



Staff Report

Application: Variance to construct a guest quarters above an existing garage with a small entry deck and outside stairway within the Ordinary High Water (OHW) setback

Application #: 2015-03

Parcel number: 87-408-0140

Applicants:

John and Joann Hillen on property described as Lot 14 Sylvan Shores Development, PID# 87-408-0140, located at 1787 Sylvan View Drive. An application was submitted to request a Variance to add second floor guest accommodations on to the pre existing garage on property, along with a small stairway and small entry deck. A variance is required based upon a pre-existing Variance being in place and enhancing the non-conforming structure that is approximately 14 feet from the Ordinary High Water (OHW) of Sylvan Lake. The property is located in the R-3 zoning district and contains 36,771 square feet, riparian to Sylvan Lake (General Development (GD)).

Directions to property: From City Hall proceed to County Rd. 77 and Pine Beach Dr. take a left towards Kavanaugh's Resort, proceed about a block and take another right on Sylvan Road and after 1 block take a left again on Sylvan Road, Proceed to the end of Sylvan Road to the Sylvan Beach Club Access and take a right on Sylvan View Drive, go another block and then take a left to 1787 Sylvan View Drive 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. A variance is required to enhance and enlarge the existing garage for guest quarters. It was originally constructed with a Variance in 2002 because it was closer than 50 feet from the lake (as a result of a man made harbor that was created sometime in the 1960's).
2. The plans for the garage include removing the current roof and adding a second story for guest quarters. In addition, an outside stairway will be added as well as a small 8' x 14'8" entry deck for access to the second floor. Proposed additional impervious coverage is 145 sq. feet with a new total impervious coverage of 21.82%
3. A stormwater plan was required with the first variance.

4. Trees and other natural screening are already in place to obscure the view from neighboring properties.
5. The size of the proposed structure is not excessive and does not contradict the purpose of the comprehensive plan of which the relevant portions are to protect the area's lakes from damage and degradation and preserve and enhance the scenic beauty and natural plant communities of the area.
6. The configuration and size of the lot limits placement options at the required setbacks.
7. There is nothing to indicate that the proposed structure will not be compatible with the existing neighborhood.
8. There is no evidence or information that the proposed structure will harm or be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City of East Gull Lake.
9. There is no reason, evidence or information to conclude that the proposed structure will be injurious to the use or enjoyment of other property in the immediate vicinity or that it will in any way substantially diminish or impair values in the immediate vicinity.
10. There is no reason, evidence or information to conclude that the proposed structure will impede or in any way effect the normal and orderly development and improvement of vacant property in the neighboring area.

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. The size of a second floor of 26 x 32 along with a stairway 3'8" x 12'8" and a entry deck of 8 x 14' 8", height to peak of 24 feet and configuration of the structure as submitted on plans dated 02/19/15 and 2/24/15 are adopted and shall be implemented without significant variation.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. During construction a sediment retention fence shall be erected between the garage and the lake prior to the commencement of construction to prevent run off into Sylvan Lake.
4. No run-off to the lake or adjoining properties is permitted. It has been determined by EGL staff, run-off shall be directed by gutters from the garage to a water retention structure such as a rain garden to retain and prevent run-off to the lake and adjoining properties. All new gutters and stormwater from the garage shall be directed to the rear of the northwest corner of the garage and a small depression or rain garden shall be created to retain rainwater from running to the lake.
5. The property owners shall maintain the stormwater retention areas in perpetuity so that they maintain their design capacity.