



June 28, 2016

Robert Mason, City Administrator / Planning and Zoning Administrator
10790 Squaw Point Rd
East Gull Lake, MN 56401

RE: Muller Variance, 11333 East Steamboat Bay Rd, East Gull Lake, MN 56401

Dear Mr. Mason,

I appreciate the time Chairman Buxton, Commissioner Waldin and you spent with me regarding this variance application yesterday. I hope I was of some assistance with interpretation of the statewide minimum standards and process associated with the applicant's role as well as yours as administrator, the Board of Adjustment / Planning Commissions and the public's.

As you know I have been contacted regarding this application with concerns being voiced regarding the garage expansion and connection to the principal structure of Mr. Muller's. I have not been provided the section of ordinance in which this applicant is requesting a variance from, but the DNR suggests that East Gull Lake Code (EGLC) Section 8.4-4 Non-conforming structures and Uses, Part 10 is applicable in this situation. Considering the primary structure in non-conforming and proposed for expansion, this application should be reviewed based on the criteria for non-conformities. A variance request from an applicant and review per the city's authority under Minnesota Statute (MS) 462.357 allows the city to hear requests for variances including restrictions placed on non-conformities as in the EGLC;

*MS 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE. Subd. 6. Appeals and adjustments.
(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities.*

Section 8.4-4 Non-conforming structures and Uses also reflects ability for the consideration of variances to expand, enlarge or intensify;

EGLC Section 8.4-4 1. No such use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance, with consideration for variances thereto.

I took some time to evaluate the project as submitted to determine if it would meet statewide minimum standards for shoreland management as detailed in Minnesota Rule (MR) 6120 and the more restrictive EGLC. I have highlighted the three items below;

- 1) **Impervious Surface** – MR 6120.3330 subp. 11. is specific that lots must not exceed 25% of the total lot area. EGLC calculates R-3 district impervious surfaces for that on either side of a lot



divided by a street. With additional information you provided me yesterday Mr. Muller would be near, but still under the maximum allowed 25% with a stormwater management plan. Project would meet both the state standards and EGLC.

- 2) **Height of Building** – MR 6120.3300 subd. 3 (G) restricts structures to 25 feet but it has been common statewide for DNR to authorize local governments 30 ft. as max building height. The property was measured for building height and would not exceed the 30 ft allowance for conforming structures but as part of EGLC Section 8.4- 4. Nonconforming Structures and Uses. (10) I. the addition shall not exceed the height of existing structure. The addition would exceed the height of existing structure but would not be greater than 30 feet allowed for conforming structures.
- 3) **Sidelot Setbacks** – MR 6120 does not contain provisions for side lot setbacks, but the DNR acknowledges the need to provide a buffer to reduce conflicts between adjacent properties. The project is requesting to rebuild that portion of the accessory structure not meeting the setback, expand and attach as addition to the primary structure no longer making it an accessory structure. The expanded section will meet sidelot setback.

MR 6120 defers to MS 462 for local government administration of variances and nonconformities so the request should be addressed using applicable state statute and local government controls outlined in the EGLC. This includes MS 461.357 Subd. 6. (2) which provides the following board considerations for granting a variance;

- Is the variance in harmony with the purposes and intent of the ordinance?
- Is the variance consistent with the comprehensive plan?
- Practical difficulties:
 - Does the proposal put property to use in a reasonable manner?
 - Are there unique circumstances to the property not created by the landowner?
 - Will the variance, if granted, alter the essential character of the locality?

The DNR will not be making a recommendation regarding the Muller application but expect the guidance provided above will be incorporated into your process and final decision.

Please contact me with any questions or comments.

Sincerely,



Darrin Hoverson
Area Hydrologist – MN DNR

c: Tom Groshens, DNR District Manager
Dan Petrik, DNR Land Use Specialist
Tim & Elaine Engel, 11339 E. Steamboat Bay Rd. East Gull Lake, MN 56401

