact; no additional questions.

Motion and Vote:

RESOLUTION 2026-07

A RESOLUTION APPROVING A VARIANCE TO THE CITY WATER SERVICE CONNECTION REQUIREMENT FOR A SINGLE-FAMILY HOME.

Grove moved and Herrmann seconded, denying Resolution 2026-07. The motion carried. 5/0

All – yes to denying the Resolution

RESOLUTION 2026-08

A RESOLUTION APPROVING FINDINGS OF FACT SUPPORTING THE DENIAL OF A VARIANCE TO THE CITY WATER SERVICE CONNECTION REQUIREMENT FOR A SINGLE-FAMILY HOME

Grove moved and Mielke seconded, approving Resolution 2026-08. The motion carried. 5/0

All – yes approving the Resolution

RESOLUTION 2026-09

A RESOLUTION APPROVING A VARIANCE TO THE CITY SEWER SERVICE CONNECTION REQUIREMENT FOR A SINGLE-FAMILY HOME.

Grove moved and Mielke seconded, denying Resolution 2026-09. The motion carried. 5/0

All - yes to denying the Resolution

RESOLUTION 2026-10

A RESOLUTION APPROVING FINDINGS OF FACT SUPPORTING THE DENIAL OF A VARIANCE TO THE CITY SEWER SERVICE CONNECTION REQUIREMENT FOR A SINGLE-FAMILY HOME.

Grove moved and Herrmann seconded, approving Resolution 2026-10. The motion carried. 5/0

All – yes approving the Resolution

5. Adjournment – Grove moved and Herrmann seconded adjourning the Variance Request Public Hearing Meeting at 7:37 PM. The motion carried. 5/0

Respectfully submitted by Twyla Menth, City Clerk