

CORINNA TOWNSHIP  
MINUTES  
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION  
July 10, 2012

7:00 PM

1. Call to Order: Chair Charlotte Quiggle called the meeting to order at 7:00 PM.
2. Roll Call: Board of Adjustment/Planning Commission Members Present: Charlotte Quiggle (Chair); Dan Shay (Vice-Chair); Larry Smith; Lee Parks; Steve Huff; Barry Schultz

Absent: None

Staff: Ben Oleson, Zoning Administrator; Jennifer Kemp, Township Planning and Zoning Clerk

Others in Attendance: John Kittok, Gerald and Janet Schafer, Stuart Ulfers, Frances Ulfers, Ron Mares, Arvid Klemz and Pam Klemz, Paul Mielke, Janelle Dixon, Leslie Kreutter, Mark Limber, Dick Naaktgeboren, Patrick Martin, Jeff Martin

3. Additions or Deletions to the Agenda: None. A motion by Smith, second by Shay, to approve the agenda. Motion carried unanimously.
4. Public Hearings
  - a. (Tabled from May 2012 meeting) Variance to create two nonconforming lots not meeting the minimum size, width or depth for the purpose of encompassing existing sewer systems and possible construction of residential accessory buildings. Variance for septic system not meeting the required side yard setback. Lots to be created would be approximately 4,500 and 8,500 sq ft (43,560 sq ft required), 40 and 80 feet wide (150 ft required) and 105 ft deep (150 ft required). The new lots would put a side property line within about 5-6 feet from an existing septic drainfield (10 ft required).
    - i. Applicant(s): Frances E. Ulfers Revocable Trust (Frances and Stuart Ulfers, Trustees)
    - ii. Property Address: Property west of 6862 Inman Avenue, Annandale
    - iii. Sec/Twp/Range: 34-121-27
    - iv. Parcel Number(s): 206024000124

Quiggle read the variance request as proposed.

Oleson: The Ulfer's request was tabled last month to verify whether they could get a second sewer on each of the lots they are creating. There is already a sewer on each of the proposed lots, one serving the Ulfers house and one serving their neighbor's house. To make sure there is enough space for second sewer on each one. Just this morning, I got an updated drawing from Bernie Miller showing where those sewer systems are. Lot sizes changed a bit to about 8500 and 8900 square feet. That's not based on a survey, but also shows potential garage on lot in new drawing. Garage on drawing is shown roughly 15 feet from the side property line and roughly 50-60 feet from center of road.

S. Ulfers: I have a couple comments. Bernie did discuss this with us this morning. It looks like a workable plan, I think. But personally I would have liked to have seen the proposed second one be behind my first one. I'm not sure why he can't put it there. That land along the road there

would be ideal for... and we're not going to do anything, but if one might sell the property that might be the ideal for someone to put a storage building or something like that down the road. I think precedence has already been set, there is a garage across the street from this one that we're proposing right here that is less than 6 feet from the road, 6-8 maybe. There is another down the road that is right on the property line. Personally, I'd like to see that one moved up closer to the road. There's about 30 feet between that and the road. But that's something the details can be worked out with the permit for garage.

S. Ulfers: The idea of the meeting right now is to get go the go ahead to have the sewer system accepted and then to assure the buyer they're going to be able to build a garage. I don't want them to come back to you after they've bought the property and find out they're not able to build a garage.

Quiggle: They will need a variance at that time.

Stuart Ulfers: Yes and I think they understand that. We have moved lines around some. The boundary close to the sewer system is not so close to anymore. It is a little bit close on one end of it, but on the other end it has to be close to 15 feet from it. The garage is still 15 feet plus from the property line. So that garage is in compliance. Existing is more than 50 feet from road. (the center of right of way) At the time our building permit said we had to have it 50 feet from the center of the road. Well, it actually shouldn't be the center of the road. It should be center of the right-of-way is what it should be. The road happens to be built on the North side of the right-of-way, completely on the North side of the right-or-way. I mean, there is room for a whole other road on the other side of the right-or-way.

Shay: Well we widened it out. Widened out that second lot to where it looks like a proposed potential down the road garage at least would fit in it. It wouldn't before. My concern is if we go ahead with it, once an actual survey happens, these lots stay where they are. I don't want to see that second lot especially narrowed up at all, even five or so feet because then all of a sudden garage if does come time for a garage will be back here with about three variances. Where right now it just looks like a road setback variance. As long as we can stay with that, it looks like it is something that is going to work. Of course if the project does have variances granted making sure that two prospective new lots are tied to the present lot. That's so that we don't have, technically one lot instead of four lots. We don't want those two very small lots to be by themselves.

Huff: How many variances are we looking for?

Quiggle: Lot size and there was a variance which may not still be there for lot line to septic system so the lot sizes are too small in that neighborhood. In one configuration there is a property line setback for the sewer. Is that still there?

S. Ulfers: I think right at the front of that. If you look on this drawing ahead of the garage there where it comes to the lot monument there, it (the existing sewer system) might be a hair closer to the other lot.

Oleson: This existing sewer system is within the 10 foot setback. We would be creating the lot-line here. (shown visually on the overhead drawing) We'd be creating a lot line here that doesn't currently exist (shown visually on overhead drawing). The reason for the variance is because every new lot that is created has to have at least an acre in this zoning district. These are far less than that. They are less than 9,000 square feet. They are about a ¼ of an acre or less. They are not proposing to put homes on them which is why you would normally require an acre to have enough room for a home, a sewer, garages and driveways and everything else.

Huff: And the one you're going to keep with your property because that's your sewer system, correct?

Oleson: These two go together. (Visually showed which property goes with which sewer on the overhead) and the idea is this person would buy this because the sewer system is on there now serving their house. It's (currently) an easement. Now they're talking about selling it so that they own it.

Some discussion was had about the future potential of a garage on the lot to be sold.

Huff: The actual variance is for those lots because they're not big enough to support the...

Oleson: Right...and then we're creating a new line...

Huff: Right there off of that corner.

Oleson: (visual reference to overhead) This is all one piece of property with one existing garage on it. We are going to create this line right here (visual reference) and create this line so by creating this line now this sewer system instead of not having a side yard setback really. Now it does. It's within the ten feet it's supposed to be. So it is at least ten feet away from the property line. They are creating a variance there.

S. Ulfers: It is my understanding that area now is zoned for one acre lots.

Oleson: Actually now, it doesn't show a measurement here but I'm guessing that this is within the ten foot setback of this new outline. When we first looked at this, this line was over here more so now that they've shifted it over to get enough room for the garage it's going to be too close to this sewer system as well. It won't affect it functioning correctly. It's just that it's too close to the line.

Huff: Are we okay with future garage?

Oleson: That will have to come through a variance because it's not meeting 65 feet from centerline of the road and there is a provision that allows it to be closer if everybody else in the neighborhood is closer, but even then it's supposed to be at least 20 feet from the right-of-way. It's only 15 feet. Now this isn't necessarily where it is going to go. This is just showing a possibility and...

Shay: When they came the first time was it only like a 40 foot wide lot?

Oleson: Yes.

Shay: There was no way they could have put any kind of a structure on there without running into all sorts of lot-line problems.

Oleson: So they could slide it back and I talked to Bernie about this and he said theoretically you could slide it back further. It's just going to take that much more fill because it keeps dropping off so it could be done. I asked him if this was going to effect the sewer system being this close and runoff going into the sewer system and he said it would have to be direct (inaudible)

Huff: And you're saying that other lot on the south end would be a possible place for a garage if somebody wanted to put one over there? Right there. (visual reference on overhead drawing)

Quiggle: They'd be running over their sewer.

S. Ulfers: I was hoping they could put the second sewer system there, but...

Oleson: You wanted the second sewer system here (visual reference) so that somebody could build one here? (visual reference) Well you'd still have some space here, I guess. The bottom line is that I don't think you need to know exactly where the structures are going to go right now and that is why the recommended condition is that if somebody is going to build a structure they have to meet all of the required setbacks or else apply for a variance. I think the thought is that if you're okay with the thought of splitting these two lots and having them be undersized, but stipulating that they can't be used for homes, only for sewer systems and possibly, but not guaranteed a garage.

Huff: I'm thinking a year from now we're going to be doing this again. I'm trying to have an understanding...

Oleson: There is more land back here (visual reference) so they could lengthen these lots but that's not really going to help up here.

S. Ulfers: There's no water that sits there or anything. It's not a wetland. The only other question I have is academic now, but the county told me that you don't have to have a second sewer system if it's an existing sewer system, only if you're building a new sewer system.

Quiggle: If you're creating a new lot.

Oleson: What the state law says is that if you're sub-dividing land and creating new lots for homes you need to show the two sewer sites. We're not creating this for homes so that's where it doesn't require it. Even though it may not be specifically required by the state my impression is that the Board wanted to see to make sure so that when these drain fields eventually stop working.

Oleson: I want to point out one other thing to the Board. If this were where the garage went it would also need a variance from the setback to these (visual reference) drain fields, it's supposed to be 20 feet. Now there is a provision that says it can be allowed without a variance that way but it is supposed to be 20 feet away.

Quiggle: Is there anybody out there who has any comments? (directed to the audience/public) Are there any questions about this?

Kreutter: I have a comment....we are the people who are going to be building that garage. I'm not confident that we're going to be able to...I mean there are a lot of variances and a lot of things that we have to do to make sure that works and there is no guarantee. Now like he said earlier, if we buy this lot and can't build a garage....That is just a comment and I don't have any other questions.

Quiggle: And I think the only way to deal with that is to apply for a specific variance before hand? Can you do that for land that you don't own yet?

Oleson: Yes, as long as the current owner signs off on the application. Question would be if it ends up not working for you and you don't buy the lot do you still want to split the two lots up and if you don't then maybe you want to do this simultaneously.

S. Ulfers: Well, I could sell it to him contingent on the fact they get approval to build a garage; however, I don't want to pay the surveys or description charges before if I'm not going to be able to sell it.

Oleson indicated there is a three year time limit on a variance and the understanding was the buyers would want to build a garage within that time limit.

Oleson: If you are comfortable with that it might be a better way just to essentially say that we are okay with splitting these two lots up, but let's table it so that the variance for the garage can be applied for and see what happens.

Quiggle: We can vote to approve this and whether or not they decide to go through with it is a whole other thing. So we can approve this and get that done. They can go forward with their variance request and they don't finalize the sale until that's all spun-up so they don't divide it up they don't.

A motion was made by Huff, seconded by Shay, to approve the variance request to create two nonconforming lots not meeting the minimum size, width or depth for the purpose of encompassing existing sewer systems and possible construction of residential accessory buildings. Lots to be created would be approximately 8,502 (west lot) and 8,894 (east lot) sq ft (43,560 sq ft required) and approximately 71 (west lot) and 65 (east lot) feet wide (150 ft required) and 108-130 ft deep (150 ft required) and for existing septic systems on both created lots not meeting the required side yard setback (3-4 feet instead of the required 10 feet).

The Board of Adjustment imposes the following conditions on the variances approved:

1. The owners of the two undersized lots may construct accessory buildings on their parcel, but no primary dwelling, provided that they can meet required setbacks and that they preserve space for a secondary septic drain-field. If such setbacks cannot be met, the landowners would need to apply for a separate variance.
2. The applicant has the lots surveyed and a Certificate of survey recorded.
3. The applicant and/or buyers of the lots, signs an Administrative Order indicating that the nonconforming lots must combine with their respective lakeshore lot for purpose of sale or development and that such Order is properly recorded.

Motion carried unanimously.

- b. (Tabled from May/June 2012 meetings) Variance to replace and expand and existing dwelling foundation and construct an attached garage within the required lake and septic tank setbacks. Additions to be lower level living space (12' x 12' on NW corner of home) and 8' x 17' lower level storage area. Both additions will have open decks over top. Garage addition to be 19' x 22' with open deck on top. Additions to be approximately 63 feet from Mink Lake (100 feet required) and 4 and 6.8 feet from the existing septic tank (10 feet required).
  - i. Applicant(s): Janelle Dixon
  - ii. Property Address: 8067 Griffith Avenue NW, Maple Lake
  - iii. Sec/Twp/Range: 24-121-27
  - iv. Parcel Number(s): 206017001020 and 206017001010

Quiggle read the variance request as proposed

Oleson: Since May what changed was that we found the addition was going to be closer to the existing septic tank. In June we talked about that change but because that variance was not part of the original. The variance was re-noticed for tonight's meeting. There is nothing new since June. This was a matter of making sure the public was notified of another variance.

Quiggle inquired of anything to be added by Janelle Dixon and Paul Mielke.

Mielke: Not really, I think Bernie sent a letter saying everything looked good.

Quiggle requested public comments or questions of the audience. Quiggle then called upon each member of the Planning Commission for their comments. Shay expressed concern that care is to be taken when performing the backfill of the septic tanks.

Oleson: We have the one recommendation to verify the tank does not get damaged during the construction. If it does it will need replacement.

A motion was made by Parks, seconded by Smith, to approve the variance requests to construct a 12'x12' lower level addition approximately 63 feet and 8'x17' lower level addition approximately 82 feet from Mink Lake (100 feet required), construct a new 19'x22' lower level garage approximately 63 feet from Mink Lake (100 ft. required), construct a dwelling addition on a home served by a holding tank, and Construct a dwelling addition that will place it within 4 and 6.8 feet from an existing septic tank (min. 10 ft. required)

The Board of Adjustment imposes the following conditions on the variances approved:

1. The backfill between the tank and foundation shall be carefully compacted and the tank not undermined when excavating the foundation of the dwelling addition. The tank shall be inspected and certified by a licensed septic professional after construction to make sure it was not damaged during construction. If the tank is damaged, the applicant shall install a new tank maximizing the building setback as much as possible. If both the septic tank and lift station are damaged during construction the replacement tanks shall be relocated to meet the required 10 foot building setback.
2. The applicant shall implement the permanent storm water management plan as submitted with the application. All necessary construction shall be completed at the time of the construction of the additions.
3. Erosion and sedimentation control measures must be installed and maintained until the construction purposes, these shall be covered with mulch, erosion control blankets or other forms of temporary cover until vegetation is reestablished.

Motion carried unanimously.

- c. Land Alteration/Conditional use permit for the movement of approximately 250 cubic yards of earth and materials to fill and re-grade an existing slope. The project is for the purpose of re-grading a previously excavated area and creating a driveway to the top of a bluff.
  - i. Applicant(s): Gerald and Janet Schafer
  - ii. Property Address: Across from 6455 – 117<sup>th</sup> Street NW, Maple Lake
  - iii. Sec/Twp/Range: 1-121-27
  - iv. Parcel Number(s): 206080002010

Quiggle read the variance request as proposed.

J. Schafer: We want to be able to access this land across the road from our home. We'd like to put a drive-way up there. The bluff is on far side. It is not on the road side.

Oleson: This is their house on the lake side and this is their property on the other side of the road. (visual reference given) They want to put a drive-way up to the top. It's actually already been started a couple years ago. They're looking to put a driveway up to the top and then eventually build or at least have to option of building something up there whether it's a house or a shed. There are two reasons they need to be here. One, tonight we're talking about the conditional use permit aspect which is the fact that they are moving more than 50 cubic yards of material. I would be about 250 cubic yards of material. So that's the reason we're here for tonight. When this first came up, I was talking to him and his wife. We were talking about this might be a bluff and it is a bluff then this would need a variance for placing fill in a bluff. There is kind of a hole down there that's been there for fifty years or something like that.

G. Schafer: They took that dirt out of there when they built the road. They scooped the dirt out of there and back in those days they just left the bank straight off.

Oleson: Right. So there is a little bit of a hole right here (visual reference). They'd like to smooth out but basically they're moving dirt around in a bluff so that would need a variance. They opted not to apply for that variance right away because they want to see what the feeling was on the project. If they were approved for a conditional use permit or if you wanted to table it and wait for a variance application, either way they're going to have to come back for a variance application. If you thought this was a bad idea and you wanted to deny it then they wouldn't come for a variance. So along those lines, we started talking about is this a bluff and if it is where is the top of that bluff? If you were going to build at the top of this hill eventually, you'd have bluff setbacks. Basically what the surveyor came back with is that it is a bluff here, (visual reference) this is the top of the bluff and the 30 foot setback would basically create this little triangle right here (more visual reference) when you include the side-yard setbacks that are required for buildings. This could be a little bit further out this way if it were a shed and not a house, because a house has a fifteen foot setback and a shed has a 10 foot setback in which they can build.

Quiggle: So that top part there is where it is no longer greater than 13% slope?

Oleson: Yes, the top of the bluff is where you get to less than an 18% slope over 50 feet.

Quiggle: Okay, I thought it was...the bluff line was when it went to 13%?

Oleson: No, there is kind of a technical calculation where you keep doing 50 foot segments and then average it out.

Quiggle: I was just going by the definition in the Wright County Ordinance.

Oleson: Steep slopes are 12%

Parks: What is the dimension of that triangle?

Schultz: It's  $\frac{3}{4}$  of an acre.

Oleson: Yes, this whole piece is about  $\frac{3}{4}$  of an acre. Are you talking about this little triangle? (visual reference)

Parks: Yes.

Oleson: When I measured it out and scaled it out, there's about room for a 20'x20' building, if you're going to create a box or a rectangle. If you're going to have an odd shape...

Parks: 20'x20' with staying far enough away from the bluff line.

Oleson: It would stay within this setback and it would still meet the 15' setback from here. If you make these 10' setbacks because it's for shed and not a house then you could maybe get maybe 25'x25', or roughly that. If you were going to build a house, the minimum house size would be 24'x24' according to ordinance so it's a pretty tight corner to build in unless they get a variance from the setbacks. Does that mean anything to you as you're talking about allowing for a drive-way to be constructed up there which is already halfway done anyway? Soil and Water has been out there, Brian Sonaski from Soil and Water. He has the letter that I believe is in your packet.

Quiggle: We don't have any plans?

Oleson: Like how wide it is?

Quiggle: How wide it is, what's the slope going to be, where is the fill...

Oleson: No and Brian mentions that in his letter. Was that letter in your packet?

Quiggle: That was also required in Sean Riley's letter to them two years ago.

Oleson: And I can pull those up, but basically what they say is that there should be some crowning of it so that everything drains a certain way and certain things done to make sure that it doesn't erode and I talked to Brian after "Because some of this is already done, does some of this need to be done anyways? Does it matter which one...if it were approved and they did the work or if it were denied and they had to restore it? Is there much difference in erosion potential and he said "No, it's about the same either way." So, I got the impression he thought it was doable as long as it was done right and there shouldn't be a long term erosion problem, if that were the case, but I think the question for the Schafers is knowing the building area is...One, do you even want to build a drive-way if you can't put a building up there? Or two, we're going to have to talk about variances if you can't fit something up there. You're going to have to come back with a variance anyways for the driveway.

J. Shafer: Okay so that's going to have to lead in to next month then?

Oleson: Yes, so then we'd be talking about, at the same meeting, if you had plans. I know you're not planning to build necessarily tomorrow, but just what your thoughts are in terms of, if you're expecting to be able to build a house or have a bigger buildable area that might not be the case or what you're looking for.

J. Shafer: So, we couldn't just do the drive-way first?

Oleson: You can do the drive-way first if it gets approved.

J. Shafer: Oh, okay that's the main thing.

G. Shafer: That's all we're doing right now.

J. Shafer: Because we don't know what's going to happen in the future.

Quiggle: But you know you're limited to the size.

J. Shafer: Right.

Oleson: If you didn't want to go through the expense of putting in the driveway up there...

Quiggle: That you may not be able to get a building up.

G. Shafer: I'm doing it for safety reasons.

Oleson: Yes.

G. Shafer: Somebody could get killed. I had a girl fall off there already. It was a good thing it was in the winter time. It's a 20 foot drop straight down.

Quiggle: Is there anybody out there who has any comments? (addressing the audience)

A. Klemz: My property butts up to his property there. Amongst our surprise about a year ago we heard chainsaws start up and trees start falling down. We didn't know anything about it at

all. I asked Jerry if he had it surveyed in which it wasn't surveyed at that time. He did at least survey it. I think it's virtually impossible to do without moving a lot of vegetation and trees. In his application he says "No harvest of trees." I don't think that's possible to do.

Quiggle: Anything else? Anyone else? (pause for comment) Okay...

Oleson: This that hole that was dug out of the side (visual reference) of the hill. This is the drive-way he cut a couple years ago.

Parks: What's your opinion, Ron?

Ron Mares: You can make a drive-way. It's a steep trail up there, but it would be a do-able drive-way.

Oleson: Brian wanted 4:1 max.

Ron Mares: 4:1 is about what the road ditches are. It's steep. We basically will be filling in that hole that was mined out.

Parks: And then going with the existing grade?

Ron Mares: Yes, once you fill that in then you take a little from the knoll on top and just even it out using the existing dirt.

Smith: Would you add any base?

Ron Mares: Wants it grass.

Smith: You almost have to get something established there to hold that because it's going to erode.

G. Shafer: It is clay ground.

Smith: I understand.

Quiggle: It's classified as highly erodible.

Smith: With these rains we've been having, it's obvious we're going to continue to get them years after years. There's almost no way to hold anything on a drive-way that steep.

Ron Mares: That's why if we could just get it to be so it's grass.

Smith: If you're going to put a building up there in the future...

Ron Mares: Oh yes, that's something else.

Smith: I think you're looking for a big erosion issue, continually. Unless you establish a drive-way of some type, someway, I don't feel that putting a building a building on top of that hill you're ever going to be able to hold that and that's just my opinion right now.

Quiggle: Barry?

Schultz: Still thinking.

Huff: It's going to cost more than \$500 to do this road and then if you can't put anything up there...why did we spend all of this money?

G. Shafer: Why have the land if you can't use it?

Huff: I understand, but I'm pretty sure you knew that when you bought it.

J. Shafer: No, it was buildable. We went through Buffalo at the courthouse and yes it was a buildable lot.

Oleson: It's a platted lot.

Quiggle: That doesn't mean it's a buildable lot.

Oleson: It doesn't mean it's buildable. It means it was approved by the county as a lot at the time. It may have been before bluff setbacks became an issue, but now that bluff setbacks are here, we have to deal with them. Now to build on it even if it was not a requirement at the time, it is now. Just like if those setbacks were 2 feet years ago now they're 10 feet. We have to deal with it. Still would need variances to build.

Oleson: The main question with a Conditional Use permit like this is can the erosion potentially be managed. Can it be done in a way that's not going to create a long term or even a short term for that matter erosion problem? That's why we have comments from Soil and Water to see what they thought since they work with this sort of thing. They don't usually come out with a firm yes or no we don't think this will work. They say if you're going to do it here's what we think. The tricky part here is the area has been disturbed both by the digging in that hole years



ago and by the starting of the drive-way years ago. So if you don't allow for then I presume there will be discussion of restoring it to some degree.

Quiggle: They were told to restore it two years ago.

Oleson: Or apply for the permits and go through this process, which is what they are doing now. I don't know, frankly. That's why I asked Brian which is worse restoring it or continuing on with the drive-way? It sounded to me like they were saying either way.

Parks: They're basically going to dig it all up one way or the other. I guess they won't be digging it as far, but you're still going to have the erosion problem if you're going to move the, going to fill that all in.

Oleson: They basically require more fill, because you hauled the stuff off site before, right?

Ron Mares: No, just moved it around.

Oleson: So all that would have to be pushed back to where it was if it was going to be restored which is exposed soil and if they move things around its exposed soil on the drive-way.

Quiggle: But eventually if you have drive-way you have a big track coming down the hill that is just going to be eroded continually where as if it's restored yes you're going to be moving soil during the restoration, but it will also be stabilizing then during and after and the erosion problem won't be there anymore. You won't have a big track coming down moving water. I know that my road which has a slope of about this big has gully in it on torrential rains and that's hard clay, it's like cement and it's class 5 and last year I had gully's this deep and that's a slope like this.

Schultz: Are you a bluff?

Quiggle: No. It seems pretty flat until you have to go up it on the ice.

Oleson: This is where Brian was talking about what you would do if you were going to do it crowning the drive-way so that the water tends to fall back into the bluff rather than back over the bluff and saying that that will contain any potential erosion within the driveway. He's not really saying that it isn't going to erode. He's saying that if it does at least it will be contained.

Quiggle: Any discussion as to whether it's a gravel drive-way or a paved drive-way? If it's paved then the driveway isn't going to erode.

Schultz: Yes, it will. The edges will.

Oleson: Originally we were talking about crushed granite, right? And now you're talking about grass?

J. Shafer: Yes.

Shay: How wide are we talking?

Ron Mares: Not decided. I supposed at least 12 feet so it's useable.

Oleson: So when this is all said and done then if you do build up here and you start driving up and down a lot. It's not going to be grass where the tire tracks are, right?

J. Shafer: No.

Oleson: Is it going to be a grassy slope or is it going to be grass on the sides with this chipped granite?

G. Shafer: The road would be granite chips and then there would be grass on the side. You can see there (visual reference to picture) that's two years and you don't see any washouts on that area. That's pretty stable and it isn't going to have that crown. It's going to be about 1/4 of what that one is so there's going to be a whole lot of difference once you move that dirt around.

You're not seeing the far end of the lot there. That's a long way.

J. Martin: So you are saying that your class 5 erodes now with less slope?

Quiggle: Yes, with considerably less slope.

J. Martin: I'm curious because it looks like they're at a localized bluff so I'm just wondering how much collection area that you had up-hill to that slope? For instance if yours is a block long you have a square block of rain water coming down and collecting. And of course the end of that is in the road. I just don't know how far this thing goes up and how much water is going to collect

on top and run down in the same spot. If this was the same slope for 1,000 feet it would be a different story than it would be for 20 feet or so.

Quiggle: How long is this?

Oleson: The drive-way is probably 200 feet.

Smith: Another concern is the safety issue in the winter time. If you do have something up there, with all the trees and such there, it's going to have snow cover on the road and it's going to be a difficult drive-way to get stopped at the bottom. I know it's quite long at the bottom, but if there is a car that happens to be coming and you can't see it before you start.

Oleson: Is that roughly where the drive-way would be? (visual reference to overhead)

G. Shafer: It's would probably be a little bit farther over to the right.

Oleson: That's about 200 feet.

Quiggle: At a slope of about 25%?

Oleson: It would be a 3:1

Quiggle: I don't see how you get a 30% slope on that bluff.

Smith: It's more like a 40% slope. I tried to climb up it. It's like climbing a roof. It's slippery, you lose your footing.

Oleson: There's about 200-250 feet of good slope.

Shay: If you don't allow this for the road, do we have to require the hole to be filled in?

Oleson: No. I think what you'd be dealing with its they started construction of a drive-way when they needed a CUP and if you didn't want to grant them a CUP then you'd have to talk about what to do about the fact that it's already been started. Leave it the way it is? Restore it? What do we done with it?

Parks: Is that the most economical way to get up to the top?

Oleson: It's the best.

Ron Mares: You've got elevation of about 125 on top and about 96 below so that's about 30 feet in 200 feet so that's way less than. ...That's almost 6:1 slope tapered out.

Oleson: You're basically going to be extending it out further so you get that slope, a decent slope.

Ron Mares: Yes, we would taper it out.

Oleson: So you are you going to bring some fill in here to bring this up a little bit and then extend this out so it's a more gradual slope?

Huff: It looks like if we grant them the road then they're going to be back to want a building and I'm not sure where you'd put the building yet. I'm trying to think down the road a ways. If you put a building in there we have to knock off the whole top of that hill and now I've got more issues again. This is not working really well for me.

Oleson: There are two issues here. Once is the Conditional Use requirements and criteria that we go through....Is it going to conflict with the comp plan, etc. We have to go through those criteria when we're deciding on a CUP. When we're talking about a variance for when they build up we get into different questions. We're not to that point of where we're addressing those questions. I think the key criteria we're looking for Conditional Use Permits are does adequate drainage exist, are we going to create a drainage problem, are going to create a problem for the neighbors by doing this and the erosion would be the main concern there or at least one of the main concerns. And then there is a catch-all at the end are there any other conditions or issues to which we need to protect the public interest here? So I think we just need to be talking about what our finding are on this. Why are we going to approve it or why are we going to deny it based on these criteria? In terms of erosion, we have the letter from Brian who is an expert on this more than I am. If we're going to go based on fact besides what Brian put down then we have to specifically state what those are.

Quiggle: One issue that I have is in Sean's letter telling them to cease doing it since they didn't have a permit. It says if there is a reason for land alteration within a bluff impact zone and or on a bluff or a steep slope it requires plans. We have no plans. We see a couple little lines drawn

up a survey, but we don't have any plans showing how the slopes are going to be. Are they going to need retaining walls? I don't know...we don't know. I'd like to see a lot more information before I make any sort of judgment call on this.

J. Shafer: Can't you go by the drawing on the survey?

Quiggle: That doesn't show the grading plan and how much going to be moved.

Smith: How much dirt needs to be moved? Does it take 500 yards? Does it take 800 yards? By the time you get that slope amount.

Smith: What do you do with the water when it hits the township road? Is it going to spill there and into the next door neighbor's property?

Quiggle: We've got a situation on much less steep slopes down the road from me coming down a smaller hill and has last year washed out the neighbor's entire yard.

Smith: Are you willing to spend that kind of money to get plans to do that?

G. Shafer: Yes, whatever it takes. I'm talking about a danger hole.

J. Shafer: We have other trailers and other things we could set up there, a fifth wheel, to store stuff even.

G. Shafer: I want to make it useable or I'm going to quit paying taxes on it. You can pay it.

Parks: We need to see a little better plan on it because it might need a ditch and culvert.

J. Shafer: It's got a culvert in it. The county already put a culvert in.

G. Shafer: You come down and shoot out on the road. Where you come down you have to turn to go out the drive-way.

Smith: You're right hand turn it going to be pretty hard to do. It's going to be a pretty sharp turn. You may need to go to the end and make a turn around and come back.

G. Shafer: No, it isn't that bad. There's a lot of room.

J. Shafer: Yes there is.

Smith: Then it's going to require a lot more fill there and dirt moving than most people are thinking because if you're going to make an area there is going to be quite a bit of dirt moved.

G. Shafer: Should I have my surveyor draw this up how it will look when it's done?

Parks: Yes, I would say that would help.

Quiggle: Ben, do you have road plans that you could use as an example? A grading plan like the ones that were done for Kramer Ave.? That shows the slope, the height, the elevation and everything.

Oleson: Yes, I have all of that, sure. Final elevations, final slopes, directions and things like that.

Shay: With that you could come up with some cubic yard numbers.

Ron Mares: We roughly figured about 250.

Mrs. Shafer: Mark Miller, the one who works for the county (sic) is the guy who put the culvert in and he started a little clearing everything out and all of that so that's how we got started on it.

Quiggle: A road is going to change the drainage.

Shay: If we get some plans to look at hard and fast it will be easier to make a decision.

A motion was made by Parks, seconded by Smith, to table the request until detailed plans are attained and submitted showing the end result of the planned land alteration with final slopes, drainage patterns, grading and the permanent storm water management plan for afterwards with seed grass and shrubs.

Motion carried unanimously.

- d. Variance to replace two existing open decks built sometime between 1997 and 2006 without the required permits and approximately 38-41 feet from Sugar Lake (min. 75 ft required). The decks include an 8' x 32' open deck off the main level and an 8' x 8' open deck off the second level.

- i. Applicant(s): Craig Allen
- ii. Property Address: 11102 Hoyer Ave NW, Annandale
- iii. Sec/Twp/Range: 2-121-27
- iv. Parcel Number(s): 206066000160

John Kittok: I'm John Kittok licensed building contractor. The Allens purchased this 4 years ago approximately. The deck is in dire need of being replaced. I told him he should be able to replace what he has and that's the permit we were going for and then we found out no original permit for deck. There were two variances on this property, one in 1997 and one in 2003. The deck is rotted and deteriorated quite a bit. I don't think it has deteriorated since 2003. That was the last variance and I think the deck was on there before. I imagine it was put on at the same time as the 1997 variance that was issued, because all of the siding goes around and it's all flashed. For some reason, whether it was permitted or not, I don't know if Wright County dropped the ball. Is it included in the 1997 variance or the 2003 variance, but at least if the deck was there in 1997 when they came along in 2003, they didn't catch it. In the survey they had done in 2003 it should have caught at that time. I'm sure the deck didn't rot out in 10-12 years, since 2003. I don't know...is there such a thing as being grandfathered in?

Quiggle: Not if it was done after the ordinance went into effect.

Kittok: I'm just saying they inherited this problem.

Quiggle: Yes, they didn't cause the problem. They're not the ones who didn't get the permit. They bought the problem.

Kittok: Right. The last aerial survey shows in 2005 the deck was there then. Somewhere along the line they put that deck. Who did, I don't know. When they did, I don't know. The issue is now they just want to replace what they had. Craig Allen wanted to expand it closer to the lake. He wanted to continue it another 10 feet to the end of the house, but I told him with everything that's going there...with your lot size and usage you are right at the max and I said you could go through all of this variance trouble and get denied those extra thing you want. I told him you should go for what you have and it should be a simple deal until we applied for the permit. So now all he wants to do is to replace what he has, not make it any bigger. Its 8 feet from the house, that's it. Exactly what you see there (in the picture) is what he wants to put back, except that he wants it in the composite and a maintenance free railing.

Oleson: This is a 1997 variance survey. This is what they submitted to the county when they applied for this addition and the 2<sup>nd</sup> story over this. (46 feet from the lake and 47 to this corner – visual reference to overhead) It didn't show a deck. In the 2003 variance they used the same drawing, there wasn't a new survey done. What's unique about this one is that if you can do a patio that is not attached to the house and is not more than 30 inches above the ground surface without having to meet setbacks so you can do a raised patio without having to meet these setbacks that a deck does. They have a deck on there now and they want to replace it so that has to meet setbacks. They would need a variance from that, but they never got one back when this was built. What I put in my recommendation was recognizing they could do a patio. It looks reasonable to do to me about 30 inch high maybe you'd have to tier it a little bit because that one end would probably get a little higher than 30 inches.

Kittok: My client doesn't want to have to go through the added expense. What you're saying that you'd have to come out to a landing and then step it down, tier it, it get to the deck that's 30 inches above grade.

Oleson: Say this is 30 inches (visual). You could come out, couldn't be attached to the house it would have to be free-standing, but it could be right up against the house. This slopes down a little bit so this gets taller than 30 inches down here. (visual reference to overhead) I don't know how much maybe 36 inches or something.

Kittok: We could raise the grade there.

Oleson: I was thinking tiering...I'm not a builder. I was thinking you could put a platform out here and a step or two down and then have another tier to it. That would still be less than 30 inches tall. That would be a patio by definition in the ordinance that they could do without meeting setbacks. They could go closer to the lake, if they wanted. They could come out to the side, if they wanted.

J. Martin: That has to be unattached?

Oleson: Yes. My thought was they could do two tiers to the lower deck so I'm guessing you can do a patio directly out from this door so that you could get access to the lake from that patio. Up here obviously there's no way to get access to the outside. There's no stairs down so it's just a sitting area right now, but one of the suggestions I had was maybe a four foot deck right here as sort of a reasonable way to access the lake side of the property with a deck. Lots of lake homes have lakeside decks and this closer than the neighborhood, but not a whole lot closer than what those who have decks have. I'd maybe offer a four foot deck or if they didn't want to do that and they just want to build a patios that are 30 inches tall or at least on the lower. They can do that, too, and they wouldn't even need to be here.

J. Martin: I've heard also that you can have unattached and it would be considered a patio, in my neighborhood of Robbinsdale, but the upper deck is over 30 inches.

Oleson: That is where I was suggesting maybe four foot wide one.

Quiggle: Any other questions or comments?

Oleson: Obviously, four feet doesn't give them much to sit in. There's no stairs down so maybe it's pointless.

Quiggle: It's like a Juliet balcony.

Oleson: It's something to stand on. It's not making it any worse than it is now.

Oleson: Everything is within the setbacks. You look at it like it's not going to get any worse than what it is now. The problem with that is that it was built there without a variance so who knows what happened then.

Quiggle: Did you see what the Board of Adjustment's discussion was on those earlier ones? Did they say anything about as deck or any more limits on the OHW?

Oleson: No.

Kittok: None of that was in the minutes as far as for a deck or mention of it and that second level I went down to Wright County and had Barry pull up all of the blueprints and everything on it because I thought there has to be.

Quiggle: So the deck was not on the blueprints?

Kittok: No they weren't on there. There wasn't even a real drawing. I think they were hand written in 1997 and then on the top floor where that door is that shows as a window and somehow they got a patio door, the other permit in 2003.

Parks: How far off the ground is the existing deck off the ground?

Kittok: Approximately 32 inches on one end and the grade slopes down towards that back side. (visual reference)

Oleson: There is a potential problem with the impervious coverage. It looks like they are close to the 25%. If they went with a bigger patio one of my recommendations is that they do a survey to show the coverage because back in 1997 they talked about how they were right up against the 15% for building, but they didn't say anything about the 25%. I did my own measurements and Craig Allen submitted some measurements and I tried to figure out roughly where it was about 24 ½ % and 14% building. They can do a patio and they can probably make it a little bit larger, but I would recommend that we confirm that with a survey to show that they are still under the 25%.

Quiggle : Because we don't know that they're under the 25% now, for sure?

Oleson: We don't know for sure

Kittok: Right. I did the measurements, too and came up with the same.

Parks: Is the patio door on the end there the only one that enters onto the deck?

Kittok: The upper one?

Parks: No, the lower one.

Kittok: No there's more. There are two big patio doors and one smaller door. There's the two patio doors there and then the service door is over there. There used to be a concrete stoop right there (visual reference). Those two patio doors were put on at the same time in 1997.

Parks: You feel it would be considerably more expensive to go with the patio?

Kittok: If we do the free standing deck, not attached to the house, and keep it less than 20 inches.

Shay: Darned if you do and darned if you don't. Part of me is saying you look at Ben's idea of shortening everything up I don't think you gain a whole lot whether it's two feet or four feet wide from where it's at right now. If we say no we're not going to let you rebuild exactly as is then they are going to look at going ahead with this so called patio deck at which in theory could take it almost to the lake and creating more problems.

Quiggle: Not with the impervious coverage.

Shay: The impervious coverage could create some problem, but still he could potentially go closer to the lake which as far as I'm concerned I don't want to see. We obviously figured out that unfortunately the home owner isn't the one, who probably created this whole mess, but we're back here and he wants to preserve what he has so it's a mess.

Kittok: He can preserve what he has. He can replace a board here and there.

Smith: Is there a cost point where a permit is required?

Oleson: Not a cost point per say, no.

Quiggle: What is the difference between maintenance?

Oleson: Are you maintaining? Are you rebuilding? Basically, you would consider decking boards to be maintenance and then the support structure to be the support.

Quiggle: Is that what's shot, the support?

Kittok: Pretty much, the whole thing. Right now it's a safety issue so if you're going de....I mean, I don't know...could just open a whole legal action because we're not allowed to do any kind of maintenance or replace a deck and somebody gets hurt. I don't know...does that include you guys later on? There's something...I think this whole thing could get into a...I don't know how far Craig Allen would carry it, but...

Smith: To me it doesn't look like it's really bothering...I mean I know it's closer to the lake, but doesn't look like its cause and effect to me. Dan's right, he kind of got caught. If you tell him "No, you can't have the deck." you're going to put the patio/deck. It's still the same footage. It's still going to be that distance from the lake. What have we changed? It's not attached to house.

Kittok: It doesn't block anybody's view.

Smith: No. You haven't really changed anything besides the attachment to the house so I'm leaning more towards letting them fix it up.

Quiggle: I'm trying to play the let's pretend it doesn't exist in which case I wouldn't give a variance, but it does exist and it has existed long enough for it to rot and it's now an over-sized deck. It wasn't your client who operated in bad faith. If it was the previous owner that did this and got caught by the building inspector I'd say rip it off, but that's not the case so I'd say replace it with one provided there is a survey and we make sure the coverage of structure and impervious is at the limit and does not exceed the limit.

Kittok: Does that mean we have to measure again?

Oleson: Not me, a survey.

Kittok: He doesn't want to spend money on the survey.

Parks: I don't think we need to go that expense if we're just going to prove it can be replaced the way it is.

Kittok: I mean \$400 is enough at his expense when he's caught in the middle plus the permit to build a deck.

Parks: The only problem I have with replacing it is, are going to set precedence here that we can't get away from?

Oleson: What I suggest in my findings there are several of these that I didn't give a clear answers because I thought they needed some discussion so I think one of the key ones is on page six (4d-6), number 7 "Could the practical difficulty be alleviated by a feasible method other than a variance?" And that's where I thought well they can do a patio. How are we answering that one in our findings in terms of it sounds like what argument does this have? Maybe it's not feasible to do a free-standing patio because of the additional cost.

Smith: I think our answer, Ben, is on the bottom deck I don't think we have any problem with doing something like that. How do we handle the upper one?

Oleson: You're saying the patio is a feasible option?

Smith: Yes.

Oleson: So, deny the variance on the lower deck because they have the option and it doesn't require a variance.

Smith: Somebody needs to address how we support the upper deck.

Oleson: I see three options with the upper deck. One is take it off completely and board up that window or door that is there. One is allow for it to be rebuilt like it is. The other is to allow a smaller deck.

Kittok: Is that feasible to make them board up the window and go through all that expense when basically he could just now do anything and keep going the way he's going.

Quiggle: In my mind, the patio fits the letter of the ordinance, but I don't see a big difference in the spirit of the ordinance. I mean the problem is it's too close to the lake so if they put a patio in there, maybe a little bigger, it's still too close to the lake. We are still having the same problems so are you saying do a patio just because technically it's....It seems like you're bending yourself into a pretzel.

Parks: I think with the way the three patio doors are around the house, I don't know that that's going to be to turn out that great. On the far end you may have to open the door and go down four steps to get on the patio.

Oleson: That's the other key question for findings is the spirit of the ordinance. To me that's where the patio versus the deck comes into play which is on the one hand you could argue the intent of the ordinance is to allow for patios not having to meet setbacks or there is some intent to allow some sort of a way to enter and exit a building. Either way you're kind of bending into a pretzel.

Quiggle: I think a patio if it's not attached to a house, then you're talking about a lakeside patio, separated from the house. If you're doing something that's butted up against the house, it's a deck, a free standing deck.

Parks: We could look at the same thing five different ways.

Oleson: And there is a provision in the ordinance that allows for houses that are too close to the lake to put out an open deck of a certain size so long as it's not closer than the rest of the neighborhood. That might work in this case except that this house is closer to the lake than the rest of the neighborhood. There is a fair amount of neighboring homes that don't have a really nice deck.

Quiggle: The problem comes when they want to put on a deck and we say "No."

Parks: It's not like they built an excessive deck. There's hardly room for a table on there.

Oleson: How is it in harmony with the general purposes and intent of the zoning ordinance?

Huff: Could be it comes under the "this was not caused by them" and is not the hardship was in no way generated by them. This is something that they inherited unbeknownst.

Quiggle: So they're replacing without expanding.

Huff: Exactly like it is.

Kittok: That's what he wants. 100%. He doesn't want to have to drill a new foundation and new footings.

Oleson: So you're arguing that the statute allows for replacement without expanding?

Huff: Yes.

Oleson: Okay. And the feasibility question....is there some other feasible way to avoid this without a variance?

Huff: Not without tearing the house down. You take the deck down you're pretty much decimated that whole wall.

Shay: You'd basically have to redo a whole side.

Huff: Yes.

Shay: Close up windows and that, but that becomes...

Huff: Yes, you have another \$10,000 in just fixing everything that got ripped off the wall.

Kittok: Plus you need those for fire exits.

Smith: That might be true. That might be the only exit.

A motion was made by Huff, seconded by Smith, to approve the variance as requested to replace an 8' x 32' main-level open deck and an 8' x 8' second-level open deck approximately 38-41 feet from Sugar Lake (min. 75 feet required).

Motion unanimously carried.

## 5. Approve Previous Meeting Minutes

### a. June 12, 2012

A motion was made by Smith seconded by Parks, to approve the June 12 meeting minutes. Motion carried unanimously.

## 6. Zoning Administrator's Report

- a. Permits
- b. Correspondence
- c. Enforcement Actions

## 7. Other Business

- a. Discussion – Potential update of 2007 Comprehensive Plan
- b. Discuss end-of-year ordinance updates/clarifications.
  - i. Discussion – regulation of hedges and other vegetative barriers
  - ii. Discussion – interpretation of “landing,” “open terrace” and “deck”
  - iii. Discussion – permitting and inspection procedures for land alterations
- c. Training (if time allows) – “Understanding Legal Requirements for Granting/Denying Requests”

Oleson: This is just a discussion. We passed the comp plan in 2007 and at the time we recommended that about every five years take a look at it and see if you want to leave it as is or make small changes or make bigger changes or those kinds of things. It's just raising that general question, is this something that you want to take a look at and talk about some updates? If you do, what kinds of things would you want to include in an update. Is it just adding the census data that we have now or will have soon? Is it policy changes? There is a fair amount in there that talks about adopting an ordinance and working with Wright County and we've moved beyond a lot of that. Are there certain issues that we're seeing come up at these kinds of meetings that we want to address in more of a planning kind of way? A few years back we talked about having all of these neighborhoods with homes way closer to the lake than they are



supposed to be and the entire neighborhood is that way. Everybody has impervious problems, setback problems. Is there some value to having a discussion about how we want to handle those situations? A little bit more comprehensive way than piece by piece or is it just something you have to deal with piece by piece? We talked about that a few years back. Something related to that that we see often is the conversion of small seasonal cabins to larger year round homes. Is that something that we're just fine with and it's going to happen over time? Are there certain neighborhoods because the lots are too small or the sewer soils aren't going to work very well, the road are not in good shape, that we don't want large year round homes on? If that's true, I can see that being a controversial discussion, but if we came to a conclusion on that it would give you a much stronger footing to make those kinds of decisions if you had to than if you were to just do it piece by piece.

Quiggle: They are guiding principles. They're not any "Though shall not"

Oleson: They're not going to tell you how to handle each specific property, but they're going to give you some guidance to say "Here's an area that we've identified as having poor soils for sewer systems. We're more reluctant to allow year round homes in those areas." Or because it has poor road conditions and we can't widen the road for whatever reason.

Huff: How do you tell those owners or prospective buyers without affecting the value?

Oleson: It's controversial and messy. The flip side of that is if you continue to allow, by default I'd say you're starting to allow everything to convert over time, because it's hard to say "No." to somebody when three doors down they got to do it. It makes it harder to say "No." if you want to say "No". If you don't want to say "No" then maybe we need to go the other direction and say "This whole neighborhood is close, let's find a way to allow some of this stuff to happen without variances because we're going to grant it anyways." If everybody is forty feet from the lake and you think that everybody should have a lakeside deck of 6-8 feet wide...that's going to get sticky too because we have to work with the county and we can't be less restrictive than them. Are those discussions that are worth having? There's been talk of updating the future land use map to match more closely with what the county has. Maybe there are other areas that you want to offer commercial or maybe not offer commercial, residential or non-residential?

Quiggle: I there currently commercial in the Wright County plan?

Oleson: Yes there is. (reference to county's future land use map on overhead) There is some on highway 55. Limited industrial on County Road 6/Highway 55 and commercial here and then you do have some commercial with the (inaudible) plant. This is not the zoning map, this is the land use map.

Naaktgeboren: We wanted more commercial in lake-center area. The county didn't want that. We wanted it on both sides of the road.

There was some discussion regarding the differences between the Township and County land use maps.

Oleson: This is an area that we could review. We could see if we still agree with our plan or the county's plan or some mix of the two. As you go through policies, you can take some time to look through the ordinance or the comp plan and read through and see what we said before that is irrelevant now or that is already done. Maybe new things that we didn't think about back then that now we've got a few years under our belt and we want to address. It's nothing we need to answer tonight. Is there value in talking about this some more and seeing what we want to update or not and then obviously the town board will have to decide if the cost of doing it is worth it? Take a look at your comp plans.

Quiggle: The discussion of the year-end ordinance updates.

Oleson: We've had that long list that we've started going through of changes. I guess the one and two there are things that have come up recently. Number two is actually something that I'm bringing up now. Number one, the regulation of hedges and the vegetative barriers we've talked about the last couple of months. We should discuss that and I've done some research as to what other communities have done with that and it's all over the board. Some regulate the height to

4-6 feet or less. I didn't find anything that talked about the lake setback. Most of what I saw seemed to be along property lines. They talked about them being out at the intersection of the road keeping it lower so you can see across that intersection while people are making a turn or coming into a turn. Some places didn't seem to regulate them at all so it's a mix. Number two came up because of this Craig Allen variance that we just talked about with the upper level deck. I think there is some conflict/confusion in the ordinance about what's a deck, what's a terrace, what's a landing. We allow 32 square foot landings coming out of a house in a stairway without needing permits so they could have a 5' x 6' landing or an 8' x 4' landing. That's pretty clear that can be done on the lower level. Can it also be done on the upper level or is that a deck, that kind of question. It would be useful to talk about that and try to clarify that in policy if not in actual language. Number three is something that came up recently. We've talk about it in the past, how do we want to handle inspections for land alterations. If somebody comes in and gets a permit to alter their land shoreline in some way, who is suppose to check that? We have building inspectors for building projects. I can do inspections on site of things, but I'm not down here every day. Last time we spoke about it was when we were working with Metro West as our building inspector and Brian. Brian said he could inspect it when it was part of a building project. (I.e. did they put their silt fence up?) But if it didn't involve construction of a building he wasn't going to be out there. This is somebody that is re-grading the shoreline or putting in a retaining wall. Do we want to have a more comprehensive inspection?

Shay: I don't notice the county doing that.

Oleson: They have a bigger staff. I would imagine they handle it by complaints. I don't think they drive around looking.

Quiggle: If somebody gets a permit they have their environmental staff and they have...

Oleson: Do they go check on them?

Quiggle: I think so, but I don't think it's the building inspector.

Oleson: Probably not.

Quiggle: It would be like if Sean Riley came out and inspected the Schafer variance.

Oleson: Yes, and that's normally what I would do, except that the way we are set up I'm not down here every day so I have to do it while I'm down here. We don't need to resolve any of these tonight. They're just issues to discuss and then we have the whole list of other things that we've already discussed.

Quiggle: How many lakes do we all cover? We could set it up where if somebody had a permit on a certain lake and we know they have to have a silt fence set up then each of us could have a certain territory or lake.

Oleson: You could try to require people to submit digital photos.

Oleson: You have to be careful about just going on people's property unless it's authorized by an ordinance.

Quiggle: If somebody is getting the permit. That's part of the process or if they're not getting the permit. Okay, anything else?

Oleson: Not unless you want to go into more detail on some of them. I pulled up some ordinances on the hedges if you want to look at them in more detail.

Shay: On some of those we need to do a little more research as to the interpretation of what a hedge, barrier or fence is.

J. Martin: I have a couple comments, within your ordinance I saw the word "screen". They have it around junk yards. It can be a fence or planted trees, shrubs or a berm with the intention of obscuring or hiding unattractive commercial space. By my Father's property the neighbor planted an impenetrable wall of trees and my dog has ran in it and couldn't get through it. You can't physically see through it and it is two stories high and 200 feet long. It basically looks like a wall places along the property line. It is intrusive. I don't even like going up to the cabin anymore. If you have set-backs with properties that have to be back from the lake in order

preserve the scenery and natural beauty of the lake. This thing is a huge premise of an industrial building and it goes all the way basically to the water. So I would say that in this particular instance, it would fit the definition of a screen...a deliberately planted row of trees designed to become a completely obscure able object. Screening doesn't actually fit the terminology of a hedge, but this in my interpretation would be called a screen. It is obviously a hedge. It's obvious if you see it. So again another thing, I looked on the internet and some cities have what is called a "View Ordinance". A "View Ordinance" is enacted by cities that recognize a scenic view as an important part of their value, property value and generally these are cities which have oceanic views or rustic backdrops. In our case it happens to be a lake view and that is the very purpose of that setback. What you have in there for the setback of fences it is pretty obvious that if you have a privacy fence all the way to the lake it is obtrusive. Fences which inhibit visual sight lines in any way shall not encroach closer to the shore than the principal buildings on said lot. So that could be changed to something so basically include fences and screening because that is what that is. If you what to know the determination of who considers it is a screening I mean how can you tell if it is a screen or just couple of trees, because obviously my Dad doesn't care if it's just a couple of trees, pre-existing trees. It's the deliberate planting of a wall of trees. So you could say fences and screening as determined by the Zoning Administrator which impede the visual sight lines in any way cannot encroach closer to the shoreline or you can say instead of screen you can define that by saying planted trees shrubs and berms which impede the visual sight line.

Quiggle: Do you have that in a document?

J. Martin: Yes.

Quiggle: Would you be able to email it to Ben?

J. Martin: Sure.

Quiggle: To put it together as part of the public comment on this issue.

Oleson: Mr. Martin and I talked earlier today and I recommended putting suggestions in writing.

P. Martin: I'm sorry for interrupting. You guys said that you don't believe trees constitute a fence. Ben did a lot of research about hedges. All you guys have to do is acknowledge it is a hedge. We need to go by Webster's definition of a hedge – a fence, a boundary formed by a dense row of shrubs and low trees, a fence or wall making a boundary or barrier. He has created an official barrier. It's simple. You guys have to...(interruption by Jeff Martin)...just a minute, just a minute...You guys said that you'd like to talk to a lawyer, you talked to a lawyer, I came for that one and I never got any answer out of you except that you don't consider trees a fence. I think you have to acknowledge it's a hedge and with that the definition is not in your ordinance, but it is a in the Webster's dictionary. It creates a boundary, visual...whatever. That's what we need to prohibit people from doing. Because he's a millionaire, he gets by with it?

J. Martin: I just want to actually disagree with him for one second because I think that my definition is more robust than a hedge. What I am saying is any planted trees shrubs or berms as you guys defined, that as being, you guys defined...(paper shuffling) I don't want to argue over semantics of what is a hedge and what is not a hedge because a hedge isn't listed 35 times in that document. In that document it does say, and you guys know this probably better than I do, "What is the purpose of screening in a residential zone? It is to block the unsightly business structures, parking and storage. When is it required? When a business structure, business parking, driveway or storage is adjacent to any residential property zoning." And even when it is across the street from it. It basically requires it to be everywhere surrounding the business except the front of the business. Reason being you want to see the front of the business. That's their storefront. That is the only exception for the screening is the front of the building, but it says in there, it says "as determined". The front of the building is "as determined" by the zoning authority. So, I think that if you just simply say "any fence or planted, not naturally occurring, but planted and then forget the word screen because it could be intentional or unintentional,

obviously if it is planted it is intentional and that is determined by the zoning authority....if it's a screen or not. So I'll give you a really quick example of where this falls in real life. A real life example is my Uncle who lives on Lake Minnetonka, he's right next to Lord Fletchers in fact his house is on the other side of the parking lot so because his house is on the other side of the parking lot Lord Fletchers is obligated to put up a screen. So, he has a fence and a hedge that blocks his house from the view of the parking lot and he prefers that because it is unsightly and it goes well with his property, it goes well with his property, but according to Wright County now if Lord Fletchers had provided a screen and if they put up a fence as a screen, if my uncle wanted a view of the lake he could remove the fence. I would imagine because the screen is there for his benefit. It is to protect the residential property and if he would rather have a scenic view of that lake he could abide by the setback. And that would supersede the necessity of the screen. However, if Lord Fletchers put up a row of hedges or trees, legally binding as a screen then if he wanted removal he could do nothing about it.

Quiggle: Thank you. That is food for thought.

P. Martin: Can I get an official response?

Parks: Well I think we will have some debate on some of the points that you had there for a row of trees that is planted intentionally. How are we going to discuss the density at which trees can be? Because I can understand what he is saying. If you got 20 foot trees all the way to the lake it is going to obscure your line of sight. How are we going to come up with something that we can put down that gives...I mean if a guy plants four trees in a row, he should be a loud to do that, but...

J. Martin: Can I give you my thought process on that?

Parks: Go ahead.

J. Martin: It is that anything that is planted forward of the lake property that doesn't already exist or is not replacing something that isn't already there, if it is done within reason I don't think that anyone is going to question it. So if he had put a couple random trees to make the property look better, nobody is going to question that or even just a couple of trees to act as a sudo divider. Like you know I live in Robinsdale, they tore down the trees underneath my power lines but they put new ones in. It's within in the easement. It's pretty. It's like two or three trees in a row. This is two stories high, at least. You can't see through it. Like I said, my dog can't make it through it; I can't make it through it. If I was a zoning authority and I told somebody to put up a screen that would be the shining example I would use saying this is exactly what I want.

P. Martin: I'm sorry. He asked me he could put up a fence and I initially agreed to it, but then my wife "Well that's right at eye level for the fire pit." Which is about 15 foot off the property line. I called him back and said "No." Then he put the shrubs in. He purposefully did it in phases. I went through the Wright County. I said "Terry, you have to at least trim these up." He said "Nope. I'm going to do it." And Corinna at the time, I forget the gal at the time, he came here and asked them and the gal said "Oh yeah, we encourage you to plant vegetation." Then she says "Oh, I thought they were just going to be shrubs, small shrubs." These things were five feet tall when he planted them. They are 14-16 feet tall now. I think he needs to be told "No. No. No." They're dead. He's going to take them out and replace them. That's why I would like to get, that's why I'm pushing so hard to do it now as opposed to after the first of the year when he takes them out and replants them and he did it before you pass a modification to your ordinance here. I don't think you have to come up with an ordinance for a hedge. All you have to say is that's a hedge by Webster's definition, that's a fence, the fence which impedes visual or barrier, blah, blah, blah...hence 704 addresses that.

Quiggle: Can I say something here?

P. Martin: Yes.

Quiggle: I don't want you to get me wrong, but I think we've discussed this at three or four meetings now and you're the one doing all of the talking. We've heard the same thing meeting

after meeting and you haven't really given us a chance to discuss it amongst ourselves without your jumping in.

P. Martin: I'm sorry.

Quiggle: And with any ordinance there is a public hearing and that is when the public comments. It is very good for you to send the information that you gathered together to Ben who can send it to us and that gives us a background with which to have a discussion as a planning commission, but having it debate back and forth before the public hearing isn't effective.

Frankly, it gets a little weary.

P. Martin: Excuse me, but I got a certified letter saying I had a 5<sup>th</sup> wheel on the property closer than 75 feet from the lake. I moved it. I said fine, alright. I responded to him. I gave him the paperwork. I asked him to enforce Wright County ordinance 704 to remove those trees 75 feet from the lake. That's why I asked him. He says "We'll bring it up for discussion." That was in May. In June we talked about it again because the lawyer and you guys basically said...

Quiggle: We basically what we determined and correct me if I am wrong, but I think we determined that ordinance language does not consider the trees to be a fence and that we would have to change the ordinance to do something. I mean am I right there?

Huff: Absolutely.

Quiggle: And so that's a process. We can't snap our fingers and change the ordinance. We had asked Ben to pull together information from other localities and he has been assessing that.

That's where your information would be good to go to Ben who can then share it with us.

J. Martin: One thing that I found that was actually pretty funny, to just lighten up the mood.

When I did my search for screening I found 35 hits, I mean I was actually surprised. (from Wright County). Junkyards, construction sites. It's used a lot, but I've never actually heard the term before, but it's not defined. Fence is defined. It's kind of vague definition. It doesn't say anything about vegetation or non-vegetation. But in there under screen not screening, but under screen it had talked about digital displays or displays like a bill board and it actually even had in there, it mentioned emerging technologies like OLED's. I don't know if you guys know what an OLED is but the world's largest OLED right now is like \$5,000 and it's like a little 11 inch display. It's an organic LED so if they ever make it, it will be paper thin and it will emit light like a LCD on its own. Now it's amazing technology, but it mentioned something as (specific), I'm an engineer by trade, OLED was spelled out in the document, but something as basic as what a screen is and what isn't (a screen) isn't.

Oleson: One way to tackle this along with some other issues is maybe to same way. I kind of did some initial research. It wasn't like deep, deep research, but I kind of just wanted to get a general sense of what's out there and maybe bring that to you and then see if you had a general direction you wanted me to go? I mean if you kind of say "I mean boy this is nothing we want to get into." then it makes no sense for me to research it any further. If you say "It does make sense to limit the height within the lake setback." then I can start focusing my efforts, I guess, depending on which direction you want to go in. And maybe you don't have any sense of direction right now and you want me to do some more research on it and then whatever, I can. I guess, I'd be happy to do that. Whatever direction you want to give me on what to do and I will take comments from Martins or whoever else may have comments on this. The sense I got from discussion last time was that you thought the current ordinance was not clear and probably doesn't cover this right now, but maybe there is some value to the concern which is should there be a height limitation on certain things within the lake setback. We already have a height limitation on fences. We've said that right now there isn't a height limitation the hedges or planted material. Should there be?

Huff: The only time we change an ordinance is when it happens way too often we might as well change it instead of giving a variance every single time. Correct?

Oleson: Yes. I mean you could kind of be a mix of proactive with ordinance changes or you could be reactive. You could either react to say okay we've had lots of problems with this we had better change it or you can try to anticipate problems.

J. Martin: I have one comment on frequency so ask yourself why doesn't this happen very often because no one wants tunnel vision to the lake and Terry is not. Terry has...he bought a resort so he has a small golf course that put his house on the bluff. Our house or our cabin is 3 feet off of the lake. He is on and where the trees are planted are again at that same elevation and again half the property and then it goes up to a bluff where he built his large house. Again, he has no decrease in visibility. He can see right over them, no problem. Because his house up enough. No one that has a normal property can afford a \$250,000 lake property with 100 square feet of lakeshore. No one is going to box them in all the way two stories and I think the trees are pretty close to maximum build height that you can have. They go all the way to the lake. In all honesty if you look at them from his property it doesn't look bad, but if you walk on our property you fell like (inaudible) I don't go to up to the cabin anymore because I don't like it. It's not the cabin anymore.

Huff: Again with no more frequency than this one item, we're not going to change the ordinance, correct?

Oleson: However, you want to handle it. Yes, if you don't think it's a widespread problem.

Huff: I haven't seen it until now.

P. Martin: I don't want you to change the ordinance I just want you to interpret it. It's a visual screening.

Huff: Sir....unless we do it the way you want us to do it you're not going to be happy, correct?

P. Martin: That is probably correct.

Huff: Okay. That's where it stands.

P. Martin: Can I get that in an official response emailed to me please?

Huff: That's my personal opinion. We'd have to vote on that.

P. Martin: So you're voting that it is not a hedge and that by Webster's definition it is not a fence?

Huff: We have not made a motion, much less vote.

Quiggle: One point I found in my research was that a number of towns right on their front website page says "We do not deal with back and forth's on fences and trees." There are places where it's a problem and the local government says it's a neighbor issue and neighbors settle it yourselves.

P. Martin: Is that restricting views of lakes?

Quiggle: I found those for various cities and towns.

P. Martin: 704 was created to prevent the view obstruction from the lake. It was here long before all of us were here probably.

Oleson: Yes, I mean there is certain things. I mean the discussion about if there is enough problems and then maybe we have an ordinance to address it, well maybe, but then there is times where I have seen there's lots of problems, but we don't want to get involved as the government because it's an example would be I've always called it fill wars where somebody fills their lot as little bit to try to drain the water out of it and then the neighbor says well that's putting more water on my property, I'm going to put some fill in and build mine a little bit higher than the neighbors. So then they go back and forth. You know it's doesn't always get to that extreme, but the idea of one person putting water on another person causes them to do something. I've seen lots of places say "We here that all the time but in the end it's not something we're going to get involved in." It's a civil issue. It's something if they want to sue each other over it they can, but it is not our responsibility to get involved in this. So that's one way of looking at it and other times they say "No, we have the responsibility or desire to step in and they get involved." It's just like any ordinance some people will say it's not the government's

business and some people will say it is the government's business. I think we just have to debate that and talk about it. Not just in this context of fences and hedges but lots of things.

Jeff martin: I would propose actually if I was to do it. Because this township has a lot of lakes around it and it looks like fencing and screening of the lake setback is thrown into section 704. I think that from my research on the internet that towns that have something to protect like ones that are against oceans and ones that have scenic back-drops actually have specific visual ordinances that wouldn't make sense in any other normal city such as Robinsdale where I live or in any other metro area. It would make any sense to have setbacks like this, a setback for a lake. We don't have any lakes. So I think that this basically being a lake environment. Tons of people in the cities that I know have lake property around here, you just drop the name of Clearwater or Annandale and everybody knows it, right? I think a separate section in the ordinance should be created for view ordinances and within that there should be a setback of anything specific to privacy fences running to the lake. The language is pretty strong, it says "any fences which impede the site to the lake" which doesn't really allow for any argument whether your fence is, it says any fence. Its pretty strong language to have in an ordinance so there is no argument there. If it's a fence it's a fence.

Quiggle: I don't think we're going to get any more forward momentum tonight.

Oleson: I think the main question to think about, maybe not tonight, would be...Should there be a limit on height? If so, how do we start defining the purpose for planting? Something planted for that purpose vs. something natural? To me those are two main questions that we have to ask ourselves.

Quiggle: And then consider what are the unintended consequences of certain types of ordinances.

Oleson: I think if we start working in that general direction, start creating language and then debate whether that's going to be too extensive or not.

Parks: Did you do much research on this with lakes?

Oleson: I looked around, I didn't find a lot. Some said in the lake setback we don't want any fences. A lot of times they talk about fences...

Quiggle: (interrupts) Were you looking at in the Brainerd area and the Alex area?

Oleson: I haven't done a lot of research. I just was getting a general sense. Some do limit height in the shoreline setback. Some limit height everywhere. It is not out of the realm of possibility or completely unusual for a community to regulate the height within a lake setback. It wouldn't be abnormal for us to try to do that, but not everybody does it.

J. Martin: Ben, is there a good definition of hedge?

Oleson: I haven't found a great one. I mean, there are some here I'm looking at that talk about an enclosed or divided area that are used for screening. There is a little bit of wriggle room in there that I guess I'm not really complete with.

J. Martin: I was going to mention before I kind of left. I'm basically grabbing things out of the thing right now. So it says a junk yard has to be screened and if I had a normal amount of trees around my junkyard. There is no way that would pass your screen or even if every 10 feet there was a tree. If I had a line or row that would not be considered a screen. To what extent to you guys consider screening good enough and then if that exists in order to block...

Quiggle: (interrupts) I think we understand the definition of screens around say a gravel pit or whatever is...

Oleson: (interrupts) If you find a good definition that you think makes sense, certainly send it to me.

Quiggle: Yes, feel free to send it to Ben.

Oleson: I just thought any planted tree there is open interpretation.

Quiggle: Send it to Ben. Meanwhile, is there anything else to discuss?

Other business was all tabled.

## 8. Adjournment

A motion was made by Smith seconded by Huff, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:28 PM.

Minutes respectfully submitted by Jennifer Kemp.