



## Staff Report

**Application:** Variance to remove two older cabins and rebuild one new structure

**Application #:** 2016-44

**Parcel number:** 87-357-0122

### **Applicants:**

**Ronald Joseph & Shari Ann Kuhn** on property described as Lot 11, Block 1, SQUAW POINT lying South of Squaw Point Road, Cass County, Minnesota, PID# 87-357-0122, located at 10335 Squaw Point Road, East Gull Lake, MN, ownership based upon recorded Contract for Deed with Jim R. Sween and Carolyn A. Sween, husband and wife. An application was submitted to request a Variance to remove two older cabins and rebuild one new structure on a sub-standard lot. The property is located in the R-3 zoning district and contains 5,476 square feet, riparian to Gull Lake (General Development (GD)).

**Directions to property:** From City Hall proceed to north to Squaw Point Road, continue to 10335 Squaw Point 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. Current cabins are 1950 era seasonal cabins and are located on a smaller non conforming lot measuring 6,397 sq ft of gross area and 5,476 sq. ft.net of roadway.
2. Current square footage of cabins, sidewalks, pump house and parking area are surveyed at 1,657 sq ft of total impervious coverage.
3. Proposed square footage of a 1,170 footprint and proposed parking area of 405 sq ft for a total of 1,575 sq ft, not including porches, steps, sidewalks, etc.
4. Shoreline area has been badly damaged by high water and needs to be restored; similar restoration has been done on neighboring property to the North.
5. Previous remodeled cabins in area have been allowed to be restored with a footprint not to exceed the square footage of what the current units were before the restoration process began.

6. A variance is required due to non conformity of the lot and desire to increase height of structure to accommodate a second floor.
7. The Shoreline for Kuhn's is 92 feet of lakefront frontage and the depth is around 68 feet on the west boundary and 76 foot on the East Boundary for a total of 5,476 sq ft based on the current survey without the road included and 6,397 sq ft based on Cass County estimates including the roadway. Of the 4 lots on the south side of the point the sq footage based on the Cass County Tax Assessor estimates including the roadway varies from 5,236 sq ft for Murphy / Hirth with a 74 foot lakefront frontage, 5,728 sq ft for Don Barker with 75 foot of lakefront frontage, 6,864 sq ft for Dave Willis on 75 foot of lakefront frontage.
8. The conceptual design includes a maximum roof height of 25 ft 9 inches tall to the peak of the roof.
9. Dormer and gable type roof design concepts are planned for the second floor has been submitted to reduce the profile and provide a more attractive design on the lakeside and landside of the cabin.

**Planning Commission Direction:** The commission can recommend approval of the variance, recommend denial of the variance, or ask the applicant for more time as the 60 day mandatory limit of time has been reached per Mn State Statute. 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. Approval of a variance for a 26ft x 45ft (1,170 sq ft of total footprint) for design of a year around cabin which will include a pervious surface parking area totaling 400 Square feet included within the 1,570 sq ft total of finished Impervious coverage.
2. To further reduce run off into the lake and be a part of the Storm water Management plan, the parking material surface should be constructed of an approved pervious product such as pervious asphalt, Grass Pave or pervious pavers for the 400 square feet.
3. Based on the Pervious product being used for the parking and incorporating into the Stormwater Plan, any garage addition will be prohibited in the future, The pervious surface shall be maintained in perpetuity so the absorption qualities remain the same from the time of installation.
4. The homes roof eaves shall have gutters installed with gutters to be directed into underground storage containers of the proper capacity and avoiding direct discharge into the lake. Water runoff shall not flow onto Squaw Point Rd and shall be maintained for a 5 year 24 hour stormwater event.
5. The Shoreline shall be restored based upon Mn DNR recommendations and specifications, the shoreline shall also be maintained in the future to meet the MN DNR specifications if future damage should occur.
6. The height of the building shall be measured off the point the soil meets the foundation and it shall not exceed 25feet 9 inches based on the plan submitted.
7. The distance of the building from the road shall be a minimum of 10 feet and the side yard setbacks shall also be a minimum of 10 foot.
8. An architectural design meeting the above specifications for the structure shall be submitted for review and approved by the Planning and Zoning Commission and the City Council.