



## Staff Report

**Application #:** 2015-20 - Variance

**Parcel number:** 87-340-0030

### **Applicants:**

**Jim Deanovic** on property described as the west part of Lot 2, all of Lot 3, & east part of Lot 4, OAKHURST; PID #87-340-0030, located at 10052 Birch Grove Road. An application was submitted to request a Variance to remove a two story, pre-existing guest house of 1,200 sq ft that is currently 10 ft from OHW and replace with a new one story guest house of 800 sq ft moving it to 30 ft from OHW and 10 ft from sideline setback. The property is located in the R-3 zoning district and contains 37,300 square feet, riparian to Gull Lake (General Development (GD)).

**Directions to property:** From City Hall proceed to north on Squaw Point Road to Green Gables Road, turn right and proceed north on Green Gables Road to Birch Grove Road, turn left and proceed north on Birch Grove Road, take sharp left, staying on Birch Grove Road and proceed to 10052 Birch Grove Road private driveway.

*Proposed Findings/Conditions based on MN Statute and East Gull Lake (EGL) Land Use, Zoning and Subdivision Ordinance*

**MS 462.357 Subdivision 6 - Appeals and Adjustments** – Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.
2. To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties 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 section 216C.06 subdivision 14, when in harmony with the ordinance. The board of appeals and adjustment or the governing body as the case may be, may not permit a variance as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit a variance the temporary use of a one family as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition

must be directly related to a must be directly related to and must bear a rough proportionality to the impact created by the variance.

**East Gull Lake Land Use, Zoning and Subdivision Section 8.2-1** – This ordinance is adopted for the purpose of:

1. Protecting the public health, safety, comfort, convenience and general welfare.
2. Inaugurating and effectuating the goals of the Comprehensive Plan.
3. Promoting order in development by dividing the area of the City into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and the land.
4. Conserving the natural and scenic beauty and attractiveness of the City, for health and welfare of the public.
5. Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.
6. Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment and City Council under this ordinance.

**Practical Difficulty:**

- \* Practical is defined by Webster as: 1) pertaining to actual use and experience rather than theory, 2) trained by practice or experience, 3) useful and 4) manifested in practice.
- \* Difficulty is defined by Webster as: 1) onerous, irksome, laborious, 2) troublesome, complicated and 3) trying, perverse.
- \* Reasonable is defined by Merriam Webster as: 1) being in accordance with reason, 2) not extreme or excessive and 3) moderate, fair.
- \* Reasonable is also defined by the Free Online Dictionary as: 1. capable of reasoning; rational, 2) governed by or being in accordance with reason or sound thinking, 3) being within the bounds of common sense and 4) not excessive or extreme; fair.

**EGL Comprehensive Plan Policies:**

1. Protect the area's lakes from damage and degradation.
2. Maintain and support the resort community in the City.
3. Preserve and enhance the scenic beauty and natural plant communities of the area.
4. Work to improve recreation opportunities for residents and visitors throughout the City.
5. Strengthen the bond that make the people who live in, work in, and visit East Gull Lake identify with the community.

**Staff Findings:**

1. Mr. Deanovic originally offered to tear down pre existing guest house that is less than 10 feet from the OHW and reconstruct a new guest cabin 50 feet from the OHW, but the next door neighbor preferred that he not do that as it interfered with his view being two stories tall and close to his house.
2. To accommodate the neighbor's request, Mr. Deanovic changed his plans moving the guest house to 30 feet from the OHW and reducing the height to a one story rather than two stories. With the significant elevation change, the view for the neighbor is much better. This change to 30 feet is the practical difficulty that required the variance to be submitted.
3. Overall square footage of the existing guest house is approximately 1200 sq. ft. and the new guest house will be at approximately 800 sq. ft.

4. Mr. Deanovic is reducing the impact to the lake by making significant improvements, reducing the height by one story and the square footage of inhabitable space by 400 sq. ft. and moving the Guest House 20-plus feet farther from the lake.

**Planning Commission Direction:** The commission can recommend approval of the variance, recommend denial of the variance, or table the request if additional information is needed. If the recommendation is for approval or denial, findings of fact should be cited.

**Staff Recommendation:** Staff recommends that the variance be approved based on the findings of this report. We also recommend the following conditions:

1. Existing wastewater pipes that serve both Deanovic's and Schmelzle's property will be relocated at Mr. Deanovic's expense. City Staff will work with Mr. Deanovic to determine the best route for the main wastewater line.
2. As new landscaping is done for the new guest house, all efforts will be made to retain any stormwater created on Mr. Deanovic's property; since the impervious coverage is anticipated to be less than 20%, a stormwater management plan is not required.