
CORINNA TOWNSHIP

BOARD OF ADJUSTMENT PLANNING & ZONING COMMISSION

MEETING PACKET FOR
April 10, 2012



CORINNA TOWNSHIP
AGENDA
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
April 10, 2012

7:00 PM

1. Call to Order
2. Roll Call
3. Additions or Deletions to the Agenda
4. Public Hearings
 - a. None
5. Approve Previous Meeting Minutes
 - a. March 14, 2012
6. Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Enforcement Actions
7. Old Business
 - a. Discuss interpretation of "expansion" when applying MN Statutes 394.36, Subd. 4 and 462.357, Subd. 1e (Nonconformity statutes)
 - b. Discuss end-of-year ordinance updates/clarifications.
 - c. Discussion – Potential update of 2007 Comprehensive Plan
 - d. Update on status of Corinna Township request for recognition as shoreland and floodplain zoning authority.
 - e. Training (if time allows) – "Understanding Legal Requirements for Granting/Denying Requests"
8. New Business
9. Adjournment

This agenda is not exclusive. Other business may be discussed as deemed necessary.

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
March 14, 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); Steve Huff; Larry Smith;

Members Absent: Barry Schultz; Lee Parks

Staff: Ben Oleson, Zoning Administrator

Others in Attendance: Mike Pellegrine; Christi Pellegrine; Bernie Miller; Corwyn Jonnson; Eric Saari; Tom Monson

3. Additions or Deletions to the Agenda: None.

A motion was made and seconded, to accept the agenda. Motion carried unanimously.

4. Public Hearings

- a. Variance to replace an existing 2 bedroom home with a new 4 bedroom home approximately 64 ft from Pleasant Lake (min. 75 ft required) and 13.9 and 14.8 ft from the side (west) lot line (min. 15 ft required). Variance to construct a new deck approximately 57.3 ft from Pleasant Lake (min. 75 ft. required) and 10 ft from the side (east) lot line (min. 15 ft required).
 - i. Applicant(s): Michael and Christi Pellegrine
 - ii. Property Address: 11557 – 89th St NW, Annandale
 - iii. Sec/Twp/Range: 19-121-27
 - iv. Parcel Number(s): 206062000150

Chair Quiggle read the requested variances.

Bernie Miller: When the Pellegrine's bought the lot, they understood the lot to be 75 feet wide. They designed a 40 ft wide house in order to meet the required 15 foot side yard setbacks. They later discovered that the lot is slightly less than 75 feet because the 75-foot survey line was at a slight angle and the side lot lines are not perpendicular. Miller changed the proposed location of the new house slightly to try and meet the side yard setbacks as much as possible, but could not meet 15 feet on both sides. The new location fits better with the neighborhood. They are trying to preserve the tree currently located behind their lot.

Christi Pellegrine: It is the only deciduous tree on the lot.

Dan Shay: The spruce tree will be cut down?

Christi Pellegrine: Yes.

Bernie Miller: An open deck was also added to the proposal after the surveyor drew up their plan. They wanted a 15' x 15' deck but it was downsized to minimize the setback variance from the lake and the side yard.

Bernie Miller: The entire neighborhood has septic tanks on the lake side of the home, with drainfields back toward the road. The site plan is intended to help provide access to a new well location without impinging on a future septic drainfield area.

Corwyn Johnson: How far would it be between the new house and the existing garage?

Bernie Miller: About 80 feet.

Quiggle: Is there anything else to add?

Eric Saari: View is already obstructed with the existing house. Concerned that a new house being further back will further obstruct that view.

Tom Monson: Is new house back further than my house?

Christi Pellegrine: Yes.

Quiggle: Is there anything else to add?

Johnson: They were the first to build in this neighborhood. It was platted by her parents in 1956 and her and her husband built in 1957. There was an attempt to make sure that views were not restricted for those building in the future, which is why they are all about the same distance from the lake. Her uncle in 1958 built on the lot to the west. She hopes that the house can be built within the current restrictions, as that is what was the intent when homes were originally built.

Bernie Miller: Are you requesting the restrictions based on where current homes are? Or what the ordinance says?

Johnson: What the ordinance says.

Christi Pellegrine: They bought the property with the intent that at some point they would build something larger to accommodate themselves and their kids. She noted that the home to their west was not likely to be rebuilt. She could see pushing back if the homes on both sides were likely to be rebuilt, but not when the one to the west is so unlikely to be rebuilt further back.

Monson: Asked to see his house in relation to the proposed house. Was surprised how far into the setback he was. Wondered if he would even be allowed to build up?

Mike Pellegrine: We are not trying to block views. They are just trying to find a plan that works for the neighborhood, increases the value. If they are pushed back, they would question whether it was even worth moving forward.

Quiggle asked staff for their comments.

Ben Oleson: This neighborhood is unique, not in that homes are within setback, but in that a former road was vacated and the lots were enlarged further to the north. Should variances work toward moving homes back or sticking with the historical setbacks in the neighborhood. Main questions are if there is anything that really prevents them from moving back and if they can reasonably redesign the home to be narrower so as to meet side yard setbacks. Impervious is within the allowed limits. They do have a stormwater plan proposed, with comments on that plan provided by Wright County SWCD. They have a concern that water infiltrating into the ground near the steep slope could potentially be a problem and having an engineer look at it would be recommended.

Bernie Miller: Stormwater design is for a 10 year storm. The soil is optimal for infiltration – sand and gravel. If it was a clay loam, it might be more of a concern to the hill. It is not a bluff. He does not see any problem with infiltrating water in that area. It would not be much different than a drainfield. He talked to Brian Sanoski at SWCD. Could grade for a rain garden, but that would be a bit messy. The plan they submitted would take everything off the house and be infiltrated. If there was a huge rain event...

Quiggle: Like last year?

Miller: Yes, in that kind of event it is very difficult to plan for it. This is not a new technology – it has been used under parking lots and in other situations. He feels this is a good plan for the lot. It captures

what is off the roof. It has an overflow in the case of a large event that would outlet on top of the ground.

Quiggle: Any questions from the Board of Adjustment? Dan Shay?

Dan Shay: There would be a new septic tank 50 feet from lake? Deck would be within the lake setback?

Miller: Yes.

Monson: What is the elevation of the deck?

Miller: About 1058 – the current elevation is about 1052.

Shay: Is there any room to go back and still save the tree?

Miller: We are already as close as the builder thinks we can go and still save the tree.

Shay: Knows that Wright County wants homes moved back if they can. If not, at least 60-65 feet. We need to consider this. View is already blocked on west side – understands that may lose some views on the east if they move back. Need to balance all this as they consider.

Quiggle: I have a hard time seeing something unique on the property that prevents them from moving back. Have long stretch in back to move back into. If this house can't meet 75 foot setback, I can't see how any house would. Trees can be knocked down at any time by storms or building. New trees can be planted. View straight ahead will not be affected – I haven't understood the need for a 180 or 360 view. At some point, everyone will need to move back in the neighborhood.

Monson: Our house was built in 1958 or 1959.

Quiggle: The idea of the setback is to eventually move everyone back to the setback. This part of Pleasant Lake is ideal for everyone to eventually meet the setback.

Steve Huff asked Oleson if there was any precedent allowing people to stay forward?

Oleson: From memory, there was one case in this neighborhood where someone was allowed to stay within setback because of a septic tank in the way.

Huff: But we did make them move back.

Oleson: Yes, hard to compare one lot to another. This neighborhood is a challenge because there is room to move back for everyone, but there can be unique circumstances where something is in the way. It creates at least the possibility for it being perceived people are being treated differently.

Huff: I am of the opinion that the house can move back. Might be able to discuss the deck, but not the house.

Miller: Would the deck be ok within the setback?

Huff: The house should meet the setback, the deck could maybe be within.

Quiggle: I have a hard time allowing the deck within the setback.

Monson: I would not have a problem with the deck as it is not a permanent structure. It would not impact the view as much.

Saari: I am concerned that the deck moving closer to the lake would create a view problem for them. If the deck was at the same setback as the existing house, he doesn't think Corwin would have a problem.

Corwin: My husband has been in the hospital, but he would agree with that.

Larry Smith: Before coming to the meeting, his thought was that the house should be moved back. Trees can be taken down in storms and can be replaced. His stance is that the house needs to be moved back. If we let this one be closer, hard to tell anyone else they have to move back. This is too straightforward.

Mike Pellegrine: How did a house like this (pointing to house further to the east) get built that close to the lake?

Christi Pellegrine: I researched it. Granted by Wright County. The landowner skirted everything by keeping up certain walls. He was supposed to keep the same square footage.

Quiggle: State statutes allow for rebuilding, but not expanding. It may be the reason why it was allowed.

Huff: We are trying to be as consistent as possible.

Christi Pellegrine: Looked at other variances previously granted by the Township – some on other lakes.

Miller: He can see different view points on this. He asked DNR about why they have lake setbacks as they are. Primarily it was to allow for a lakeside sewer that meets a minimum setback and still allow for a house to be behind it. Lakeside sewers were common in many cases to allow for wells to be easier to access for a well truck. Each case is different and main idea is to address potential problems and protect the lake.

Quiggle: Standard is 75 feet and we have to live with that.

Miller: In some cases 75 feet is not enough and in other cases maybe 30 feet is ok without impacting the lake. What is the concern in this case being closer than 75 feet in terms of how it affects the lake?

Quiggle: It is the rule and we have to abide by it.

Quiggle: We seem to be in consensus that the house should meet the lake setback, but have not discussed the deck much. Would the side yard setback for the deck improve if the house is moved back?

Miller: Not much - maybe 1/10 of a foot.

Miller: We have looked at other plans and can show them to you. Would like to be able to show those and discuss if the Board is ok with that?

Huff: Not opposed to looking at other plans tonight. How big are the bedrooms?

Christi Pellegrine: Two 12' x 12' on the back side. 14' x 17' for master bedroom.

Huff: With those sizes, they could possibly be downsized.

Christi Pellegrine: Original plan was 52' wide, but knew that wouldn't work. Shrunk as much as she felt she could and still maintain reasonable sized bathrooms.

Miller: How concerned is the Board about 14 ft side yard setback on the west side?

Quiggle: Setback on deck is more of a problem than the 14 ft setback for the house.

Miller: Could do a patio instead of a deck.

Quiggle: Patios do not need to meet the setbacks.

Miller: If they make it a patio at 15' x 15', it could be done as a compromise.

Quiggle: So house would be at 75 feet and patio would be closer, but does not have the setback requirement.

Miller: If house was at 75 feet, the Board would not allow a deck closer?

Quiggle: There are some different opinions on that.

Shay: If the house is moved back, would it have to be shifted again?

Miller asked if Oleson could pull up alternative plans on the projector. Oleson pulled up 'Plan A'.

Miller: This plan has the house at 65 feet from the lake with a 15' x 15' patio. This still saves the tree.

Huff: Push the house back 10 more feet and you'd be ok.

Christi Pellegrine: Could we have a deck closer than 75 feet?

Quiggle: That would come up for a vote.

Christi Pellegrine: Deck was added later in their planning when they realized how high up they were.

Putting the deck back with the house created layout problems in the great room.

Quiggle: Did you consider an outside stairway?

Christi Pellegrine: Hard for me to envision that. We would take the patio if the deck doesn't work.

Miller: Plan C shows the house at 75 feet (showed up on the projector) with a 15' x 15' deck closer. Deck could be made smaller.

Huff: Could house be redesigned, with an architect, to address some of these issues?

Christi Pellegrine: Yes, we are working with a designer. It creates problems with the kitchen and everything else having to be shifted around.

Shay: House needs to be at 75 feet – look at patio/stairs closer. Maybe they need to go back and work over options with their designer and come back later.

Quiggle: They can always go further back. If we give direction that they can't go any closer than X and stay within X impervious percentage. Then only issue is building code.

Christi Pellegrine: If house does go back to 75 feet, and we have a patio closer, then it would only be a side yard setback? Would rather keep the layout the way it is.

Quiggle asked Oleson if patio has to meet side yard setback?

Oleson: I would want to double-check, but that was a grey area I have previously discussed with the County. I believe if a patio is built at ground level, it does not need to meet setbacks. If raised up, it is a deck that needs to meet setbacks. Some grading can be done to “raise” it up, and still be at ground level.

Miller: It would not have railings – just be built up on the ground.

Huff: Are we denying or tabling?

Oleson: If you want to see new plans, you’d table it.

Quiggle: We seem to be in agreement that side yard setbacks on west are ok.

Smith: When do you intend to build?

Christi Pellegrine: We are looking at various proposals from builders. Hoping to build in early April at the latest. Just need to move home back and design a patio?

Miller: Plan C does show the house at 75 foot and the deck would be replaced with a patio.

Quiggle: Not sure why we need to see other plans. They will be meeting lake setback with the house, no deck would need a variance. Only west side yard setback.

Huff: Would like to see specific plans.

Oleson: If the Board approves only the west side yard setback for the house, then the only permit I can issue is one that meets all other requirements except for the west side yard setback. If they decide they still want another setback, they would have to re-apply for a variance if it were denied or withdrawn tonight. Tabling would prevent needing a re-application if they are not satisfied with only the west side yard setback variance.

Oleson: Applicants would maybe want to withdraw the other variance requests (except for west side yard setback) so that they are not actually denied.

Miller: So only variance they would be requesting is the west side yard setback?

Oleson: Yes, if they withdraw the others.

Miller: That is Plan C, except deck would be a patio.

Huff: Why can’t we wait for a design that shows all this?

Quiggle: Would west side yard setbacks change with house moving back?

Miller: No, Plan C shows what it would be exactly if house were moved back to 75 feet.

Huff: How would you access the patio? That is why it may be good to just submit a new plan.

Smith: Trying to work with you to make sure it all works.

Miller: Steps would not count against setback?

Oleson: Had tried to ask the County about this in the past, but don’t believe there was a clear answer as to how they interpret the ordinance.

Miller: There would need to be stairs there. That would work.

Christi Pellegrine: Stairs would not be wider than 4 ft. They would fit.

Further discussion about how stairs would be laid out.

Smith: If they can meet all other setbacks, he does not have a problem.

Oleson: Would you implement the stormwater plan, if it was now meeting the setback requirements?

Christi Pellegrine: Had looked at other options – rain barrels, guttering to rear of lot.

Quiggle: Even re-directing gutters can be a stormwater plan.

Further discussion about stormwater options.

Oleson: Had asked builders and Miller about whether soil would be moved around. Not much dirt would need to be moved outside of that necessary to fit in the basement.

Motion was made by Huff and seconded by Smith, to acknowledge that all variance requests are being withdrawn except the side yard setbacks on the west side and approve the requested side yard setbacks on the west side.

Quiggle requested that a condition be added requiring erosion control during construction and adding specific findings of fact that 1) the original design of the home was for a 75 foot wide lot and had to change because the lot is not quite 75 feet wide and the rotation of the lot.

Huff amended his motion to include Quiggle's suggestion and new motion was seconded by Smith. Motion was approved unanimously.

5. Approve Previous Meeting Minutes

- a. February 14, 2012

A motion was made by Shay, seconded by Smith, to approve the previous meeting minutes. Motion carried unanimously.

6. Zoning Administrator's Report

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

Oleson: See the information in your packet. I can answer any questions.

7. New Business

- a. Oleson presented a training session on "Developing Effective Motions and Findings of Fact". Discussion was that now that the Board of Adjustment makes final decisions on variances for the Township, it is more important that motions and findings of fact be made clearly.

8. Old Business

- a. Continued discussion on interpretation of "Expansion" under MN Statutes.

Oleson presented the revised draft outline for how the township could interpret "expansion" under MN Statutes allowing for replacement, but not expansion.

- b. Update on Shoreland Zoning Administration

Oleson noted to the Commission that a request had been presented to the County Board for turning over shoreland control to the Township in February. It was tabled until a County Committee of the Whole meeting. At that meeting, they discussed that they would rather extend the joint powers agreement until March 2013. This was later discussed and changed to December 31, 2012. The Town Board is in agreement with this, so the only step left is to have both Board formalize. Toward the end of 2012, the Township would presumably request again to have shoreland control turned over completely rather than via a joint powers agreement.

Quiggle noted that Oleson made a presentation to the County as to why the Township met all the requirements in state law and policy, but the County decided they wanted more time to verify that the Township will be doing everything properly.

Quiggle noted that the update of the Comprehensive Plan and ordinance updates will be tabled until next month.

9. Adjournment

A motion was made by Huff, seconded by Smith, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:24 p.m.

Minutes respectfully submitted by Ben Oleson.

Zoning Administrator's Report

Corinna Township

Application Status Report - Finalized

March 1, 2012 - April 3, 2012

Parcel ID	Applicant	Nature of Request	Date of Final Action	Zoning District
Type of Application: Land Use (1 record)				
Application Status: Approved (1 record)				
206123001040	Greg and Sherry Woelfel/Hagen	Build new single story 3,842 sq ft home (slab-on-grade) and attached garage with 6/12 roof pitch.	3/29/2012	R2a
Grand Totals (1 record)				

Application Status Report - Pending

As of April 3, 2012

Parcel ID	Applicant	Nature of Request	Date of Final Action	Zoning District
Type of Application: Land Use (1 record)				
Application Status: Under Review (1 record)				
206012000020	Steve Simon	Build new 2 story dwelling to replace existing one-story building.		- R1S
Grand Totals (1 record)				

STAFF REPORT

Old Business: Discuss interpretation of “expansion” when applying MN Statutes 394.36, Subd. 4 and 462.357, Subd. 1e (Nonconformity statutes)

Agenda Item: 7(a)

Staff Comments: Over the past several months, the Planning Commission has begun discussing how/whether it should try and clarify how it interprets “expansion” in the following state statute:

394.36 NONCONFORMITIES.

Subd. 4. Nonconformities; certain classes of property.

This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, **but not including expansion**. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

At the March 2012 meeting, the Commission directed Staff to send the draft policy to Wright County for their comments, including whether they felt like it would meet the requirement that the Township be “as restrictive” as Wright County.

Staff is awaiting those comments and will provide them, if available, at the April meeting.

The attached represents the draft policy/ordinance as sent to Wright County for comment.

Roof pitch expansion =

1. Any change that creates a roof pitch of greater than 6/12 (unless an existing steeper pitch is being replaced with the same or the peak)

Basement/Storm Shelter/“Safe Room” additions =

1. Any change that creates additional living space (or potential living space) beyond what existed previously (“living space” = a space with a ceiling height of greater than 6 feet that is at least 6 feet in width and has a total square footage of at least 120 sq ft - e.g. 10' x 12').

Porch/Deck conversions =

1. Any change that increases the footprint of a pre-existing porch or deck.
2. Any reconfiguration of an existing deck that, even if not an increase in total square footage, would increase the square footage of structure within the lake setback than what existed before or that would infringe further into the required setback.
3. Screening in an existing open-sided porch or other open-sided roofed area shall not be considered an expansion. If the addition is such that windows can, or are required to, be installed, it is considered an expansion.
4. The addition of a stairway no more than 4 ft in width to an existing deck or porch shall not be considered an expansion provided it is not closer to the lake than the existing footprint.
5. Conversion from a three-season porch to a year-round home shall not be considered an expansion, provided that there is no increase in footprint and no further infringement on an existing setback.

Footprint changes =

1. Any change that increases the footprint of a pre-existing structure.
2. Any reconfiguration of an existing structure that, even if not an increase in total square footage, would increase the square footage of structure within the lake setback than what existed before or that would infringe further into the required setback.

STAFF REPORT

Old Business: Discuss end-of-year ordinance updates/clarifications.

Agenda Item: 7(b)

Staff Comments: Over the last few years, Staff has occasionally asked Wright County staff for their interpretations of certain “gray” areas within the ordinance. In the attached sections of the ordinance, we have noted the interpretations we have received from County staff (in the right sidebar of the page). In the text of the ordinance, we have sometimes noted where the language could be amended to clarify that interpretation so that there is less confusion in the future as to how it is to be interpreted. In some cases, we have just noted the County’s interpretation, but not made any language changes.

Staff is intending that this be a first opportunity for the Planning Commission to see some of the County’s interpretations and start discussing which it would like to formalize in the text of the ordinance, which it would like to establish as policy in some less official way, and where it may like to have a different interpretation.

Any changes to the text of the ordinance related to these interpretations would need to be presented at a public hearing and Wright County’s comments would be solicited. The Township, of course, is required by state statute to be at least as restrictive as Wright County.

This item was continued from the March 14, 2012 meeting for further chance to review and comment.

SECTION 3. RULES AND DEFINITIONS

301. Rules

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural and the plural the singular.
- (2) The present tense includes the past and future tenses, and the future the present.
- (3) The word "shall" is mandatory, and the word "may" is permissive.
- (4) The masculine gender includes the feminine and neuter genders.
- (5) Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition.
- (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (7) In the event of conflicting provisions within this ordinance, the more restrictive provision shall apply.

302. DEFINITIONS

The following words, and terms, whenever they occur in this Ordinance, are defined as follows:

- (1) Accessory Use or Structure - A use or structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto. Detached accessory structures and garages on lots less than one acre shall not have a second story, must have no more than six (6) feet of headroom in a rafter storage area, and have a maximum 6/12 roof pitch. Accessory buildings and structures, individually and combined (not to include attached garages nor decks), on **isolated** residential parcels smaller than 10 acres in size shall not exceed the following maximum size limits:

<u>Parcel size</u>	<u>Max. Building area</u>	<u>Max. Sidewall</u>
Less than 20,000 sq. ft.	1000 square feet	14 feet
20,000 sq. ft.-.99 acres	1600 square feet	14 feet
1-2.49 acres	2400 square feet	14 feet
2.5-4.99 acres	3200 square feet	14 feet
5-9.99 acres	4000 square feet	16 feet

- (2) Access Drive (driveway) - An improved area of any lot or parcel which is used for vehicular access or parking. ~~Drives improved solely with gravel or rock materials will not be used to calculate lot coverage areas; any paved (bituminous, concrete, etc.) area shall be counted as impervious surfaces.~~
- (3) Addition, Building - Any construction that expands the footprint, livable space, or volume of a building, such as a porch, basement, an additional level or floor, attached garage, carport, new room, or roof pitch or wall height change.

Comment [BO1]: See 10/6/11 e-mail from B. Rhineberger: "Attached is our AG handout. Please note the accessory structure area near the bottom. If the parcel is isolated, they would be allowed 1,000 sq. ft. with 14 ft. sidewalls. If it adjoins other residential parcels/lots, the R-1 standards would apply (800 sq. ft. with 12 ft. sidewalls). The setback standards would be R-1 regardless of proximity.

>>> "Ben Oleson"
 <oleson@communitygrowth.net> 10/6/2011 2:43 PM >>>
 Am I right that if a residential property is zoned AG, but is less than 20,000 sq ft in size, a structure would be required to meet the R-1 setback standards, but not the R-1 restrictions on max building area for a detached accessory structure (i.e. it would be allowed up to a 1,000 sq ft building with 14 ft sidewalls instead of a 800 sq ft/12 ft sidewall restriction? The same would apply to the other accessory building size categories (20,000 to 0.99 acres, etc...)"

- (4) Administrator - The duly appointed person charged with enforcement of this Ordinance.
- (5) Agricultural Use - The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:
 - (a) field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
 - (b) livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including ponies, deer, rabbits and mink.
 - (c) livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
- (6) Airport or Heliport - Any land or structure which is used or intended for use for the landing and take-off of aircraft, and for appurtenant land or structure used or intended for use for port buildings or other port structures of rights-of-way.
- (7) Animal Unit - A unit of measure used to compare differences in the production of animal wastes which has as a standard the amount of waste produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the definition and units of measure contained in Minnesota Rules Part 7020.0300, Subpart 5 shall apply.
- (8) Apartment - A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or group of individuals living together as a single family unit. This includes any units in buildings with more than two dwelling units.
- (9) Auto or Motor Vehicle Reduction Yard - A lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also Junk Yard).
- (10) Basement - A portion of a building located partly underground but having half or more of its total floor-to-ceiling height below the average grade of the adjoining ground. For flood plain regulatory purposes, basement shall include any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (11) Bed and Breakfast - A single-family dwelling with furnished bedrooms provided to guests, at which meals may be served to guests by the permanent residents, which is kept, used or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to guests for transient occupancy as defined in Minn. Stat. 327.70, Subd. 5, but in no case shall continuous occupancy exceed 30 days. There shall be offered for guests no more than four bedroom units per single family dwelling, accommodating not more than two adult persons per unit. One (1) guesthouse, as defined in Section 712, located on the same property, may be used as one of the permitted four (4) units for an approved Bed and Breakfast provided that the residence on the property does include at least one unit.

Comment [BO2]: See 5/10/2011 e-mail from B. Rhineberger to B. Oleson:
 For the basement, I view it as a percentage of the total wall area from floor to ceiling. As long as 50% of the total wall area is underground, it would be a basement (each wall would not have to be 50%, but rather the average would).

- (60) Garage, Private - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.
- (61) Governing Body - Wright County Board
- (62) Hardship - "Hardship" means the same as that term is defined in Minnesota Statutes, Chapter 394 (for counties).
- (63) Height of Building – The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of any roof.
- (64) Highway - Any public thoroughfare or vehicular right-of-way with a Federal or State Numerical route designation; any public thoroughfare or vehicular right-of-way with a Wright County numerical route designation.
- (65) Home Occupation - Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or exhibit any exterior evidence of such secondary use. Such occupation shall be conducted or carried on only by the person residing on the premises.
- (66) Horticulture - Horticultural uses and structures designed for the storage of products and machinery pertaining and necessary thereto.
- (67) Hotel - A building which provides a common entrance, lobby, halls and stairway and in which twenty or more people are, for compensation, lodged with or without meals.
- (68) **Impervious Surface** - Any surface that is incapable of being penetrated by water and thereby restricts percolation of water into the ground or does not maintain a vegetative cover. Impervious surfaces include but are not limited to the footprint of all structures or buildings, decks, stairways, lifts and landings, patios, sidewalks, plastic landscaping material, and all driving and parking areas. Any overhangs or cantilevers that extend more than 24 inches from the foundation shall be included in this calculation. Patios, walkways and other such areas professionally designed/engineered to allow infiltration of water may be credited as up to fifty (50) percent pervious upon review and approval by the Zoning Administrator.
- (69) Irrigation System - Any structure or equipment, mechanical or otherwise, used to supply water to cultivated fields or supplement normal rainfall including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.
- (70) Junk Yard - An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
- (71) Kennel - Any structure or premises on which four (4) or more dogs over four (4) months of age are kept for pets, sale, breeding, profit, etc.

Comment [B03]: See 4/12/11 e-mail from B. Rhineberger (in relation to landscape fabric being impervious or not): "Fabric is fine, plastic is not."

See 9/1/11 e-mail from S. Riley: "If the project is designed/engineered showing the stratification and that it is truly impermeable we allow half credit for anything that is not driven over."

>>> "Ben Oleson"
<oleson@communitygrowth.net> 8/31/2011 2:00 PM >>>

Sean-
Related to our discussion below re: Onsrud permit...
Does your office give any credit for pervious pavers – i.e. do you not count some or all of land covered with pervious pavers against impervious surface limits? Or does it all count as impervious?"

Variations shall normally be limited to height, bulk, density, and yard requirements.

- (171) Water-Oriented Accessory Structure or Facility - "Water-oriented accessory structure or facility" means a small, above ground structure or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached ground level platforms or landings.
- (172) Wetland - "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition)
- (173) Wind Energy Conversion System (WECS) – An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
- (174) Yard - Any space in the same lot with a building open and unobstructed from the ground to the sky.
- (175) Yard, Front - The area extending across the front of the lot between the side yard lines and lying between the center line of the road or highway and the nearest line of the building, except on riparian lots the front yard will be taken to be that part of the lot that faces the water.
- (176) Yard, Rear - An open unoccupied space except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.
- (177) Yard, Side - An open unoccupied space on a lot between the main building and the side line of the lot, extending from the front of the lot to the rear of the lot.

Comment [B04]: As per building code, retaining walls OVER 4 ft in height require a building permit. Retaining walls 4 ft or under do not require a permit at all.

SECTION 4. GENERAL PROVISIONS

401. APPLICATION OF THIS ORDINANCE

- (1) In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- (2) Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- (3) Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

402. SEPARABILITY

It is hereby declared to be the intention that several provisions of this Ordinance are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgement shall not affect any other provisions of this Ordinance not specifically included in said judgement.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property building, or structure, such judgment shall not affect other property, buildings or structures.

403. LOT COVERAGE

Not more than fifteen (15) percent of a lot may be covered by buildings (including covered porches) and not more than twenty-five (25) percent of lot may be covered by impervious surfaces, including all structures, decks and pavement areas except as provided in Section 608, 609, and 610.

Comment [B05]: See 5/19/2011 e-mail from B. Rhineberger to B. Oleson: Covered porches count as "buildings" in this calculation.

404. LOTS OF RECORD

Lots of record in the office of the County Recorder prior to the effective date of this Ordinance may be allowed as residential building sites provided:

- (1) They have frontage on an existing public right-of-way or have frontage on an existing easement or other private roadway existing prior to January 1, 1977.
- (2) They have at least 20,000 square feet of area.

Lots smaller than 20,000 square feet may be used as dwelling sites if the owner can prove that adequate sanitary facilities can be provided. Said sanitary facilities must be located on the same lot of record as the dwelling, or on adjacent land which is legally available to the owner. Extraordinary alteration of the lot through land filling or excavation

shall not constitute proof of an adequate site for sanitary facilities.

The Board of Adjustment shall decide if lots smaller than 20,000 square feet may be used for dwelling sites in accord with Section 502.2. The expansion of the floor area of substandard residential uses on lots smaller than 20,000 square feet shall also be reviewed by the Board of Adjustment. Such expansion may be denied or limited by the Board when there is limited space for sewage treatment and/or no alternative sewage treatment site on the lot. The Board of Adjustment may note in its review that a substandard residential use should be used for seasonal use only, if adequate sanitary facilities for year-round occupancy cannot be provided. Holding tanks need not be considered as adequate sanitary facilities for year-round use. In no case shall the expansion of a substandard residential use exceed 50% of the assessed value of the original structure if a holding tank is the only available method for sewage treatment.

In determining if adequate sanitary facilities can be provided, the Board of Adjustment shall require that all standards in Section 716. Sewage Treatment and Disposal Standards be shown to be met. Due to the small lot size, and in areas where community water and sewer systems are not planned to be installed, the Board of Adjustment may require that proposals include a second location for a sewage treatment system. Proposals which can provide for only one site, and require a mound system or other alternative sewage treatment system shall not be considered as adequate sanitary facilities on lots which are predominantly low (less than 6 feet) in elevation above the Ordinary High Water Mark or water table. The total square footage of any proposed residence shall be limited by the Board on any lot where there is no alternative sewage treatment site available.

- (3) In a group of two or more contiguous lots under the same ownership, if an individual lot has less than 20,000 square feet of area, no lot nor lots may be considered as a separate parcel of land for the purposes of sale or development unless each separated parcel and the remainder contains at least 20,000 square feet of lot area.
- (4) All other requirements of this ordinance are met, including, but not limited to, setback standards and sewage treatment standards.

Comment [B06]: See 1/28/11 email from B. Rhineberger: "What constitutes contiguous lots is a determination you will have to make. Since statute does not define "contiguous", the common meaning is what needs to be used. Regardless of what the County does or doesn't do, in the end it is your and the Town Board's interpretation to make. In general, the County has considered lots with platted roads in between to be non-contiguous. However, there are other factors that may come into play for each situation."

405. NON-CONFORMING USES

405.1 Non-conforming Building and Uses

- (1) A non-conforming use existing at the time of adoption of this Ordinance may be continued except as provided herein.
- (2) A non-conforming building or land existing at the effective date of this ordinance shall be discontinued within a reasonable period of amortization of a building; uses of buildings and land which becomes non-conforming by reason of a change in this Ordinance shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to begin after the date of adoption of this Ordinance and shall be considered to be forty (40) years for buildings of ordinary wood construction; fifty (50) years for buildings of wood and masonry construction; sixty (60) years for buildings of fireproof construction; and twenty (20) years for mobile homes.

- (3) The Board of Adjustment shall hold a public hearing on the proposal. The petitioner or his representative shall appear before the Board in order to answer questions concerning the proposal.
- (4) The Board of Adjustment may approve, approve with modifications or conditions, or deny an application based on the information available and findings of the Board. All decisions by the Board of Adjustment shall be final, except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of the decision, to the District Court in the County in which the land is located on questions of law and fact.
- (5) A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, or decision or determination by an administrative official, or a request for a Variance, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be responsible for the document recording requirements of this section.
- (6) Any violation of a condition or ruling made by the Board of Adjustment shall be a violation of this ordinance. Failure to comply with any ruling of the board of adjustment shall void any variance or special permit granted by the Board of Adjustment.
- (7) A variance granted on or after September 12, 1995 shall be valid for a period of three years, and if not acted upon by the applicant or his assigns within that time, the variance shall be void. This restriction shall not apply to variances granted prior to September 12, 1995.

Comment [B07]: See 12/21/2011 e-mail from B. Rhineberger. He states that this 3 year restriction became effective 9-12-1995. Variances granted before then they haven't held to the 3 year time frame.

- (6) No application for a Conditional Use Permit shall be resubmitted for a period of six months from the date of said order of denial. Conditional Use Permits shall be valid for six (6) months unless otherwise specified. All conditions in a Conditional Use Permit shall be commenced within six (6) months and shall be complied with within one (1) year unless otherwise specified.
- (7) If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review.
- (8) In the event that the applicant violates any of the conditions set forth in this permit, the County Planning Commission shall have the authority to revoke the Conditional Use Permit.
- (9) A certified copy of any Conditional Use Permit shall be filed with the County Recorder. The Conditional Use Permit shall include the legal description of the property involved. The Zoning Administrator shall be responsible for the document recording requirements of this section.

506. PERMITS AND FEES

506.1 Building Permits

For the purpose of enforcing this Ordinance, a land use and building permit shall be required of all persons intending to erect, alter, wreck or move any building or structure. Buildings less than 120 square feet in total ground coverage shall not require a permit, however, they shall meet all required setback distances. All additions to residences shall require a permit. Buildings and permits shall conform with all applicable codes and ordinances adopted by Wright County. Permits shall not be required for the location of mobile homes or manufactured homes in mobile home parks which the County recognizes as legally established mobile home parks.

- (1) Persons requesting a building permit shall fill out a building permit form available from the Zoning Administrator.
- (2) Completed building permit forms and a fee as may be established by resolution of County Board of Commissioners shall be submitted to the Zoning Administrator. If the proposed development conforms in all respects to the Zoning Ordinance a building permit shall be issued by the Zoning Administrator within a period of 75 days.
- (3) If the proposed development involves a zoning amendment, variance, or conditional use permit the application, together with a building permit, shall be submitted either to the Planning Commission or Board of Adjustment or Appeals for review and appropriate action according to the procedures set forth in Sections 502, 503 and 504.
- (4) For all lots of ten (10) acres or less in size, a Certificate of Survey shall accompany each residential building permit application involving a new dwelling along with evidence that corner irons are established and visible. The certificate of survey shall include the location and size of the proposed residence sewer system, well, existing buildings and significant environmental features.

Comment [B08]: See 5/4/11 e-mail from B. Rhineberger: "Regardless of size, anything connected to the dwelling and/or more than 30 inches above grade abutting the dwelling requires a permit. Structures less than 30 inches above grade do not require a permit (considered a patio), provided they are not attached to the house."

See 5/16/11 e-mail from B. Rhineberger: "We do require permits for all guesthouses. Any thing that is for human habitation/occupancy requires a building permit. The code specifically mentions and exempts "tool and storage shed, playhouse, and similar uses"."

Comment [B09]: See 6/2/2010 e-mail from B. Rhineberger: "We require surveys for all new dwelling construction on lots 10 acres or less in size. We also require surveys for any variance request on a lots less than 20,000 square feet and most variances involving side and lake setbacks. We may also require a survey in instances where we cannot determine the exact location of a property line and it is critical to the issuance of any permit... in any instance where a survey is required, it must be prepared and submitted by a licensed surveyor. While accurate sewer designs are wonderful to receive, a licensed sewer designer is not a surveyor. If the septic designer is getting information directly from the surveyor, a paper copy of the certified survey might as well be submitted."

506.2 Signs and Billboard Permits

A permit shall be required in all cases where a sign or billboard is erected, altered, or relocated within the area of jurisdiction of this Ordinance. Specific requirements, exceptions and application procedures are set forth in 724.

506.3 Sewage and Water Systems: Licenses and Permits

- (1) A license shall be required of any person, firm or corporation engaging in the business of installing and constructing sewage disposal systems. Specific requirements and application procedures are set forth in Section 7.
- (2) A permit shall be required to install, alter, repair, or extend any individual sewage disposal system. Specific requirements, exceptions and application procedures are set forth in Section 7.
- (3) A license shall be required of any person, firm or corporation engaging in the business of servicing and cleaning septic tanks. Specific requirements and application procedures are set forth in Section 7.

506.4 Land Alteration Permits

In all cases where grading and/or filling of any land within the County would result in substantial alteration of existing ground contour, a permit shall be required. Specific requirements, exceptions and application procedures are set forth in Section 7.

Substantial alteration shall be defined as movement of earth or materials in excess of fifty (50) cubic yards in the Shoreland Districts and in excess of five hundred (500) cubic yards in all other Districts. Materials excavated for the purpose of constructing a basement shall be exempt from this calculation (but not materials outside of the footprint of the basement).

Comment [BO10]: See 9/19/11 e-mail from S. Riley: "We do not have an additional permit and fee after a CUP for a land alteration."

Comment [BO11]: See 5/12/11 e-mail from B. Rhineberger: "As for land alterations, it is a bit of a judgement call. Excavation for the basement only, has been exempt, but fill to raise a building pad has not (although we generally give some leeway). Driveways and fill for accessory structure have counted. We have a recent example on Lake Sylvania where the total alteration of a site to build a new home was over 700 yards, with nearly all of it being for driveway, parking areas, and creating a building pad. There was some for landscaping around the site, but that was minimal. They went through a CUP. In general, fill is seldom exempt."

506.5 Excavation Permits

The use of land for the removal of topsoil, sand or gravel, or any other material is permitted only by the issuance of an excavation permit. Specific requirements, exceptions and application procedures are set forth in Section 7.

506.6 Mobile Home Park Permits

Before any mobile home park or travel trailer park shall be constructed, altered, or extended in any manner, a permit shall be required. Specific requirements and application procedures are set forth in Section 7.

506.7 Essential Service Utility Permits

Essential services as treated herein shall refer to trunk transmission, sewer and water system, collection or distribution lines, except electrical distribution lines, and excepting lateral or house lines. Specific requirements and procedures are set forth in Section 725.

Medical and Dental clinics.
 Other Essential Services -water supply buildings, reservoirs, wells, regional pipelines.
 Golf courses.
 Churches.
 Residential Subdivisions.
 Schools within one-half mile of incorporated cities.
 Commercial Day Care Center

605.41 Prohibited Uses

All other uses not listed as permitted, accessory or conditional shall be prohibited.

605.5 Performance Standards

(Parcels in the R-1 District shall be limited to 1/2 animal unit per acre and less than 10 animal units total, except as allowed under Section 405.2 of this Ordinance.)

(1) Height Regulations:

No building hereafter erected shall exceed two and one-half (2 1/2) stories or thirty five (35) feet in height.

(2) Front Yard Regulations:

(a)	Required Setback Distance From Road Centerline	Required Setback Distance From Road Centerline For Livestock Buildings	Road Class
	130	130	State Highway
	130	130	County Road State Aid
	65	100	Local Street(Twp. Rd.)
	25	100	From right of way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within three hundred (300) feet except that no building shall be located less than twenty (20) feet from the right-of-way line.

(3) Side Yard Regulations:

There shall be a minimum side yard of fifteen (15) feet for principal uses (including attached garages) and ten (10) feet for accessory uses unless the building is housing livestock, then the setback is 100 feet for livestock buildings.

Comment [BO12]: See 5/19/11 e-mail from B. Rhineberger: "I calculate the distance to the building. If the building is 80 feet, I use 80 feet as the number, not 65 feet. Vacant lots would not have a value. I use only the closest structures on the neighboring lots and use the actual setback distance from the right of way (I use right-of-way because of the 20 foot provision)."
 That is a scenario that we have never had. In theory you would be right, a 35' right of way setback. However, I may argue that without enough properties to get an reliable average, the standard should be applied (this scenario would assume a r-o-w of less than 66 feet, otherwise 35 + 33 foot to centerline would be compliant).

Comment [BO13]: See 9/15/11 e-mail from B. Rhineberger: "the setback for an attached garage has always been 15 feet."

606.5 Performance Standards

(Parcels in the R-2 District shall be limited to ½ animal unit per acre and less than 10 animal units total, except as allowed under Section 405.2 of this Ordinance.)

(1) Height Regulations:

No building hereafter erected shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

Shall not apply to wind chargers which are at least fifty (50) feet from any property line.

(2) Front Yard Regulations:

(a)	Required Setback Distance From Road Centerline	Required Setback Distance From Road Centerline For Livestock Buildings	Road Class
	130	130	State Highway
	130	130	County Road State Aid
	65	100	Local Street(Twp. Rd.)
	25	100	From right of way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within three hundred (300) feet except that no building shall be located less than twenty (20) feet from right-of-way line.

Comment [B014]: See 5/19/11 e-mail from B. Rhineberger: "I calculate the distance to the building. If the building is 80 feet, I use 80 feet as the number, not 65 feet. Vacant lots would not have a value. I use only the closest structures on the neighboring lots and use the actual setback distance from the right of way (I use right-of-way because of the 20 foot provision)."
That is a scenario that we have never had. In theory you would be right, a 35' right of way setback. However, I may argue that without enough properties to get an reliable average, the standard should be applied (this scenario would assume a r-o-w of less than 66 feet, otherwise 35 + 33 foot to centerline would be compliant).

(3) Side Yard Regulations:

There shall be a minimum side yard of thirty (30) feet for principal uses (including attached garages) and ten (10) feet for accessory uses unless the building is housing livestock, then the setback is 100 feet for livestock buildings.

(4) Rear Yard Regulations:

There shall be a rear yard having a depth of not less than fifty (50) feet for non-livestock buildings and a setback of 100 feet for livestock buildings..

(5) Lot Area Regulations:

The minimum lot size shall be two and one-half (2 1/2) acres.

606.a5 Performance Standards

(Parcels in the R-2(a) District shall be limited to ½ animal unit per acre and less than 10 animal units total, except as allowed under Section 405.2 of this Ordinance.)

(1) Height Regulations:

No buildings hereafter erected shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

Shall not apply to windchargers which are at least fifty (50) feet from any property line.

(2) Front Yard Regulations:

(a)	Required Setback Distance From Road Centerline	Required Setback Distance From Road Centerline For Livestock Buildings	Road Class
	130	130	State Highway
	130	130	County Road State Aid
	65	100	Local Street(Twp. Rd.)
	25	100	From right of way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within three hundred (300) feet except that no building shall be located less than twenty (20) feet from right-of-way line.

Comment [B015]: See 5/19/11 e-mail from B. Rhineberger: "I calculate the distance to the building. If the building is 80 feet, I use 80 feet as the number, not 65 feet. Vacant lots would not have a value. I use only the closest structures on the neighboring lots and use the actual setback distance from the right of way (I use right-of-way because of the 20 foot provision)."
That is a scenario that we have never had. In theory you would be right, a 35' right of way setback. However, I may argue that without enough properties to get an reliable average, the standard should be applied (this scenario would assume a r-o-w of less than 66 feet, otherwise 35 + 33 foot to centerline would be compliant).

(3) Side Yard Regulations

There shall be a minimum side yard of thirty (30) feet for principal uses (including attached garages) and ten (10) feet for accessory uses unless the building is housing livestock, then the setback is 100 feet.

(4) Rear Yard Regulations

There shall be a rear yard having a depth of not less than fifty (50) feet for non-livestock buildings and a setback of 100 feet for livestock buildings.

(5) Lot Area Regulations:

The minimum lot size shall be five (5) acres.

(6) Lot Width and Depth Regulations:

The minimum lot width shall be three hundred (300) feet and the minimum lot depth shall

612.5 Shoreland Performance Standards

612.5 (1) General Performance Standard for Lakes

Performance standards in shoreland areas are additional to standards of the primary zoning district. In case of a conflict, the stricter standard shall apply as well as any additional requirements if flood plain elevations have been established.

The minimum lot size of the underlying zoning district applies only where soil percolation tests indicate the lot is sufficiently large to provide for the drainfield and septic tank setbacks required by this Ordinance.

(a) General Development Minimum Standards:

Structure setback from NOHW	75 ft.
Structure setback from Bluff	30 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level <u>(livable structures only)</u>	4 ft.
Water Oriented Accessory Structure setback from NOHW	10 ft.

The lot width may be reduced to 100 feet if public sewage treatment facilities are provided.

Comment [BO16]: See 11/3/11 e-mail from B. Rhineberger: "As far as I can recall, we have only been applying the 4 foot standard to livable structures. We do not permit many boathouses, so it has not come up very often (livable space is prohibited in boathouses)."

(b) Recreational Development Standards:

Structure setback from NOHW	100 ft.
Structure setback from Bluff	30 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level <u>(livable structures only)</u>	4 ft.
Water Oriented Accessory Structure Setback from NOHW	10 ft.

The lot width may be reduced to 100 feet if public sewage treatment facilities are provided.

Comment [BO17]: See 11/3/11 e-mail from B. Rhineberger: "As far as I can recall, we have only been applying the 4 foot standard to livable structures. We do not permit many boathouses, so it has not come up very often (livable space is prohibited in boathouses)."

(c) Natural Environment Standards:

Structure setback from NOHW	200 ft.
Structure setback from Bluff	30 ft.
Lot Size	2 acres
Lot Width	200 ft.
Lot Depth	200 ft.
Side Yard Setback	20 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level	4 ft.

****Water Oriented Accessory Structures are not permitted on Natural Environment Lakes.**
612.5 (2) General Performance Standards for Rivers

Performance standards in shoreland areas are additional to standards of the primary zoning district. In case of a conflict, the stricter standard shall apply as well as any additional requirements if flood plain elevations have been established.

(a) Transition Standards:

Structure setback from NOHW	200 ft.
Structure setback from Bluff	30 ft.
Lot Size	2 acres
Lot Width	250 ft.
Lot Depth	200 ft.
Side Yard Setback	20 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level <u>(livable structures only)</u>	<u>4 ft.</u>

**** Water Oriented Accessory Structures are not permitted on Transition Rivers.**

(b) Agriculture and Tributary Standards:

Structure setback from NOHW	100 ft.
Structure setback from Bluff	30 ft.
Lot Width	150 ft.
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level <u>(livable structures only)</u>	<u>4 ft.</u>
Water Oriented Accessory Structures setback from NOHW	10 ft.

Comment [B018]: See 11/3/11 e-mail from B. Rhineberger: "As far as I can recall, we have only been applying the 4 foot standard to livable structures. We do not permit many boathouses, so it has not come up very often (livable space is prohibited in boathouses)."

- (b) Sediment basins shall be maintained as the need occurs to insure continuous desilting action.
- (c) The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.
- (d) Prior to the approval of any plat for development, the developer shall make provision for continued maintenance on the erosion and sediment control system.

711. EXPLOSIVES

No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except as are specifically licensed by the County Board.

712. GUEST HOUSES

Guest houses, for purpose of this Ordinance, shall be an accessory building detached from the principal building where accommodations for sleeping are provided but no kitchen facility provision is made. The use is for persons visiting the occupants of this principal building. Guest houses shall be permitted in all Residential Districts and shall be located the required depth of the rear yard or more from the principal building and shall conform to the side yard requirement for the principal building. Guest houses shall be located on lots at least 20,000 square feet in area, and no guest house shall be used as rental property.

Only one guest house shall be permitted per parcel of land, providing that adequate sanitary facilities can be provided and that no guest house shall exceed 750 square feet in total floor area. The Board of Adjustment shall review requests for guest houses on lots with no principal dwelling.

Comment [BO19]: See 8/25/11 e-mail from S. Riley: "We added the no second story to accessory buildings a while back and the guest house section is the same as it has been for years. But either way no matter the use or classification of an accessory building it can't exceed the second story definition on lots under one acre. The only way to have a guest house above a building is to have a lot that is an acre or more. The lots between 20,000 and one acre need it on the first level. We need to clean that up on our next ordinance revision and perhaps limit guest houses to one acre."

Comment [BO20]: See 6/2/11 e-mail from B. Rhineberger: "Generally, all space within the confines of the habitable space are considered part of the floor area (within the exterior walls or outside limits of the guesthouse area). If they want to use that space inefficiently, that is up to them. Storage/attic space on another level/floor are generally not considered as part of the square footage. However, if there is a stairway access, we generally require the headroom be no more than 6'6" (I would actually prefer 6', but that is not my call)."

716. SEWAGE AND WASTEWATER TREATMENT AND DISPOSAL STANDARDS

716.1 Purpose and Intent

The purpose of the Sewage and Wastewater Treatment and Disposal Standards shall be to provide minimum standards for, and regulation of, subsurface sewage treatment systems (SSTS) and septage disposal including the proper location, design, construction, operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes Chapters 115 and 145A and Minnesota Rules Chapter 7080 through 7083 as amended that may pertain to sewage and wastewater treatment.

716.2 General Provisions

- (1) Standards adopted by reference. The County hereby adopts, by this reference, Minnesota Rules Chapter 7080 and 7081 and Minnesota Statutes Section 115.55, along with any future amendments.
- (2) License requirements. No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site subsurface sewage treatment systems without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency, except as provided under part 7083.0700. Only gravity fed Type I systems can be installed by homeowners.
- (3) Permits. No person shall install, alter, repair or extend any SSTS in Wright County without first applying for and obtaining a permit from the Environmental Health Office (EHO) and at the same time paying a fee as listed in the fee schedule determined by the County Board of Commissioners. Maintaining the system as originally designed and installed is excluded from the previous requirements. A permit is required for the conversion of a septic tank to a holding tank. As needed, operating permits and any associated fees will be required by EHO staff when necessary for proper system operation. Staff will notify the permittee of an incomplete application, when the requirements are met a permit will be issued. Such permit shall be valid for a period of eighteen (18) months from the date of issuance. A full design must be submitted before a permit for a new or replacement system is approved. When weather does not allow a full site evaluation to be completed, a design of the worst case scenario shall be submitted. Verification is required when weather permits.
- (4) **Construction Inspections.** The permittee shall notify the EHO prior to the completion and covering of the SSTS. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design. Inspections will be made at least once during the construction of the SSTS at such time to assure that the system has been constructed per submitted and approved design.
 - (a) No part of the system shall be covered until it has been inspected and accepted by the Inspector unless prior arrangements have been made.
 - (b) Proposals to alter the permitted construction shall be reviewed and the proposed change accepted in writing by both the designer and the EHO.

Comment [BO21]: See 2/24/11 e-mail from S. Riley: "We require certifications be done before issuing permits when a cert. is needed. Fortunately this winter with all the snow cover and lack of frost most of the certifications have been able to be completed. If conditions really make it not possible to do a cert. we look at the details of the permit request and the sewer info. If it is likely the system will pass we would make a condition of the permit the certification needs to be completed in the spring. If things don't look good we want the owner to understand a new septic might be needed to get approval/permit. At that point we usually require that a preliminary design be done and have them apply for a new septic system. If the compliance is bad they finish the design and have a septic permit in hand. If it ends up good we refund their fee."

- (9) With septic tank pumping, the maintenance hole(s) shall be brought to within one foot of finished grade and properly secured as needed. With the pumping, maintaining or certification of a lift tank, the pump riser must be brought to grade.
- (10) SSTS must be properly abandoned according to part 7080.2500.
- (a) If the individual abandoning a SSTS is not a licensed SSTS professional, the abandonment must be inspected by a licensed SSTS inspector.
 - (b) A state abandonment document must be submitted to the local unit of government within 90 days of abandonment.
- (11) Failing SSTS must be resolved on the following schedule:
- (a) A failing SSTS as described in 7080.1500 subp. 4b, shall be upgraded, replaced or its use discontinued within one (1) year of notice. The Environmental Health Office will give consideration to weather conditions as it establishes compliance dates.
 - (b) An SSTS posing an imminent threat to public health or safety as described in 7080.1500 subp. 4a, shall be abated within ten (10) days of notice. The system shall be upgraded, replaced, or repaired or its use discontinued, within 6 months of notice.
- (12) Holding Tanks
- (a) Holding tanks shall not be used as a sanitary system for a new residential dwelling. For conforming lots and structures, a holding tank may be used for expansions, alterations, additions, and improvements to existing dwellings so long as it does not exceed fifty (50) percent of the value of the existing structure as indicated in the records of the County Assessor, or fifty (50) percent of the footprint, whichever is more restrictive. Holding tanks may also be used for the exact replacement of an existing dwelling.
 - (b) Holding tanks shall only be used as a corrective action for sewage disposal for pre-existing uses where a full treatment system cannot be installed.
 - (c) Undeveloped lots of record on which a holding tank is the only practical means of sewage disposal are unsuitable for residential use.
 - (d) Holding tanks shall not be installed on undeveloped lots of record for recreational uses unless the lot has been found to be suitable for a dwelling and can support a full septic system.
 - (e) Holding tanks must have an alarm device for the prevention of overflow.
 - (f) An owner must have a current pumping contract signed by the owner and a licensed maintenance business. Records shall be kept to validate required pumping.
 - (g) A septic tank that is converted to a holding tank must be pumped and certified.

Comment [BO22]: See 3/1/11 letter from B. Rhineberger re: Lease variance: "3/1/11. In addition, the Wright County Board of Adjustment has consistently ruled that lots serviced by holding tanks be limited to replacement only." (The highlighted language to the left was instituted in April 2010)

**Table 3
Minimum Setback Distances (Feet)**

	Sewage or Holding Tank	Soil Treatment or Absorption Area	Building Sewer or Supply Pipes
Water Supply Wells* (50 feet of continuous casing or encountering 10 feet of impervious material)	50	50	50**
Water Supply Wells* (less than 50 feet of continuous casing)	50	100	50**
Buried water suction pipe*	50	50	50**
Buried pipe distributing water under pressure*	10	10	10
Buildings***	10	20	-
Property Lines****	10	10	-
Subsurface drainage systems such as field tile lines	50	50	-
Surface drainage systems such as open ditches	30	30	-
The ordinary high water mark of the following types of lakes:			
Natural Environmental Lakes and Transitional River Segments (North Fork of the Crow)	150	150	-
Recreational Development Lakes, Mississippi River, Agricultural Rivers and Tributaries as defined in Section 612.4	75	75	-
General Development Lakes	50	50	-
All public water wetlands as defined by Minnesota Statutes, Section 103G.005, Subd. 15a or successor statute	50	50	-

Comment [BO23]: See 4/28/11 e-mail from S. Riley: "In this case we would agree and say the setback would be from the building line and not the drip line of the lean-to. After that point it is common sense not to have the lean-to and holding tank conflict with landscaping and needing proper maintenance routes and the like. With that, it looks like the setback is so close that it could be improved by reconfiguring the tanks, installing one big tank instead of two, or some other minor modification and avoid the BOA."

* Setbacks from buried water pipes and water supply well as governed by Minnesota Rules, Chapters 4715 and 4725, respectively.

** The setback can be reduced from 50 to 20 feet if the building sewer or supply pipe is air tested by holding 5 pounds of air pressure for 15 minutes.

*** For structures other than buildings these setbacks may be reduced if necessary due to site conditions, but in no case shall any part of the individual sewage treatment system be located under or within the structure. For this provision to be employed there shall not be interior space below the structure. For the new construction of a structure without interior space below the structure no part of the absorption area shall encroach closer than 10 feet.

**** The setback from the treatment area to the platted road may be reduced with written approval from the road authority. The Board of Adjustment shall review variance requests, including those from common property lines, per 502 Appeals and Board of Adjustment in the Wright County Zoning Ordinance.

- (5) Placement of the unit shall comply with all setback requirements for a principal structure.

Comment [BO24]: See 3/3/11 e-mail from B. Rhinberger: "if a travel trailer/RV is used for recreational purposes, County ordinance requires the unit meet principle setback standards as per 717. If being stored, it must comply with 702. Generally, if it comes for a weekend and then leaves, we would never know it was there. If it stays for an extended period, a variance would be needed."

718. RELOCATION OF STRUCTURES

A conditional use permit shall be required for all permanent relocation of residence and for the relocation of any building requiring a permit in residential areas. Relocated sheds, farm buildings, cribs and other farm structures onto farms do not require a conditional use permit.

Relocation of construction sheds to be located on a lot for less than eighteen (18) months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure to be moved and proposed site plan of the lot on which the structure is to be located. The Planning Commission shall also require a map indicating location of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots. If the Planning Commission decides that relocation of the structure would depreciate the value of structures or lots surrounding the lot upon which it is to be moved, then the permit shall be denied. The relocation of railroad cars and cabooses onto lots shall be prohibited in all districts.

A conditional use permit shall be required to locate a mobile home on any property for use as a storage shed or other non-residential use.

719. VACATED STREETS

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding. If a street is vacated, within a zoning district, the provision of that district shall apply to the new parcels.

720. PERMITTED ENCROACHMENTS

The following shall be considered as permitted encroachments on setback and height requirements except as herein provided:

- (1) In any yard: Posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, and fences, and all other similar devices incidental and appurtenant to the principal structure except as restricted elsewhere herein.
- (2) In side and rear yards: Bays not to exceed a depth of three (3) feet or contain an area of more than thirty (30) square feet, fire escape not to exceed a width of three (3) feet. Breezeways, detached outdoor picnic shelters, open arbors and trellises may extend to within five (5) feet of a side or rear lot line except that no structure shall exceed five hundred (500) square feet. Covered porches may extend twenty (20) feet into the rear yard but not closer than ten (10) feet from the rear lot line, and must meet shoreland standards.

Comment [BO25]: See 6/2/11 e-mail from B. Rhineberger (in regard to whether driveway pillars require a permit): "Ornamental features and fences are listed as permitted encroachments. Would the pillars be considered an ornamental feature?"
"There are two things to consider: 1: Is the feature a permitted encroachment & 2: Does it require a permit. I am apt to think that they area all permitted encroachments regardless of size, however, I would want to see what is being done before a final determination is made. A permit should be required based on the some size. If it is part of a fence, the fence is a permitted encroachment, but still requires a permit if taller than 6 ft. The same goes for retaining walls over 4 ft. As permitted encroachments, I would still want feedback from any township where the proposed fence is close to the traveled surface (in unplatted metes & bounds areas). The permitted encroachment does not go into platted right-of-ways, so everything must be within the confines of the property lines."

728. LAND ALTERATIONS

728.1 Permit Required

- (1) A Land Alteration Permit shall be required in all cases where excavation, grading and/or filling of any land within the county would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion or would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the County.
- (2) Substantial alteration shall be defined as the extraction, grading, or filling of land involving movement of earth and materials in excess of fifty (50) cubic yards in the Shorelands Districts and in excess of five hundred (500) cubic yards in all other districts except drain tiles and ditch cleaning in agricultural areas. Such substantial alteration shall require a conditional use permit.

The creation of wildlife ponds, pollution control structures, and erosion control structures shall not require a conditional use permit, provided that said construction is approved by an official of the Soil and Water Conservation District and abides by all other applicable rules, regulations and ordinances.

- (3) The extraction, grading, or filling of land involving the movement of rock, earth and materials (including landscaping blocks, timbers or boulders) in excess of ten (10) cubic yards within shore, bluff impact zones, or steep slopes in shoreland areas shall require an Administrative Permit but not a conditional use permit.
- (4) Public road improvement projects, and grading and excavation directly related to such projects (not to include gravel pits), shall not require a Land Alteration Permit provided the work is directly supervised by the County Engineer or the Governing Body of a local unit of government.
- (5) A Land Alteration Permit is also required from the County and from the Commissioner of Natural Resources for any alteration in the Flood Plain District and the Shorelands Districts. Such alteration shall include any filling, dredging, channeling, or any other work in the beds of public waters which would change the course, current or cross section of a public water.
- (6) A Land Alteration Permit shall be valid for a period of six (6) months from the date of issue. A Land Alteration Permit shall be administered in the same manner as a Conditional Use Permit.

Comment [BO26]: See 6/21/11 e-mail from B. Rhineberger: "As for land alteration permits, we require drawing and calculation be submitted by the applicant, just as with other permits. Most drawing must show before/after topo (can be hand drawn), calcs for cut/fill, and most include what type of materials are used (for retaining walls and landscaping)."

Comment [BO27]: See 5/12/2011 e-mail from B. Rhineberger to B. Oleson: "for land alterations, it is a bit of a judgement call. Excavation for the basement only, has been exempt, but fill to raise a building pad has not (although we generally give some leeway). Driveways and fill for accessory structure have counted. We have a recent example on Lake Sylvia where the total alteration of a site to build a new home was over 700 yards, with nearly all of it being for driveway, parking areas, and creating a building pad. There was some for landscaping around the site, but that was minimal. They went through a CUP. In general, fill is seldom exempt."

Comment [BO28]: See 6/23/11 e-mail from B. Rhineberger: "Yes, rip rap projects would require an administrative permit if over 10 cubic yards. My understanding is the DNR standards are a requirement, regardless of amount of material. In that case, any such project would be required to meet DNR standards, but may or may not need a County/Township permit depending on the amount of material being moved."

See 8/8/11 e-mail from S. Riley: "Concerning the rip-rap, in most circumstances if it is installed per the DNR requirements and they don't require a permit, our office usually does not require a separate permit for rip-rap."

See 8/30/11 e-mail from S. Riley: "Whether it is erodible or not we count it in the calculation. I guess I have never heard it broken down that way or thought about it in that manner before? When rip rap is being done and it is truly a rip rap application following DNR standards we usually don't count that. So if it is just rip rap we are usually notified and don't have a permit requirement, similar to the DNR. Barry indicated we have a permit, but he does not deal with too many of the land alterations and we always reserve the right for a permit if it is beyond just rip rap. The DNR allows LUGs to either require a permit or not for rip rap. If rip rap is part of a larger project we have a permit or a hearing and the rip rap is noted, but not counted. Over four feet requires a permit. If it is just for the height we do a building permit, if it is part of a land alteration permit or hearing we include the over 4 foot with that and don't charge an additional permit."

"No, the only time we don't count material is if it is rip rap. If it is blocks, timbers, boulders, that is counted towards the project. So in your example you have a project that in total is 65 cubic yards of additional material to the 25 yards of dirt. Since you are including rip rap and the steps (something that is allowed assuming they do not exceed 4 feet in width) I would subtract those out in an attempt to keep it under 50 cubic yards and require a plan and an administrative permit. If that is pushi... [1]

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"No, the only time we don't count material is if it is rip rap. If it is blocks, timbers, boulders, that is counted towards the project. So in your example you have a project that in total is 65 cubic yards of additional material to the 25 yards of dirt. Since you are including rip rap and the steps (something that is allowed assuming they do not exceed 4 feet in width) I would subtract those out in an attempt to keep it under 50 cubic yards and require a plan and an administrative permit. If that is pushing it too much and it is clearly over 50 yards in total, even with the subtractions, a CUP would be required.

Overall, I would agree that our main concern is the alteration of the existing landscape, but the brought in materials have impacts also, such as on drainage, aesthetics,, and coverage. If someone has existing retaining walls and needs to tear them out and replace as is or similar some wiggle room would be given to that.

Land alteration is not a perfect science, especially without planning methods comparable to surveys, site evaluations, and house plans. Engineering and landscape architects could help to solve those unknowns, but nobody wants to hire these people until they absolutely have to. So we kind of have to go on a site by site basis and a feel for it.

I guess I visit a lot and if it is already altered, vegetation gone, trees removed, and so on I am less concerned that if it is at the bottom of a steep slope that is unaltered, and the shoreline is stabilized by trees and vegetation. The first will result in little additional impact if something is done and probably most people won't notice. The second will stand out like a sore thumb and both the neighbors and lake association will be calling wondering what is going on.

The township can of course require permits for rip rap, or interpret some of those more vague issues as they see fit. As you have a lot of lake shore and active lake associations it seems as if it is pushed towards the playing safe and tighter control end of the spectrum. Perhaps that is good? I can't personally visit the sites you have in Corinna, but I know most of the lakes and with our air photos, topography, and such have good tools to look at. Feel free to send descriptions of land alteration proposals and preliminary sites plans and we can do our best to indicate the direction we would go with it."

