

CORINNA TOWNSHIP BOARD MINUTES

Tuesday, September 1, 2009

7 p.m., Town Hall

Unofficial Minutes

Present: Bonnie and Dan Shay; Charlotte Quiggle, Planning Commission Chairman; Dean Flygare; David and Diane Wilkie; Mark Miller, Road Maintenance; Fred Heitkamp, Jim Vance, Ben Oleson, Corinna Township Zoning Administrator; and Town Board: Richard Naaktgeboren, Chairman; Chuck Carlson, Supervisor, John Dearing, Supervisor, Mary Brown, Deputy Clerk Treasurer and Zoning Administrative Clerk; and Vi Novotne, Clerk/Treasurer

Meeting opened at 7 p.m. with the Pledge of Allegiance.

With motion by John Dearing, seconded by Chuck Carlson, the minutes of the August 18, 2009 meeting were approved.

With motion by Chuck Carlson, seconded by John Dearing, the agenda was approved with the following additions: Requests to be on the Agenda: Fred Heitkamp and Jim Vance; Other Business: Ben Oleson, Zoning Administrator, to discuss reasonable garage size definition; 2A-Bonnie and Dan Shay add letter 8/31/09 from Town Attorney, Tim Young, regarding public or private road at Kramer Ave NW and Lathrop; and delete Letter 8/20/09 Dan and Bonnie Shay to Tom Salkowski, Wright County Planning and Zoning Administrator, as letter was not mailed.

7 p.m. Town Board review and Action for Corinna Planning and Zoning Commission Public Hearing, August 27, 2009. (Administrator's Report)

Charlotte Quiggle, Planning Commission Chairman, presented a review of the recommendations and finds of fact.

Request #1: Frank and Ann Dropps, 10997 Lawrence Ave NW, PID 206-019-000201, 206-034-000361 and 206-000-064405

Application: New garage to be located within the required ten foot side yard setback (5.06-9.88 ft from the side lot line – minimum required is 10 feet, current garage is about 9 feet).

New garage to be located within the required 65 fit road centerline setback (about 33-34 feet from the centerline of the road – minimum required is 65 feet, current garage is about 36 feet by 2002 Wright County variance)

New garage to be 810 square feet in size (maximum allowed is 800 s/f for lots less than 20,000 s/f in R-1 district).

Staff Recommendation: Based on the findings of fact and discussion, Staff recommends denial of the application as presented. If the applicant is willing to make the following changes and conditions:

1) Relocate the proposed garage so that it meets the required 10 foot setback from the side lot line. If this will place the garage within 20 feet of the absorption area of the mound system, Staff would suggest that the variance to the mound drainfield be granted. Staff's estimate was that the existing garage was about 25 feet from the absorption area.

2) Reduce the size of the garage to meet the 800 s/f maximum allowed by ordinance. Assuming the applicant would like to keep the 30 ft. depth, this would require reducing the width to at least 26.67 feet (practically speaking – 26 feet).

3) Grant the variance for the garage to be the proposed 33-34 feet from the centerline of the road. This would be consistent with the ordinance allowing the road setback to be reduced to the average setback of garages within 300 feet or 20 feet, whichever is more. There is a garage to the north within 300 ft. that is within 10-15 feet of the centerline and one on the other side within about 55-60 feet of the road centerline. The average setback between these two would be 32.5-37.5 ft.

4) 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 on downslope areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets or other forms of temporary cover until vegetation is re-established.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

1) Has the applicant demonstrated that the proposed actions will be in keeping with the spirit and intent of the ordinance and will not conflict with the Comprehensive Plan?

a) Yes, in terms of road centerline setback, no in terms of side lot line setback and garage size limit. The Comprehensive Plan does not directly address this issue except to make statements about protecting lake quality as land is developed.

The spirit and intent of the ordinance (side yard setback) is to require some space between buildings and other improvements and the adjacent lot and to maintain space between structures. Its' intent is also to maintain consistency from one property to the next in this setback. While several other properties in the area have a detached accessory building within the minimum setback required, these are some distance down the road. Neither adjacent property has an accessory building within the required setback. The proposed garage would significantly reduce the setback between the existing fence on the side lot line and the structure, preventing access to the lake-side of the property by emergency vehicles.

The spirit and intent of the ordinance (road setback) is to protect buildings and passengers of vehicles and to preserve space for potential future expansion of roadways. Given that Lawrence Avenue is a narrow, gravel road with limited traffic volumes and that several garages are within the required setback, the road is very unlikely to ever be extended or widened. The proposed garage would still meet the required 10 ft setback from road right-of-way and would allow for reasonable storage space that does not currently exist given the depth of the garage.

2) Has the applicant demonstrated that the property in question would not be able to be put to a reasonable use or yield a reasonable return if used under the conditions allowed by the official controls?

a) No (Side yard setback and garage size). The applicant currently has a 22x22' garage that has served the lot for about 7 years. The applicant has options for constructing a larger garage of a reasonable size that would still be able to meet the side yard setback and also continue to meet the required setback to the absorption area of the mound system on the property.

b) **Needs discussion.** Whether the applicant would retain reasonable use with either the existing garage dimensions, or a garage with dimensions somewhere in between the 27x30' proposed and the existing 22x22' is a determination that should be made by the Board of adjustment. Staff suggests the Commission consider the following when determining whether the proposed garage is "reasonable use" or not:

1) The width and depth of the garage should be the minimum necessary to construct a "reasonable" size. If it is possible to have a narrower garage, or to slide the garage over so that a variance is not necessary from the side yard, the proposal should be denied.

1) The existing 22x22' garage would be considered a small two stall garage. The proposed 27x30' garage could be considered a small three-stall garage (i.e. the Wright County parking standards require parking stalls to be at least 9 ft x 20 ft). The Board should decide whether:

a) A 22x22" garage is too small to be considered "reasonable use". This garage size provides enough space for two vehicles, but not for much storage or for larger vehicles/equipment.

b) The ability to store a pontoon and other "over-sized" equipment is necessary to put the property to a "reasonable use". The applicant intends to store their pontoon in the garage. A pontoon can be anywhere from about 16-26 feet in length, with additional length needed for the tongue of a trailer and also for the motor. The applicant states that their pontoon on a trailer is about 29 feet long.

c) If 22x22' is unreasonably small, and 27x30' is more than reasonable, what dimension would the Township consider reasonable?

2) It appears possible to move the garage further to the north so that it would meet the required 10 ft side yard setback. Doing so would move the garage closer to the mound system, but it appears that the 20 ft setback required to mound would still be met (as measured to the "absorption area – the area where treated sewage effluent enters the ground surface under the mound). The applicants' sidewalk would need to be moved to accommodate this location.

ii) The proposed garage should not exceed the maximum size allowed by ordinance for a lot of this size (800 sq ft). Going above this suggests that the garage would be more than necessary to be considered reasonable (i.e. a maximum of 800 sq ft implies that lesser sizes are reasonable).

(iii) The proposed garage should not cause building coverage to exceed that allowed by the ordinance (15%). The proposed garage, when combined with the existing house and shed, would be right at the 15% figure.

(iv) This property has already obtained a variance for a garage to be within 36 feet of the centerline of the road. The proposal is to shorten this to about 33-34 feet.

(1) Moving the proposed garage to match with the current road setback – if allowed to remain at the 30 ft depth proposed – would appear to reduce the space between the garage and the house to less than 3 feet (about 1 ft separation). There is a bedroom egress window directly behind the garage that state codes required to have a clear space of at least 3 ft x 3 ft.

3) Has the applicant demonstrated that the plight of the landowner is due to circumstances unique to the property not created by the landowner and is not a plight shared by neighboring properties in the same zone?

a) **NO.** The subject lot and other lots in the neighborhood, were all platted and developed prior to current zoning regulations (1929 and 1925). As such, the applicant and neighboring

properties are all constricted by similar plights (having lots less than the width and depth required by today's ordinances). Further, the applicant appears to have reasonable options for moving the garage further away from at least the side property lines.

4) Has the applicant demonstrated that the character of the locality would not be altered if the variance is granted?

a) **Yes.** The proposed garage would replace an existing garage. While it would certainly be larger, and larger than many other garages in the neighborhood, the general character of the neighborhood would not change significantly.

5) Has the applicant demonstrated that the granting of the variance will not adversely affect the environmental quality of the area?

a) **Yes.** The proposed construction would be within the confines for impervious coverage required by the ordinance. The additional size of the building would not significantly change any existing impacts of the property on the environmental quality of the area.

Ben Oleson, Corinna Township Planner, stated that in working with a variance, a hardship should be revealed and that property could not be put to a reasonable use. For legal reasons and in order to be consistent with variances, a guideline or standard is needed to determine if a garage will be built beyond reasonable use or could the garage be smaller. Wright County regulations allow a garage no larger than 800 s/f as an accessory building. Issues are: what are the neighborhood garage sizes; how many vehicles may be stored; could the garage be moved over to the middle of the lot that would meet requirements and if another 26x30' garage be requested, what is the guideline or "Rule of Thumb" to make those determinations? For this variance, not only is the asking for a larger garage but one that would be too close to the property line in order to meet sewer system requirements. If no variance is required and there is room, a larger garage should be allowed. Closeness to septic system is to allow an 20' absorption area. Raising the garage to meet flood plain requirements is not practicable. The garage could be built with openings for water to flow in an out. For garage built in 2002, Ben had no answer other than that for a 24x22' garage, the flood plain ordinance allows a building this size without a conditional use permit. Flood plain elevation has not been determined and Wright County has different elevation requirements than DNR. To build up the garage would require a conditional use permit.

Board Action: Discussion. John Dearing presented motion for the garage to be moved to 10' from property line; flood plain regulations must be met; road setback be at 34' to the closest corner of the garage to the middle of the road and that the five findings of fact be adhered to. Richard Naaktgeboren, second. Motion was unanimously approved.

Request #2: Kari Sissel, 9517 67th Street NW, Annandale, PID 206=0000-332404

Application: The applicant is proposing to use a recently constructed pole shed to house a dog grooming business. The property is currently zoned Industrial, but has had a dwelling on it for many years, which the applicant lives in.

Staff Recommendation: Staff finds that the conditions for approval of a Conditional Use permit have been met and recommends approval as presented, subject to the following conditions.

1. That the applicant installs a holding tank to serve the dog grooming activities and an agreement with a certified pumper to ensure the system is regularly pumped.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission.

1) Will the Conditional use be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the immediate vicinity?

a) **No.** The operation of a dog grooming business is not of a nature that it would generate high traffic or significant nuisance characteristics. Staff's understanding is that dogs would not be kennelled overnight or that dogs would be outside of the building for any significant length of time.

2 Will the establishment of the Conditional Use impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area?

a) **No.** The property, and adjacent properties to the east and west are zoned industrial and uses on those properties are likely to create more of an impact on the neighborhood than the proposed dog grooming business. Properties across the road are already developed residentially.

3) Do adequate utilities, access roads, drainage and other necessary facilities exist or will they be provided?

a) **Yes.** The site is already served by utilities and access roads. Staff understands that the applicant will have running water into the building housing the dog grooming and that they will be giving dogs baths. Excessive dog hair and/or any chemical products would not be suitable for a standard sewer system. Unless the applicant can demonstrate that those types of materials/products would not enter the system. Staff would suggest that a holding tank should be used instead (independent of the sewer system serving the house). The Zoning Ordinance does not generally allow holding tanks for residential construction or unless they are for "corrective" action. Given that the hair and cleaning products may cause a standard drainfield system to fail, a holding tank may be the best option.

4) Have adequate measures been taken to provide sufficient off-street parking and loading space to serve the proposed use?

a) **Yes.** The site has adequate space for the small amount of parking that would be necessary for the proposed business (approximately 3,000 s/f within the driveway/parking area).

5) Will the use conflict with the Policies Plan of Corinna Township and/or Wright County?

a) **No.** The property is zoned for Industrial uses and currently used as a residential property. A dog grooming business is an appropriate use given this.

6) Have adequate measures been taken, or will they be taken, to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result?

a) **Yes.** The proposed use would not be expected to create significant nuisances. Dogs will not be kenneled overnight, will not be outdoors for significant periods of time, and traffic will not be excessive – especially given the industrial. nature of surrounding uses.

7) are there any other conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole?

a) None recommended.

Board Action: With Chuck Carlson’s motion, second by John Dearing, the board unanimously approved the Conditional Use permit for Kari Sissel’s dog grooming business that is located in an Industrial Area. The approval was based on the recommendations and seven findings of fact.