



Staff Report

Application #: 2015-36 - Variance

Parcel number: 87-020-3118

Applicants:

Kenneth and Janelle Riley on property described as part of Government Lot 3, Section 20, Township 134 North, Range 29 West, Cass County, Minnesota located at 1512 Sunset View Road.

An application was submitted to request a Variance to remove an existing landside deck and replace it with a smaller double garage for year around weatherproof access to their home. They also would like to add a smaller half story second floor addition to provide space for two home offices to the pre-existing home of 2,780 sq ft which is approximately 34 feet from the OHW therefore requiring the variance. To reduce the impervious coverage between the road and the OHW they will eliminate all existing sidewalks going to the lake and on the south side of the home and to lessen the non conformity they will reduce the width of the lakeside deck by 15 inches. The new proposed home, garage, and addition will total 2825 sq ft or an increase of 45 sq ft. The property is located in the R-3 zoning district and contains 32,232 square feet, riparian to Gull Lake (General Development (GD)). Current impervious coverage for the entire lot is 22.2% which will be reduced to 21.3% or 291 sq ft with the proposed changes.

Directions to property: From City Hall proceed south and west across the Gull Lake Dam to County Road 70, proceed south one-half block to Scenic Drive and take a right. Go approximately two blocks west to Sunset View Road and proceed to 1512 Sunset View Road.

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. Staff has worked with the Riley's to come up with a plan to keep the proposed footprint as close to the same footprint as they currently have, 2780 sq ft; the proposed footprint being 2825 sq ft or 45 sq ft larger.
2. Staff has worked to reduce the non-conformity of being within the shoreland impact zone by reducing the width of the lakeside deck moving it 15 inches away from the OHW.
3. The new plan eliminates all existing sidewalks on the lakeside and the south side of the home, reducing overall lot impervious coverage by 291 sq ft from 22.2% to 21.3% of the overall lot size of 32,232 sq ft.
4. Stormwater management will be improved by removing as much impervious surface in the shoreland impact zone as possible such as sidewalks and pavers, and reducing the deck between the access road and 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. All sidewalks and paver blocks are removed to create more pervious surface in the shoreline impact zone.
2. Covered entry to be reduced in the plan to create more pervious surface.
3. Lakeside deck is to be reduced in size from 536.8 sq ft to 425.76 sq ft making it 15 inches further from the OHW.
4. Overall height of the structure will not exceed the 30 foot maximum limit based on the highest ground on the foundation. Estimate of 23 feet 7 inches based on 8 foot ceiling in basement.