

STAFF REPORT

Application: Variance to construct a second level above an existing dwelling that will result in a total building height of approx. 29-30 feet (max. 25 ft allowed).

Applicant: Gary & Doris Loen

Background Information:

- **Proposal:** The Loens are requesting a variance to build a second story addition to their current 32'x42' home at 387 North Lakeshore Drive. The proposed addition using the same footprint would require a height variance to allow a total height measured from ground to peak of 29-30 ft where 25 feet is required.

The height of the second story addition will have the same height as the existing dwelling plus a 2 ft truss. With the new roof, the total addition will add another 22'4" to the height of the existing single story home. By the definition provided in the zoning ordinance, the total height of the dwelling will be approximately 29 feet. The ordinance does allow for two-story structures in an R-1 district, but imposes a height restriction of 25 feet.

Associated with his home reconstruction plans but not related to any variance need is a plan for a new north side entryway into the home, further from the lake and at a higher elevation than the existing east side entry.

This property is located on Lake Minnewaska. Glenwood's Shoreland Regulations also apply to this request. The lower level walkout on the south side is about 60 feet from Lake Minnewaska and more than 15 feet above the OHW level so the home site meets the lake setback and elevation requirements. All other setback requirements and the impervious surface coverage, which adds less than 100 sq ft with their proposed improvements, are met.

Erosion control measures currently in place are vegetative seeding and a silt fence.

- **Location:**
 - 387 North Lakeshore Dr., Glenwood, Minnesota
 - Sec/Twp/Range: 12/125/38
 - Parcel number(s): 21-0881-001
- **Zoning:** R-1 (Urban Residential)
- **Lot size:** Approx. 16,202 sq ft according to the Pope County parcel data.
 - Existing Impervious Coverage: About 4,880 sq ft (30.7%)
 - Proposed Impervious Coverage: About 4,978 sq ft (31.3%)
- **Septic System Status:** The property is served by the city sewer system.
- **Natural Features:** Mostly grass cover for the lot. There are no trees or other natural features that would be disturbed.

Applicable Statutes/Ordinances:

Minnesota Statutes

462.357 (2011) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 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 the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by 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 adjustments or the governing body as the case may be, may not permit 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 as a variance the temporary use of a one family dwelling 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 and must bear a rough proportionality to the impact created by the variance.

City of Glenwood Shoreland Use Regulations

151.36 PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES.

(A) Placement of structures on lots.

(1) When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

(2) Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(3) Structures shall be located as follows.(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water*

<i>Public Water</i>	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Lake Minnewaska	75	50	50

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

<i>Setback From:</i>	<i>Setback (in feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway	50
Right-of-way line of town road, public street or other roads and streets not classified	20

(c) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) *Uses without water-oriented needs.* Commercial, industrial, public and semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) *Design criteria for structures.*

(1) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(a) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

(b) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under these three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(C) *Height of structures.* All structures in city residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height. (Ord. 31, passed - -1995)

' 151.39 STORMWATER MANAGEMENT.

The following general and specific

standards shall apply.

(B) *Specific standards.*

(1) Impervious surface coverage of lots must not exceed 25% of the lot area.

City of Glenwood Zoning Code

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153.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HEIGHT OF BUILDING OR STRUCTURE. The vertical distance from the average of the highest and lowest point of the portion of a lot covered by a building, to the highest point of the roof.

153.005 HEIGHT REGULATION/SOLAR ACCESS.

(A) *Height regulations.*

(1) All structures in the R-1 Suburban Residential District shall be limited to two stories plus roof or 25 feet in height. Structures in all other districts shall not exceed 35 feet in height above ground level unless approved by the City Commission.

(2) The Commission may authorize a variance to the height regulations in any district if:

(a) All front, side and rear yard depths of buildings are increased one foot for each additional foot of height; or

(b) The structure is among or similar to any of the following: television and radio towers, church spires, belfries, monuments, tanks, water towers, grain elevators, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyers, flagpoles, silos, air conditioning and heating units and windmills.

(3) There is no maximum height to which the Board is limited in granting the variances.

Staff Comments:

- 1) In order to grant a variance, the City needs to find that a property owner has met the criteria established in the City Code and/or State Law. In making its decision, the City will need to state its "findings of fact" indicating why those criteria have been met or not met and as such, why the variance request should be approved or denied.
- 2) The primary question, in Staff's opinion, that needs to be addressed in this request is whether a denial of the height variance would result in the applicants being denied reasonable use of their property. The Commission should also discuss that the impervious coverage limit already appears to be exceeded and, at a minimum, no net increase in impervious coverage should be allowed.
- 3) In granting a variance, state statute (462.357, Subd. 1e (i)) states that "In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions."
 - a) Does the City feel that conditions of these kinds would be appropriate? Particularly in ensuring that, at a minimum, no net increase in impervious coverage is allowed.
 - b) In this case, the most relevant issue would seem to be stormwater management – to ensure that rainwater falling off the roof does not negatively impact the lake.

Findings of Fact: Staff would recommend the following findings of fact be considered when determining whether to recommend denial, approval, or approval with conditions:

- 1. Will the granting of the variance be in harmony with the general purposes and intent of the Zoning and/or Subdivision Ordinance?**

The general purposes and intent of the City's subdivision and zoning ordinances with respect to the height of structures is to provide some consistency with the residential standards for the district and the neighborhood character.

The intent of the ordinances would be preserved because the plans would allow for a second story structure, which is permitted and is reasonably consistent with other nearby lakeshore homes. Allowing the variance would not appear to have any negative impacts on the character of the neighborhood or the visual enjoyment of the lake, which has neighboring properties that sit higher in elevation.

2. Is the proposed use of the property reasonable?

The requested variance is reasonable in that they would be adding another level of the same height and size as is currently in place. There appear to be no other options without compromising the existing design to add another level to the home and still meet the maximum height requirements.

3. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

The need for the variance would appear to primarily be related to the height and placement of the existing structure and the exposed sublevel.

4. Will the variance, if granted, alter the essential character of the locality?

The use of the property would remain residential and very similar in character to adjacent properties. The second story addition would be constructed to match the style and standards used with the existing home and would sit at a lower elevation than several neighboring properties. Two story homes like this one are typical for the area and the lakeside setting.

5. Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?

Economic considerations do not appear to play a significant factor in the requested variance. The request is due primarily to the owners' desire to increase their living space by adding another level to their home.

Staff Recommendation:

Staff would encourage planning commission discussion with regard to whether the applicant has a practical difficulty that necessitates the additional height, or could find a way to reduce the overall height and still have a reasonable two-story dwelling.

Staff would also recommend that no net increase in impervious coverage be allowed. If the addition is to be allowed, the Commission should consider requiring at least an equal reduction in impervious coverage elsewhere on the lot. The Commission could also consider requiring additional reductions in impervious so as to more closely meet, if not meet, the 25 percent limit allowed in ordinance.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval:

1. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between any areas of disturbance (if there will be any) and the lake as well as to any neighboring properties which are downslope of the disturbed areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets, hydroseed or other forms of temporary cover until vegetation is re-established.