

CORINNA TOWNSHIP  
MINUTES  
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION  
October 14, 2014  
7:00 PM

Charlotte Quiggle called the meeting to order at 7:00 pm on October 14, 2014.

Roll Call: Board of Adjustment/Planning Commission Members Present: Charlotte Quiggle (Chair); Larry Smith; Lee Parks; Trish Taylor; Larry Thompson, Ben Oleson (Zoning Administrator).

Absent: Jeff Lundquist, Barry Schultz

Others in Attendance:

Additions or Deletions to the Agenda: Smith made a motion to approve the agenda as presented. Parks seconded the motion. Motion carried unanimously.

Public Hearings: Toni Derosier, Annie Hertel, Ray Knapp, Charles Adams, Karl Enghauser, Ed Mader, Cathy Campbell, Carol & Rick Karinianen, Marilyn Andersen, Melvin Dykhuizen, Les Cantin, Linda Cantin, Jenna Potter, Jim Stewart, Dan Holler, Dick Naaktgeboren, David Snyder Thomas Tart

- a. (Tabled from September meeting) Variance to construct a dwelling addition to an existing dwelling approximately 37.5 feet from Cedar Lake (min. 75 ft required).
  - i. Applicant: Bruce and Cathleen Campbell
  - ii. Property address: 8433 70th Street NW, Annandale
  - iii. Sec/Twp/Range: 34-121-027
  - iv. Parcel number(s): 206024000121

Present: Cathleen Campbell, Ed Mader

**Mader:** We are moving the addition back from the 33 feet to the 37 feet and there was suggestion on where the water is going to be placed and we have Sticks & Stones working on a dry rain garden that is caught and put into a pond and fountain created so to not disperse into the ground. The third one was on the basement, they are not in a flood plain, the known high watermark is @ at 999.4. Would like to build at 1001.7 is where the basement would be. Footing would be about 8" below that. We are close to those levels and working with metro water proofing, spray a 40mil rubberized product that is flexible and also drain tiling on the inside & outside of the footing. Footing would be about 4" from high water mark. House built in 1971 and lowest level is currently at 1004 and not having any water there. Never had any water and we are taking precautions to stop it from having a water issue.

**Oleson:** The applicants are proposing to construct an addition to their existing dwelling that would be located approximately 37.5 feet from Cedar Lake (min. 75 ft required). The proposed addition would be used for a master bedroom, a bathroom for an existing bedroom, possible other rooms (i.e. a study) and possibly a covered porch. First was to have it at 33.7 they shifted back 4ft and it will meet the 37.5 which is what you asked for last time. 2<sup>nd</sup> is water management issue, 3<sup>rd</sup> is basement, for lakes that are not established with a flood plain you

have to be 4 ft above the highest known water mark, DNR says 3ft above the highest known water level which is 999.3. Meaning that the, lowest livable floor has to be at 1003.3, if you went with DNR it would have to be 1002.3 and they are requesting 1001.7, so they would be about ½ foot below that. I talked with some DNR staff this morning and they will allow below that if they are flood proof. It is pretty rare. It is possible but it requires an engineer to do it, but you would have to do the whole basement.

**Quiggle:** We still have to deal with Wright County and they do not have an exception if it is flood proof?

**Oleson:** I did not see anything and we would have to talk to them. Not sure if the rubberized meets those requirements. Thompson – what about the rest of the basement. And it would request a variance if it does get done that way.

**Audience:** None

**Taylor:** My concern is the basement and the high water mark, I feel they have to stay within the guidelines. I am fine with the set back to the lake now that it is moved back. Drainage with the holding ponds seems good.

**Smith:** I am fine with the set back and just concerned with basement.

**Parks:** What do they want the lower level for?

**Mader:** Utilities, Storage, etc., the addition will be a different heating unit.

**Parks:** If you make the ceiling height @ 6ft you could meet the flood plain.

**Smith:** I think we need to stay with the 4ft from the flood plain.

**Thompson:** I think we need to stay at the 4ft for the flood plain. I am not in favor of the set back either, however, I was not at the last meeting. I know were not any closer than what the house currently is. I was not here I am not in favor of the lake set back as I feel there are other things that could be done, again that is just my feeling.

**Mader:** The land around it is considerably lower.

**Quiggle:** Not comfortable with the 37.5 feet, and I think we have to stay with the 4ft above the highest known water mark.

**Thompson:** If we make the requirement for the additions to meet the 4 ft requirement do we have to do anything with the rest of the house?

**Oleson:** No that is grandfathered in.

Smith made a motion to approve the variance of the lake set back @ least 37.5 feet from, basement has to be at least 4ft above highest known water mark with the following staff recommendations:

1. That the applicant must maintain a vegetative buffer at least 15ft back from the lake directly in front of the proposed addition. This buffer must include at least three trees 6 ft in height and be maintained in perpetuity. The purpose of the buffer would be to maintain vegetative screening, reduce the visual impact of the addition as viewed from the lake, and provide an opportunity for filtration of any stormwater runoff in this area.
2. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between the area of disturbance and the lake as well as to any neighboring properties which are downslope of the disturbed areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets, hydroseed or other forms of temporary cover until vegetation is re-established.
3. The applicant shall submit a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allowed equate time for infiltration or other treatment of rainwater from the lot prior to it flowing into the

lake. These may include directing rain gutters to appropriate areas, rain barrels, or other acceptable best management practices. Once approved, the plan should be implemented at the time of construction or within a reasonable time period after construction is completed and maintained indefinitely.

Parks seconded the motion. Motion passed with Larry Smith, Trish Taylor, Lee Parks, and Larry Thompson voting in favor, and Charlotte Quiggle opposed.

- b. (Tabled from September meeting) Variance from the requirement to plat and request to remove a condition on a 1999 lot line adjustment that requires the lake lot and the back lot to be treated as one for the purposes of sale and development.
  - i. Applicant: Lester and Linda Cantin
  - ii. Property address: 10611 Hollister Ave NW, Maple Lake
  - iii. Sec/Twp/Range: 11-121-027
  - iv. Parcel number(s): 206072000090 and 206072000250

Present: Les Cantin, Linda Cantin, Jenna Potter

Oleson: *This item was tabled from the September 2014 meeting to allow for input*

*from the Township Attorney.* Staff has met with the Township Attorney to ask his opinion regarding two questions: 1) whether a deed restriction can be placed on the portion of Outlot E to make in unbuildable for dwelling purposes; and 2) whether the platting of their portion of Outlot E would eliminate the requirement that the parcel be tied to Lot 9 of Shelmire Beach. His opinion on the first question was that a "deed restriction" was not necessary to make the lot unbuildable for dwelling purposes – the Board could simply make that a requirement of the approval of the variance, although it would need to find the justification to do so under the variance criteria. His opinion on the latter was that a platting of a portion of Outlot E would be something that would go through the subdivision process and, if approved, would make the lot separate from Lot 9 of Shelmire Beach. Staff also discussed whether the request to separate the portion of Outlot E from Lot 9 of Shelmire Beach was a variance from a zoning requirement or a variance from the platting requirement in the Township's Subdivision Ordinance. He felt that the application was most accurately described as a variance from the platting requirement of the Subdivision

Ordinance. As such, Staff has amended the proposed findings of fact and criteria for granting a variance in this Staff Report.

Audience: None

**Smith:** Did you sell the place? Or is it on hold?

**Cantin:** It is sold. When they went through the title search nothing showed up. There was a quick claim deed was done in August.

**Smith:** My concern is what good is title insurance if you didn't get clear title? My feeling is similar to last month it should have stayed tied to the property and it was only for economic reasons that they want it split.

**Cantin:** This was done in 1999 when it was legalized, Tom indicated that it could be split and I do not recall a letter and the PID's stayed the same so I figured they remained separate. We did not realize they were one until we asked for an address on the back parcel. I wish I could turn back 15 years and there was a mistake made and we are asking for your help.

**Quiggle:** How did the title search not come up? I went down to Wright County and asked for the information on the property and both properties indicated they were tied to each other.

**Oleson:** It has a document number and it was recorded.

**Thompson:** Question, Lot 9 is the property that was sold in August, and this 2.79 acres was attached to this owned by you. So the buyers own Lot 9 and you own the 2.79 acres, we are between a rock and a hard place, what will happen if we say no?

**Cantin:** We are not asking to change the way the property is being used. Just allowing us to keep the property as is. And yes we are in a tough spot.

**Taylor:** The title company should have found it and they should be the ones you go after and they did not do their research.

**Cantin:** It comes down to we all make mistakes in life and you have the opportunity to fix this and that is what we are asking that you to do.

**Parks:** What are the options? I don't have a problem with the two pieces being detached. There are many of them out there. They cannot sub-divide now correct?

**Oleson:** They could plat it.

**Cantin:** That is not what we want to do, it is the simplest way and most cost effective.

**Quiggle:** I understand you coming to us with the variance request the issue is we have to go by statute to meet all the criteria and we cannot grant without meeting all of the criteria and it is not in our power to say ok a mistake was made and we can change that without meeting all the criteria that we have to meet.. From what I can see it does not meet all of the criteria, we have one that is it necessary in order to secure the applicant a right or rights enjoyed by other owner or owners in the same area? No - There do not appear to be any other landowners in the area that have a similar situation. Another criteria that gets me the most is, is this self-created? Yes it is, you sold part of your property in 1999 and you were granted that split with the condition that Outlot E would need to be tied to Lot 9. Your application asked to add the 2.79 acres to Lot 9, so in that since you did create it. And the last one being is economic is the only reason? Yes I feel that economics is the only reason.

**Cantin:** I understand that, but when I look at the last page of the staff report the recommendation is that you can grant even if it is an unbuildable lot.

**Quiggle:** But first you have to meet all the criteria for a variance and if you meet those then it can be approved. I do not feel you meet the criteria.

**Oleson:** The attorney said if you grant the variance you can put a condition on it but it still has to meet the criteria.

**Cantin:** When we left here last time my understanding was we just wanted additional information from the attorney had to say. So we just wasted another month.

**Taylor:** I understand the process and that it is the title insurance problem and they should be doing some corrections. I still think that you need to plat it and it may have restrictions on, but it is the best way to have clear title. It is a little more expensive, but that is the cleanest way to go. It is a simple one lot plat.

**Cantin:** I know that would be good, however, I know someone that has been working on it for almost a year. So it is not always that simple.

**Oleson:** If you plat there will have some things that are required that may or may not require a variance. I would agree that this will be cleaner even if there are restrictions on it.

**Parks:** If he goes through the process does have a reasonability that it will be approved?

**Taylor:** It will go through a preliminary first.

**Oleson:** If you go that route, do we need a survey since they are not going to be creating new lot lines.

**Taylor:** May need some elevations.

**Quiggle:** If it was platted as a separate lot what would the principle lot be?

**Oleson:** If they plat it they could possibly make it a buildable lot, if that could not happen you could grant a buildable lot, if that couldn't happen there is some discussion on what the use would be and we would have to do some research on that.

Taylor made a motion to deny the variance to remove a condition on a 1999 lot line adjustment that requires the lake lot and the back lot to be treated as one for the purposes of sale and development. Thompson seconded the motion. Motion passed unanimously.

**Oleson:** If you are coming back next month with a plat request, you could come with a preliminary plat without it being a buildable lot or you could get an updated survey with elevations, house & sewer possibilities.

- c. Variance to construct an expansion of living space to an existing dwelling on a home served by a holding tank and located approximately 0-3 feet from both side lot lines (min. 15 ft required), 45 feet from Sugar Lake (min. 75 ft required) and 36 feet from a road centerline (min. 65 ft required).
  - i. Applicant: Ruth A DE Rosier Revocable Trust, Ruth Derosier and J Hertel Trustees
  - ii. Property address: 11760 Hollister Ave NW, Annandale
  - iii. Sec/Twp/Range: 02-121-027
  - iv. Parcel
  - v. number(s): 206011002041

Present: Ruth Derosier, Annie Hertel, Ray Naab

**Naab:** I am a longtime friend of the family. Looking variances having to do with American for Disabilities Act (ADA). Jerry's disability is a brain tumor and has lost his vision in one eye, and limited vision in the other eye. He moves around with a cane and recovery time is 2-3 years. The prognosis is good, but will continue to have vision issues. They have owned this property for over 25 years and they would like to spend more time at the property and would like to rebuild in the same foot print, they are not looking to increase the size of the structure and due to the condition of the house it needs to be rebuilt. They are asking for 7 ft ceiling height to accommodate Jerry's disability and addition of a breeze way to connect the garage to the home. We believe that looking at the staff report there seems to be good support for the variances were asking for. I would expect that a lot of your ordinance's have to with protecting the ground water. They are going from a 3 bedroom to a 2 bedroom home which indicates less people using the home and they have a holding tank so no drain field. In looking at the report it talks about the ceiling height, the minimum head room under ADA is 80" (6' 8"). We are asking to go just beyond that at 7 feet. In relation to the breezeway, the ADA is 36", allowing for the car to be brought into the garage and he could access the home at some level. These are the kind of things that should be allowed to accommodate his disability. Part of the issue is darkness so they are adding sky lights to make the room lighter. We are in agreement of all conditions only to re-look at condition number 6 regarding the removal of the stairs at the time it is sold.

**Oleson:** The applicants are proposing to tear down an existing cabin and replace it with a new cabin of the same footprint, but with added floorspace in a lofted area. The existing cabin is on a very small lot (6,670 sq ft according to provided survey) and is located within the required setbacks to Sugar Lake, the center of the Township Road and both side lot lines. As such, the cabin is considered a legal nonconformity. MN Statutes 394.36, subp. 4 allows for a

nonconformity to be “continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion”. The statute does not define “expansion”. As such, the Township has developed a policy relating to expansions, which indicates that an increase in a pre-existing roof pitch up to a 6/12 pitch is not considered an expansion. Also, new floor space can be created within a building without being considered an expansion provided that the ceiling height does not exceed 6 feet. The Township ordinance also prohibits expansion of the gross floor area in cases where a holding tank serves the property – as is the case with this application. The applicants are proposing to construct a lofted area that would have a sidewall height (on one side – the other side would be open to the main level of the home) of 6’8”. The ceiling/rafters would then slope up to a maximum height of 9’8” under the ridge of the roof (note that these dimensions differ from the 7’0” maximum height listed in the application due to a mistaken understanding of where the measurement was being taken from). As part of their application, the applicants have noted that their request should be considered in light of the requirements of the Americans with Disabilities Act (ADA) and the Fair Housing Act. In my recommended conditions #1 should not be there. We started talking about this over a year ago. We talked about the 6ft ceiling and all that was ok until his disability came into place. I have talked to several people including attorneys, department of justice and to summarize what I found out is that this does not necessarily fall into what the ADA typically responds to. The basic intent of the ADA is what gives him the enjoyment of the home. The 80” came into play with the ADA. They are asking for higher than that, and not sure if that is subject to the ADA. The breezeway they are asking for wider than 36”. I added a few things for the erosion control, they are not adding anymore impervious other than the breezeway. Highest 989.74 would have to 1.84 difference so it would have to be raised up slightly. The reason I suggested the pull down stairs is because I did not know if we could lower the ceiling at a later date, however, can be discussed.

**Thompson:** I thought I read that the deck on the lake side is a storage area? Is that deck going to be removed?

**Derosier:** It is not attached to the house, if it was not attached to the house it would be classified as a storage area. The deck is going to be put back.

**Olson:** My guess is that when you went through a variance process previously you were told you would have to remove the deck unless it is a patio and it is not attached to the house.

**Thompson:** Is the house 55 feet from the lake?

**Oleson:** Yes the house would be 55 ft.

**Derosier:** We are keeping the house exactly where it is.

**Taylor:** Looks like there is an encroachment with the house and the garage. Is that recorded?

**Derosier:** Yes it is recorded at the County.

**Oleson:** Being you are tearing down the house would you like to move the house?

**Derosier:** No

**Audience:** None

**Thompson:** Will you be doing the garage?

**Derosier:** Yes we would be rebuilding the garage too.

**Thompson:** Could you attach the garage? That way you would not be creating additional impervious coverage.

**Derosier:** Light is the issue and we need as many windows as possible so I do not want to attach the garage.

**Parks:** I don’t understand why we are creating a variance for a loft unless there is some legal reason.

**Oleson:** I struggle with this one. The rule is we would allow anyone to build a 6ft loft, under the ADA says we need to give the same basic space and that would be 6' 8".

**Derosier:** We want storage, utilities are going to be up there, and it is to accommodate Jerry to be able to work on the utilities and a possible work bench.

**Thompson:** I have the same question relative to the height. I question if there is a need for that height for someone with that type of disability. Ben you outlined that there is not any monetary cost to the township for granting that variance and I wonder if maybe there is since some will have to follow up on that to make sure it is compliant.

**Derosier:** Is that not a part of the inspection process?

**Thompson:** I am talking about if you go to sell at a later date and making sure the ceiling is dropped or the stairs removed. I also question if 36" is enough for the breeze way. I would think you would have to go with the 4ft - 5ft area.

**Taylor:** Having worked with disabilities a lot I understand the 6'8" and with light fixtures that does not give him a lot of space to move around. I was just looking at the angle of the door and would you need 5 feet in that part of the breezeway area. I would also look at going back to the pull down stairway if you go to sell.

**Derosier:** It would be at a huge cost for us or the new owners to change that.

**Taylor:** I guess I feel that we need to honor the 6'8" loft and breezeway at around 5'.

**Smith:** The ceiling height is my issue in the loft.

**Derosier:** I talked to the ADA three times and this is a federal law.

**Smith:** I would say no higher than the 6'8" and ceiling brought down to the 6ft at the time of sale.

**Quiggle:** I am ok with the 80" as noted with the ADA and going with the 5ft with the breezeway and express that the concern getting from garage to the house. I agree that the ceiling should drop at time of sale.

**Oleson:** I did not realize the garage was coming down too so if you do want to move it now would be the time to do it.

Thompson made a motion to approve a variance to construct an expansion of living space to an existing dwelling on a home served by a holding tank and located approximately 0-3 feet from both side lot lines, 45 feet from Sugar Lake, and 36 feet from a road centerline. Loft Ceiling height not to exceed 80" and breezeway from garage to house not to exceed 5 feet with the following staff recommendations:

1. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between the area of disturbance and the lake as well as to any neighboring properties which are downslope of the disturbed areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets, hydroseed or other forms of temporary cover until vegetation is re-established.
2. The applicant shall submit a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allowed equate time for infiltration or other treatment of rainwater from the lot prior to it flowing into the lake. These may include directing rain gutters to appropriate areas, rain barrels, or other acceptable best management practices. Once approved, the plan should be implemented at the time of construction or within a reasonable time period after construction is completed and maintained indefinitely.

3. That the lowest floor of the dwelling, when reconstructed, meet an elevation at least three feet above the ordinary high water level (equivalent to DNR minimum standards).
4. That the upper level loft may not be used as anything other than storage and/or utility space. It shall not be used for sleeping space.
5. That once the property is sold the upper level loft ceiling height should be brought down to 6ft.

Smith seconded the motion. Motion passed unanimously.

- d. Preliminary plat application to subdivide an approximate 6.47 acre parcel into two lots (2.81 and 3.42 acres) with a 0.24 acre remainder to be attached to an existing nonconforming lakeshore lot.
  - i. Applicant: David Snyder and Thomas Tart
  - ii. Property address: Parcel east of 11069 and 11083 Hollister Ave NW, Annandale
  - iii. Sec/Twp/Range: 02-121-027
  - iv. Parcel number(s): 206000024400

Present: Thomas Tart & David Snyder

**Tart:** Ben great job with the report, just a couple of questions on the recommended conditions, number 1 is not a problem, on number 2, do we need 2 sewer sites on each lot?

**Oleson:** Yes, state law requires that you have 2 sites that can hold a sewer.

**Tart:** One of the lots already had that done. As far as doing that we have a crop in right now so can they do that?

**Oleson:** That is possible, they do not need much room.

**Tart:** We can get that done then. You need that before we come for the final plat?

**Oleson:** Yes. You will have to meet the conditions and come to the town board.

**Thompson:** Where is the .24 acres? Is it directly across from Tarts

**Audience:** None

**Oleson:** They are plotting into two lots and the 1/4 would be added to the lake lot of Tom Tart. No one from the board had any questions or concerns.

Taylor made a motion to approve the preliminary plat application to subdivide an approximate 6.47 acre parcel into two lots (2.81 and 3.42 acres) with a 0.24 acre remainder to be attached to an existing lakeshore lot with the following staff recommendations:

1. That the 0.24 acre parcel must be combined into one parcel number and legal description with lots 1 and 2 of Sugar Lake Heights and the vacated portion of Mol Street (aka Hollister Avenue) that is already part of Parcel 206-079-001010 prior to final plat approval.
2. That the applicants must provide evidence from a licensed sewer designer that there exists at least two sewerable sites on each of the proposed residential lots prior to final plat approval.

Parks seconded the motion. Motion passed unanimously.

- e. Request for a lot line adjustment between two nonconforming lots of record to transfer 5 ft of land from Lot 5, Shelmires and attach it to Lot 4, Shelmires.
  - i. Applicant: Karl Enghauser
  - ii. Property address: 7112 - 108th Street NW

- iii. Sec/Twp/Range: 11-121-027 i
- iv. Parcel number(s): 206071001040

Present: Karl Enghauser & Chuck Adams

**Enghauser:** I am selling lot 5 and I want to move the lot line to give myself a little more room. I am looking at updating my sewer and moving the lot like would give me a little more property to make more room. I have not had the septic inspected.

**Quiggle:** Have you had your sewer inspected?

**Enghauser:** No not yet.

**Oleson:** One correction in my staff report, I said there was no wetlands, however, there is some wetland near the road on that lot. It does not affect the lot change at all. Just want to make sure that lot 5 is becoming smaller, however, it will still have 100ft of Lake Frontage and would be 26,383 sq ft which is more than 20,000 sq ft. and can house a sewer. One thing you want to check on is if you want to make sure that it is a type 1 system or can it be something other than a type 1, it is not clear in the ordinance. The bare lot #5 does have to meet a type 1 and it does meet that criteria.

**Audience:** None

**Taylor:** No issues, just making sure the septic meets requirements.

**Parks:** Why are you doing this?

**Enghauser:** The reason I'm splitting lots is to downsize and making my live more enjoyable, and giving myself a little more room than what lot 4 has to offer.

**Thompson:** Fine

**Quiggle:** I'm fine

**Oleson:** Just to clarify, you would not be doing both of the recommendations one or the other Parks made a motion to approve the lot line adjustment between two nonconforming lots of record to transfer 5 ft of land from Lot 5, Shelmires and attach it to Lot 4, Shelmires with the following staff recommendations:

1. That the applicant provides evidence that Lot 4 (with the existing home) is already, or will be, served with a compliance sewer system.

Taylor seconded the motion. Motion approved unanimously.

Smith made a motion to approve the previous meeting minutes of September 9, 2014. Taylor seconded the. Motion passed unanimously

#### Zoning Administrator's Report

##### Permits:

Correspondence: Question that has come up - state law says that if you have adjacent lots you can sell them separately if you meet certain criteria, currently they meet the state criteria, but they do not meet the county requirements. State law says that if you do not meet the minimum requirements, but you can meet 66% you can do it if they can get a type 1 sewer system on it, but it would be too close to the well, if they move it elsewhere it will not be a type 1 sewer. It comes down to do you have to meet the state requirement or do you have to meet the local laws for lot size. Barry at Wright County says it has to meet local regulations, I am asking the state to see what they say. They are exploring a few options but wanted to let you know that this has come up.

Enforcement Actions: None

Findings of Fact - Previous PC/BOA Decisions:

Other Business

Comprehensive Plan Update (if time allows)

Smith made a motion to adjourn at 10:05 pm, Parks seconded the motion. Motion passed unanimously.

Minutes prepared by Jean Just