

Application Date: August 22, 2013
Owners / Agents: **Warren Kelly – Ruth Stoner (owners)**
Mark J. Nelson (agent)

Contact Information:

Owners: 2900 Thomas Ave S Apt 2316
Minneapolis, MN 55416 -4095

218-839-4284 (Agent)

Property Identification:

2223 Hunters Pt Rd
PID: 14-113-4423

Property Description:

Part of Gov Lot 3, Section 13-134-30

Variance/ CUP Requested:

Construct a 1,150 square feet guest quarters structure. The current guest quarters structure would be converted to an accessory structure/ garage. Section 1126.5 of the Land Use Ordinance (2/15/13) requires a guest quarter structure on a riparian lot not exceed 900 square feet. The property contains 5.06 acres riparian to Gull Lake (GD).

SITE VISIT AND NOTES:

Site Visit Date: 9/10/2013

In attendance: LaPorte, Dechmann, Zeeb, Richmond

Lot is over 5 acres, but there is no exception for lot size in the ordinance.

There is some confusion about whether the building is actually being changed.

Received this note from Paul Fairbanks on 9/11/13:

“Spoke with Mark Nelson, contractor for owners Stoner & Kelly on Hunters Point / Gull Lake. Here’s how I now understand it. No change or expansion to current guest quarters/ bunk house. Further up the hill where I understood to be location for a new garage will be the site for new 1,250 square feet guest quarter/bunk house. Mr. Nelson explained that the current bunkhouse will be converted to garage/storage. So the issue remains shall guest quarters/ bunk house exceed maximum allowed which is 900 square feet. I have no particular concern with excess based u[on the lot size of 5 acres along with will not be visible from the lake. Seems to me need some assurance that the current will be converted. Financial assurance? Disconnect septic/ water?

Cass PC: Verified that Bacon & Stuwve obtained permit for garages in question.

FAIRVIEW TOWNSHIP PLANNING COMMISSION RECOMMENDATION TO CASS COUNTY PB/BOA:

The Fairview Township Planning Commission had an opportunity to review the Kelly – Stoner property on September 10th with the Cass County Board of Adjustment and presented their findings to the

Fairview Board of Supervisors. The Board of Supervisors discussed the issue at length and agreed that although the property is quite large for a riparian lot, the 900 foot limitation designated by the Land Use Ordinance was established for a reason. The Board could not find a “practical difficulty” in this application and voted to deny the variance application.

The Fairview Board suggested the Cass County Commission might want to consider revising the Land Use Ordinance to allow for a larger structure on properties in excess of 5 acres.

The Board also recommended that, in the event the Cass County Planning Commission decides to approve this application, they consider requiring the installation of a rain garden somewhere along the driveway to deal with the large amount of runoff that must flow down the driveway and onward to the lake.

Date sent to Paul Fairbanks: 9/12/13

CASS COUNTY FINDINGS OF FACT:

Stoner, Ruth, & Kelly, Warren, W Fairview Township on property described as Part of Gov Lot 3, Section 13-134-30, PID #14-113-4423 located at 2223 Hunters Point Road SW. An application submitted to construct a 1,150 square feet guest quarters structure. The current quest quarters structure would be converted to an accessory structure/garage. Section 1126.5 of the Land Use Ordinance (02/15/13) requires a guest quarter structure on a riparian lot not exceed 900 square feet. The property contains 5.06 acres riparian to Gull Lake (GD).

PC members were at the site of the application 09/10/13. More than 50 notices of the application were mailed. One response received from Fairview Township recommending denial of the application was received. No other responses were received from any persons or governmental entities notified of the application. The variance request was reviewed with the applicant's contractor Mr. Nelson.

MS/P Moore/Anderson to approve the construction of a guest quarters structure that will exceed the maximum square feet, 900, as allowed upon PID #14-113-4423 upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The lot exceeds the minimum GD guest quarters lot size by 145,000 square feet and complies with the minimum width required.
2. Based upon lot size and proposed setback of more than 200 feet, it is unlikely that a guest quarter structure that will exceed the maximum footprint allowed will be detrimental to surrounding area or the lake and therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
3. The proposed guest quarters structure will not be excessive of scale, observable from the lake or neighboring properties which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between

county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

4. The surrounding area contains structures similar in scale therefore there is no reason to conclude that area land will be negatively affected or altered by the size or location of the proposed structure.

5. There is no reason to conclude that water quality will be affected by the proposed structure. 6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included no permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.

2. A written plan for suitable vegetation is approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.

4. As required by other conditions as set forth.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions and location of the structure shall not vary from that submitted 08/20/13.

2. The footprint of the approved structure shall not exceed 1,250 square feet.

3. Conversion of the current guest quarters structure to accessory structure use must be verified to ESD no later than 06/01/14.

4. Any material/debris resulting from construction not reused or recycled must be disposed of in a permitted facility.

5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.

7. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off by gutters to water retention structures such as rain gardens to retain and prevent structure run-off to the lake and adjoining properties.

8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/12/15.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.