

STAFF REPORT

Application: Variance to Construct a Dwelling within the OHW Setback

Applicant: Jim Raboin, Bluestone Construction LLC., Applicant; Jerome and Shirley Holmay, Property Owners

Background: Under this Variance application, the applicant proposes to remove the preexisting dwelling and construct a new dwelling with reconstructed sidewalk and driveway surfaces upon the subject property. A Variance is required for this project as no area within the lot can meet the 75 foot minimum setback of the R-2 Shoreline Residential District. The subject property is located on Girl Lake at 213 Patrick's Place which is located within the Auditor's Plat of Longville, part of Lot 10, parcel ID number 91-337-7001.

This Variance pertains to the following provision of the Ordinance:

Section 9.4, Subdivision 6. To reduce the required minimum setback from the OHW from 75 feet to 37 feet.

Existing Development:

Current development upon the subject property includes a 930 square feet (s.f.) dwelling with a total of roughly 360 s.f. of deck area, 258 s.f. of cumulative sidewalk area, and 3,553 s.f. of cumulative driveway area. Sidewalks currently exist extending to the north of the current dwelling to roughly 10 feet from the OHW of Girl Lake and generally follow from the northeast to the southeast of the dwelling to the existing driveway. This dwelling is located roughly 16 feet from the OHW of Girl Lake at the closest point. Currently, a 63 s.f. shed exists upon the property as well as a boathouse located below the OHW. Since the boathouse is located below the OHW, the replacement of the boathouse is under the jurisdiction of the Minnesota Department of Natural Resources.

Proposed Development:

Under the current proposal, the applicant proposes to construct a 1,388 s.f. dwelling with two covered porches totaling 494 s.f. in cumulative area, sidewalks total 515 s.f. cumulative area and a driveway with a total cumulative area of 1,487 s.f. As proposed, the new dwelling would be located roughly 37 feet from the OHW of Girl Lake at the closest point. The preexisting shed is not proposed to be altered; however the applicant proposes to install a sidewalk extending from the home entirely to the OHW of Girl Lake with an extension of the sidewalk to the existing shed. The majority of the proposed sidewalks are located within the Shore Impact Zone (SIZ).

Erosion Control:

Erosion control measures have not been provided by the applicant, however are crucial to the protection of Girl Lake. The Commission should discuss proposed erosion control measures with the applicant to ensure that no sediment from

disturbed areas is allowed to flow into Girl Lake and is contained within the construction area.

Applicable Statutes and Ordinances:

Section 9.4, Subdivision 6. Lot Requirements.

Setback, OHW – feet, minimum 75

Section 8.3, Subdivision 5.

Variances shall be decided within the required time frame with consideration for the following:

- A. The strict interpretation of the Ordinance would create undue hardship, and
- B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
- C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
- D. The variance will not create a land use not permitted in the zone, and
- E. The variance will not alter the essential character of the locality, and
- F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

Section 10.11, Subdivision 8. Requires that all parking areas, heavy areas, storage areas and impervious areas shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water.

Proposed Findings:

- 1. The subject property is within the Shoreline Residential District.
- 2. The 75' minimum setback cannot be reasonably applied to the subject property as the property encroaches upon this setback in its entirety.
- 3. The strict interpretation of the Ordinance would create undue hardship as it would not be possible to construct anything upon the subject property without encroachment upon the 75' minimum setback from the OHW. This is a circumstance not created by the property owner.
- 4. The construction of the single family home and proposed improvements would be consistent with the spirit and intent of the Ordinance in that the Ordinance provides for development of this type within the Shoreline Residential District.

5. A single family dwelling is a permitted use within the R-2 Shoreline Residential District.
 6. The proposed dwelling and improvements are similar in character and use of other properties within the locality.
 7. The variance is not for economic reasons alone.
 8. The applicant proposes to construct a sidewalk directly to the OHW of Girl Lake. Conditions placed upon the approval of this variance address the requirement to trap silts and nutrients prior to discharge to Girl Lake.
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Planning Commission Direction: The Commission may recommend denial or approval of the Variance to the City Council. The Commission may also table the application if additional information or application materials are needed to make a decision on the application. The City Council may then approve or deny the Variance based upon the findings approved by the Commission.

Staff Recommendation: Based upon the findings presented, Staff recommends approval of the application for a Variance with the following Conditions:

1. The sidewalk indicated on the site plan provided by the applicant shall trap silts and nutrients prior to discharging to Girl Lake. This must be completed by maintaining a 5 foot setback from the sidewalk to the OHW which will provide an area to disperse water conveyed by the sidewalk prior to discharge into Girl Lake.
2. The applicant shall utilize silt fences and other erosion control measures to ensure that silt and sediment is not allowed to flow from the construction area or allowed to flow into Girl Lake.
3. All disturbed areas shall be stabilized with sod and seed as soon as possible after construction.
4. After completion of construction, the applicant shall contact the City for a review of the site by two members of the City Planning Commission or City Council.
5. The applicant shall not disturb any vegetation other than what is needed for normal construction of the proposed dwelling, sidewalks and driveway.