

CORINNA TOWNSHIP BOARD MEETING
Tuesday, July 6, 2010, 7 PM
Corinna Township Hall
9801 Ireland Avenue NW, Annandale, MN

Unofficial Minutes

Present: Chairman Chuck Carlson; Supervisor John Dearing; Supervisor Richard Naaktgeboren; Clerk/Treasurer Mary Barkley Brown; Deputy Clerk/Treasurer Jennifer Kemp
Others in Attendance: P & Z Chair Charlotte Quiggle; P&Z Board Member Dan Shay; Bonnie Shay; Jeffrey Weiss; Ron Enter; Scott Enter; Paula Dupay; Bill Dupay; Julie Carlson

Call to order and Pledge of Allegiance at 7 p.m.

June 15, 2010 Town Board Meeting Minutes: A motion was made by Naaktgeboren, seconded by Dearing, to approve the June 15, 2010 Town Board Meeting Minutes. Motion carried unanimously.

Agenda for the July 6, 2010 Town Board Meeting: Motion by Naaktgeboren, seconded by Carlson to approve the Agenda for the June 15, 2010 town Board Meeting with the following additions/deletions: MN Court of Appeals Decision July 6, 2010 DOLI. Motion carried unanimously.

Requests to be on the Agenda: None.

Other Business:

1. Public Hearing:
Planning and Zoning Administrator's Report July 1, 2010
 - a. Conditional Use Permit for the expansion of an existing commercial building to be used for display and storage related to a wholesale business. Variance to construct the building addition within the minimum required rear/side yard setback.
 - i. Applicant: Marty Ferguson (FS3, Inc.)
 - ii. Owner: M80, LLC.
 - iii. Property address: 9030 – 64th Street NW, Annandale
 - iv. Sec/Twp/Range: 33-121-27
 - v. Parcel number(s): 206114002040 and 206106001010

A motion was made by Naaktgeboren, seconded by Dearing, to approve CUP as follows:

Findings of Fact:

- 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 property will continue to be used as it has been for the last 7-8 years. Staff is not aware of any complaints of neighboring property owners. The additional building space should help to enclose much of the outdoor storage and improve the appearance of the property from adjacent properties. Further, the property is accessed from a road which is zoned for business and/or industrial uses and accommodates traffic consistent with those uses.
- 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 adjacent properties to the south and west are zoned B-2 or I-1 and the continuation of the wholesale business should not impeded additional development of these properties. To the north, the land is zoned R-2a and all of these lots have been developed with residential homes.
- 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. This particular property drains to the small pond/wetland to the south and to the large wetland to the northwest. The additional building space should not change the runoff as the areas where it will be constructed are already impervious (compacted gravel).

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

a) **Yes.** The ordinance does not specifically list a required number of spaces for a wholesale business such as this. It does mention retail and office space, but these are a minor portion of the proposed building. Staff would recommend the Commission discuss with the applicant the anticipated parking needs and determine what an appropriate number of spaces required would be.

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

a) **No.** The property is zoned for General Business uses and currently used as a wholesale business.

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's primary potential nuisance would be related to glare from any outdoor lighting and noise related to the traffic. Both are not significant concerns with the current use and would not be expected to increase significantly as a result of the proposed additions.

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) The Commission has recommended that any planned outdoor storage areas be identified specifically by the applicant prior to final approval by the Town Board and that they protect the area where the sewer system is located from any driving, parking or other activities that may harm the system.

b) The applicant has provided a revised drawing showing how the building addition on the NE side of the existing building will meet the required sewer setbacks.

Conditions of Approval:

1. The applicant shall revise the size and location of the building addition on the northwest side of the existing building so as to ensure that the addition is at least 10 feet from the existing sewer tanks and 20 feet from the existing septic drainfield.
2. Outdoor storage areas shall be screened consistent with the requirements of Section 7 of Appendix A of the Township Zoning Ordinance.
3. The applicant shall adequately mark and protect the area of the septic drainfield and tanks so that no equipment or materials or vehicles are stored or parked on top of them.

Motion carried unanimously.

A motion was made by Naaktgeboren, seconded by Dearing, to approve the variance request with Staff findings of fact and Staff recommendations that follow and with the stipulation that the exterior storage be fenced in, per ordinance:

Findings of Fact:

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.** The proposed additions to the existing building will not further impinge on the lot line that the building already does. The adjacent residential lot is an unbuildable outlot and provides much more buffer

to residentially developed properties than is required by the 50 ft setback in the ordinance. As such, the spirit of the regulation and the Comprehensive Plan is met.

- 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) **Yes.** The applicant's request is entirely reasonable considering that the only nonconforming aspect is the setback to the northwest property line. As stated above, the fact that this adjacent property is an unbuildable outlot and serves as the intended buffer would make a denial of the variance request unreasonable in Staff's opinion.
- 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) **Yes.** The building was constructed before the setback requirement was an issue, since there was no lot line to the northwest as it exists today. Further, when the land on which the building currently sits was platted, the building met the required 30 ft setback. It was only when the property was rezoned to B-2 that the setback of the building became a nonconformity.
- 4) **Has the applicant demonstrated that the character of the locality would not be altered if the variance is granted?**
- a) **Yes.** The proposed building additions will have result in very little, if any, change to the character of the area. The property is already being used for a wholesale business and has been for at least 7-8 years. Before that, the property was used for businesses back to 1993. The proposed building additions will not change the use or significantly intensify the use.
- 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 dwelling will not add any impervious surfaces to the property beyond what already exists and will not significantly encroach on either of the two ponds/wetlands near the property.

Motion carried unanimously.

- b. Variance to tear down an existing dwelling and replace with a two-story dwelling within the minimum required lake setback, construct a detached garage within the minimum required road right-of-way setback and construct a sewer system within the required side yard setback on an undersized lot.
- i. Applicant: William and Paula Dupay
 - ii. Property Address: 7302 Isaak Avenue NW, Annandale
 - iii. Sec/Twp/Range: 27-121-27
 - iv. Parcel Number: 206068000070

A motion was made by Naaktgeboren, seconded by Dearing, for:

1. Approval of the request to reconstruct the dwelling as presented
2. Denial of the variance request for the side yard setback of the sewer system as presented in "Plan A" as it seems clear that "Plan B" allows for a sewer system to be constructed without a variance.
3. Denial of the variance request for the road centerline setback to the proposed future garage, as it seems clear that "Plan B" allows for a sewer system and garage to be constructed without a variance.

Conditions of approval area as noted below.

Findings of Fact:

- 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.** The proposed demolition of the existing buildings on the property and replacement with a new dwelling will improve the existing setback by about 15-20 feet and will help to create a greater visual separation between buildings and the shoreline.

In terms of the sewer setbacks, the public hearing will provide an opportunity for the relevant landowner to comment on the infringement of the drainfield toward their property line.

The Corinna Township Comprehensive Plan does not directly address setback issues except to make statements about protecting lake quality as land is developed. The Wright County Comprehensive Plan states "Development of lakeshore property shall abide by State Shoreland Management Rules to maintain, as far as practical, a natural shoreline and natural views of shoreland areas from the lake's surface."

The spirit and intent of the ordinance (lake setback), according to the DNRs SONAR statement in 1989, is:

"In general, structure setbacks are needed to provide an adequate distance between the development of a shoreland area and the adjacent waterbody or near bluffs to control the resource damaging effects of non-point source pollution. Soil erosion and subsequent sedimentation in water bodies and the loading of nutrients, toxics and other pollutants to the water body from shoreland area surface water runoff are examples of non-point source pollution."

The spirit and intent of the ordinance (side yard setback) for septic systems, according to the Statement of Need and Reasonableness prepared for the 1996 Rule Changes, states as follows:

"The property line setback is placed in the rule to highlight to landowners that they must consider their neighbors during placement of their ISTS. It is reasonable to require documentation for property line setbacks at the state level to assure that affected parties are privy to the information and accept the infringement to their property."

The spirit and intent of the ordinance (road setback) for buildings is to help ensure adequate space for road maintenance activities (i.e. snowplowing, road grading, ditch spraying, etc...), to prevent damage to property and promote public safety should a vehicle drive off the road and to allow adequate space for parking of vehicles on driveways without endangering public safety.

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) **Yes.** Without the variance, the applicant would be forced to move their house further back in the lot, which would 1) make it much less practical to fit in the home, the sewer and the proposed future garage, and 2) Moving further back would significantly change the view from the house to the lake, which would become partially blocked to the south by the neighbors home.

Under "Plan B", there is no need for any other variances. If "Plan B" becomes unworkable for some reason of poor soils or wetland, Staff would recommend that the Town Board make a finding that those reasons would provide sufficient hardship to allow for a sewer system to be placed closer to the north side lot line as indicated in "Plan A".

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) **Yes.** The lot on which the proposed dwelling would sit was platted in 1954. The home on this property was built in 1935 according to the Assessors records and other homes in the immediate area were all built either in the late 1950s or late 1970s. Current setback requirements did not go into effect until 1972. As such, all of the nearest homes in the neighborhood are within the 75 foot setback and generally are about 60-65 feet from the lake.

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

- a) **Yes.** The proposed home would be taller than the existing dwelling and taller than most other homes in the neighborhood, which are mostly one story homes (although several are walkouts). As viewed from the lake, the second story of the home would be mostly screened by existing tree cover and would not expose more home than neighboring homes since it would not have a walkout basement). The primary visual impact of the height would be mostly due to the fact that the home sits higher on a hill than most neighboring properties.

The neighborhood would remain residential in character and the proposed height of the home is well within the 35 foot maximum height allowed by ordinance (25 ft to the peak as indicated by the applicant).

Overall, Staff does not feel that the character of the neighborhood will be altered as it will remain residential in character and the proposed home is not out of character with what is already in the neighborhood. The additional height is primarily an issue due to the unique topography of this lot, and will be mitigated by the lack of an exposed walkout basement on the lake side and the existing tree cover.

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 dwelling would be set back further from the lake and the steep slope on the lot and most of the lot drains to the rear of the lot – not towards the lake. Directing any rainwater to the rear of the lot that falls on the roof of the dwelling would further improve this situation.

Conditions of Approval:

1. The applicant shall provide sufficient evidence from their sewer designer, subject to review by the Township sewer inspector and Wright County Soil and Water, to indicate that the proposed location for the sewer system will not be located in wetland soils or otherwise impact a wetland.”
2. The applicant should install roof gutters or other such equipment to direct rain water away from the lake and to the west side of the property.
3. The steep slope along the lake shall be retained in as natural a condition as possible.
4. The existing tree cover shall be maintained between the lake and the proposed home unless the trees become diseased or present a danger to property or safety.
5. 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 down slope 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.

The motion carried unanimously.

- c. Variance to tear down and existing dwelling and replace with a two-story dwelling within the minimum required side yard setback and to install a sewer system within the minimum required side yard setback on an undersized lot.
- i. Applicant: Jeffrey Weiss
 - ii. Property Address: 7212 – 107th Street NW, Maple Lake
 - iii. Sec/Twp/Range: 11-121-27
 - iv. Parcel Number: 206072000020

A motion was made by Naaktgeboren, seconded by Carlson, to approve the variance as follows:

1. Approval of the request to reconstruct the dwelling as presented
2. Approval of the request to place a sewer system within 5 feet of the side property line.

Findings of Fact:

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.** The proposed demolition of the existing buildings on the property and replacement with a new dwelling will not worsen the existing setback on the east side of the property and will not significantly impinge on the west property line (it is also consistent with the 12 ft setback approved by Wright County in 2005).

In terms of the sewer setbacks, the public hearing will provide an opportunity for the relevant landowner to comment on the infringement of the drainfield toward their property line.

The Corinna Township Comprehensive Plan does not directly address setback issues except to make statements about protecting lake quality as land is developed. The Wright County Comprehensive Plan states "Development of lakeshore property shall abide by State Shoreland Management Rules to maintain, as far as practical, a natural shoreline and natural views of shoreland areas from the lake's surface."

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. The subject property, and surrounding properties, were platted in 1954 prior to current zoning regulations. The lots are much narrower and significantly smaller than would be required today. As such, the ability to place a reasonably sized dwelling and accessory structure, well, sewer system and other typical improvements while still maintaining required setbacks can be difficult. The proposal would maintain a side yard setback consistent with what is necessary to allow a well truck, for instance to access the lake side of the property where the well is proposed and is not inconsistent with side yard setbacks of existing dwellings on other lots in the area.

The spirit and intent of the ordinance (side yard setback) for septic systems, according to the Statement of Need and Reasonableness prepared for the 1996 Rule Changes, states as follows:

"The property line setback is placed in the rule to highlight to landowners that they must consider their neighbors during placement of their ISTS. It is reasonable to require documentation for property line setbacks at the state level to assure that affected parties are privy to the information and accept the infringement to their property."

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) **Yes.** The applicant is seeking to build a new house to replace the existing house, which was originally constructed in 1920 according to Assessors records and has fallen into disrepair. Without a variance for the proposed house location, the applicant would only have the right by MN Statutes 394.36 to reconstruct the existing home in its current location without a variance being necessary so long as they did not expand on the size.

The existing dwelling is significantly narrower than other dwellings in the neighborhood, some of which impinge on the side yard setback even more than is proposed by the applicant.

Without the variance for the proposed septic system, it would be very difficult to find an alternate location due to the narrowness of the lot, the required setbacks to buildings and the existing location of the driveway.

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) **Yes.** The lot on which the proposed dwelling and septic system would sit was platted in 1954. The home on this property was built in 1920 according to the Assessors records and other homes in the immediate area were mostly built either in the late 1950s or early 1960s. The applicant's lot was relatively narrow as originally approved compared to other lots in the subdivision. Those that were of a similar size have since been combined to create larger lots. Thus, the applicant is uniquely situated in that they have a narrower

lot than others in the neighborhood and has no ability to correct this situation without buying out adjacent lots which have already been built on with homes.

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

- a) **Yes.** The proposed home would be taller than the existing dwelling and taller than most other homes in the immediate vicinity, which are mostly one story homes (although several are walkouts). There are at least two or three two-story homes within 500 feet of this property.

As viewed from the lake, the second story of the home would be partially screened by existing tree cover and would not expose more home than some neighboring homes since it would not have a walkout basement). The primary visual impact of the height would be mostly due to the fact that the home sits higher on a hill than most neighboring properties.

The neighborhood would remain residential in character and the proposed height of the home is within the 35 foot maximum height allowed by ordinance..

Overall, Staff does not feel that the character of the neighborhood will be altered as it will remain residential in character and the proposed home is not out of character with what is already in the neighborhood. The additional height is primarily an issue due to the unique topography of this lot, and will be mitigated by the lack of an exposed walkout basement on the lake side and the existing tree cover.

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 dwelling will meet the required lake setback and will not create any more impact on the steep slope than already exists. Much of the lot drains to the rear of the lot – not towards the lake. Directing any rainwater to the rear of the lot that falls on the roof of the dwelling would further improve this situation.

The proposed septic system will meet all design requirements and be adequately setback from the lake to protect the environmental quality of the area.

Conditions of Approval:

1. The applicant should install roof gutters or other such equipment to direct rain water away from the lake and to the west side of the property.
2. The existing tree cover shall be maintained between the lake and the proposed home unless the trees become diseased or present a danger to property or safety.
3. 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.

Motion carried unanimously.

- d. Resolution 2010-08 – Resolution adopting Corinna Township Ordinance # 2010-04 (Subdivision Controls Ordinance) and Repealing Corinna Township Ordinance #2007-02 (Subdivision Controls Ordinance)

A motion was made by Carlson, seconded by Dearing to approve resolution. Motion carried unanimously.

- e. Resolution 2010-09 – Resolution ordering adoption of summary of amendments to Ordinance 2007-02, Subdivision Controls Ordinance

A motion was made by Dearing, seconded by Naaktgeboren, to approve resolution. Motion carried unanimously.

MN Court of Appeals Decision July 6, 2010 DOLI: Reviewed the State of MN in Court of Appeals A09-1773; In the Matter of the Administrative Order Issued to Wright County; Filed July 6, 2010 Affirmed Minge, Judge; DOLI File No. 3-1902-20003-2. The decision reads "DOLI has statutory authority to issue an administrative cease-and-desist order to a municipality that is not properly enforcing or administering the MSBC. Because the County was improperly attempting to administer and enforce the MSBC in a township in which it lacked jurisdiction, DOLI did not exceed its authority by issuing the administrative cease-and-desist order to the County. Additionally, because the decision was based upon the plain language of the statute and supported by evidence after considering all arguments, the decision was not arbitrary or capricious. Finally, because DOLI's interpretation of the MSBC corresponds with the plain language of the statute, formal rulemaking procedures were not required. **Affirmed.**

Naaktgeboren stated that since Wright County is asking, in local newspapers, for citizen input on how to cut Wright County's expenses, the Wright County Commissioners should stop appealing this decision and save the taxpayers the ongoing legal expense of this issue.

Planning Commission: Charlotte Quiggle, Chairman: No report.

Next Meeting: July 22, 2010, 7 p.m., Town Hall.

2. LoVail Jankord Stop Work Order and Junk Violation: The junk violation pretrial is Friday, July 30, 2010 at 1:30 p.m.; septic compliance report due June 18, 2010 has not been received. Clerk Brown is to follow up. Robert Balogh, Jr. – 8611 Griffith Avenue NW: June 10 Mr. Balogh pled guilty and was sentenced. He is to pay court costs and to have no same or similar violations. Follow-up photos of Balogh yard weeds were sent to Wolff on 6/28/2010. Carlson stated that he had called Balogh's attorney, Ted Buselmeier, on July 6, 2010, to let him know that the weeds and grass had not been cut since the last court date. Quick -6329 – 80th Street NW – Stop Work Order and Junk Clean Up: Building permit approved 4/13/10; 4/30/10 - Progress has been made in property clean-up – still in progress. Milo Vail - 8008 Griffith Avenue NW: June 30 memo from Assistant Wright County Attorney Karen Wolff - Mr. Vail was given a continuance of his probation violation pretrial until mid-August in order to get everything cleaned up. Huffman/Fenske - 11491 Kimball AV NW: June 25 junk violation letter sent. Property owner was given until July 15 to clean property to avoid prosecution.
3. June P and Z Corinna Monthly Permit Report: Reviewed.
4. Newsletter July 2010: Reviewed.
5. Work Order Log: Reviewed.
6. Wright County Township Officers Association Quarterly Meeting – July 7, 6:30 p.m.: Five from Corinna attending.
7. Building Use July, 2010: Reviewed.
8. Junk Amnesty Saturday, July 31, 2010: Update and discussion.
9. 91st Street Quotes: John Dearing reported on quotes received on the 91st Street road construction project. Quotes were received from Rice Contracting in the amount of \$62,413.26 and Mares Excavating in the amount of \$59,046.00. A motion was made by Carlson, seconded by Naaktgeboren, to enter into a contract with Mare's Excavating for A: pipe work and labor per plan; and B: sub grade preparation, correction, salvage and replace class 5 for \$59,046.00. Motion carried unanimously.

Payment of Claims: Motion by Carlson, seconded by Dearing to approve Direct Deposit Payroll Checks #166 through 169; EFT 2010-42 through EFT 2010-44, Checks #15757 through Check #15787, in the amount of \$196,454.58. Motion carried unanimously.

With no further business to come before the board, a motion was made by Carlson, seconded by Naaktgeboren, to adjourn the meeting. Motion carried unanimously the meeting adjourned at 8:45 p.m.

Respectfully submitted,

Approved July 20, 2010

Mary Barkley Brown, Clerk/Treasurer

Chuck Carlson, Chairman