

STAFF REPORT

Application:	Requests related to the construction of an approximate 15' x 36' dwelling addition over an existing open deck. Approvals required include a variance for the expansion of an existing dwelling approximately 62 feet from Mink Lake (min. 100 feet required) and within approximately 3 feet of an existing septic tank (min. 10 feet required).
Applicant:	Paul Mielke and Janelle Dixon
Property Owner:	Janelle Dixon
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicants are proposing to construct a dwelling addition in place of an existing open deck. The addition would be located over an existing basement/tuck-under garage. The addition, at its closest point, would be 62 feet from the lake – the same distance as the existing home/garage.

The new addition will also extend about 1 foot closer to the existing septic tank, reducing the existing 4-foot setback to approximately 3 feet.

- **Location:**
 - Property address: 8067 Griffith Ave NW, Maple Lake
 - Sec/Twp/Range: 24-121-27
 - Parcel number(s): 206017001020
- **Zoning:** R1 - Urban/Rural Transition/S2 - Residential-Recreational Shorelands, Mink Lake (Recreational Development lake)
- **Lot size:** Approx. 26,998 sq ft (0.62 acres) according to Beacon GIS estimate.

Existing Impervious Coverage:

- Buildings: About 1,758 sq ft (6.5%)
- Total: About 5,227 sq ft (19.4%)

Proposed Impervious Coverage:

- Buildings: About 1,800 sq ft (6.7%)
- Total: About 5,250 sq ft (19.4%)

- **Septic System Status:** The septic system was updated in 2012 and involves both septic tanks and a drainfield. The septic tank is currently located about 4 feet from the dwelling and this setback would be reduced to about 3 feet factoring in the approx. 1-foot cantilevered addition.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain. The ordinance, however, requires that the lowest floor of a dwelling be constructed at

least four (4) feet above the highest known water level. The existing dwelling and proposed addition are well above this elevation requirement.

- Bluff/Steep Slopes: The lot does contain areas of steep slopes.
- Wetlands: There does not appear to be any wetlands that would impact this proposal.
- Current Shoreline Conditions: Mostly mowed grass to the shoreline with a number of mature trees.

● **Permit History:**

- 1962 – apparent date the existing home was constructed on the lot (from Assessor's records)
- 1975 – 12 x 14 dwelling addition
- 1995 – 32' x 36' basement addition
- 1997 – Septic system install
- 2005 – Variance approved for 10' x 20' 4-season porch 70 ft from lake.
- 2011 – Septic system converted to holding tanks
- 2012 – Variance to construct dwelling/garage addition
- 2012 – Install new septic system with drainfield.

Board of Adjustment Direction: The Board of Adjustment may approve the variance request, deny the request(s), or table the request(s) if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Recommendation: Based on the relevant findings of fact noted below, Staff recommends approval of the requested variances as presented only if the Board finds that the closer encroachment to the septic tank is justified. Alternatively, Staff recommends approval of the requested variance with the plans altered to not go closer to the septic tank.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. (For discussion) That the building plans are revised such that the existing 4 foot setback to the tank is maintained, including to the outermost wall of any cantilevered portions.
2. (For discussion) That the applicant provides an as-built survey and if the site is over 25% impervious coverage, that impervious be removed so as to stay within the 25% limit.
3. The applicant shall submit a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allow adequate time for infiltration or other treatment of rainwater from the lot prior to it flowing into the lake, wetlands, road right-of-way or onto adjoining properties. These may include directing rain gutters to appropriate areas, rain barrels, establishing or maintaining a buffer of native vegetation along the shoreline,

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.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact that would support either approval or denial are presented by Staff for consideration by the Board of Adjustment:

1. Will the granting of the variance be in harmony with the general purposes and intent of the Corinna Township Land Use (Zoning) and/or Subdivision Ordinance?

Findings Supporting Approval

The proposed addition will not encroach any further on the lake than the existing structure and the view from the lake will not be substantially changed from what exists now.

Findings Supporting Denial

The proposed addition will substantially change the view of the structure from the lake as it will be a new second story where one did not exist previously.

Septic setback to structure: The spirit and intent of the ordinance is to minimize the potential for interference between the septic components and the building activities during construction, as well as to prevent damage to the septic system or the nearby structure during the operation and maintenance of either the building or the septic components.

Findings Supporting Approval

The additional encroachment on the septic tank will be minimal and only due to a cantilevered floor rather than the full foundation. Maintenance of the tank will still be possible.

Findings Supporting Denial

The dwelling is already less than ½ the normally required 10-foot setback and to the proposal to further encroach by an additional foot would make maintenance of the tank more difficult yet.

2. Will the granting of the variance be consistent with the Corinna Township Comprehensive Plan?

The Comprehensive Plan states a goal of ensuring "that any land use regulations adopted by Corinna Township meet the goals of the Comprehensive Plan and are understandable, fairly applied, and implemented in a clear, consistent manner."

- Comment: The primary issue related to fair and consistent application of the ordinance requirements with this application is whether the encroachment on the septic tank is warranted and whether the encroachment on the lake will substantially change the character of the property as viewed from the lake.

The Comprehensive Plan states the following as strategies to "protect, preserve, and enhance lake water quality":

- Require on-site storm water retention and erosion-control plans for all new lakeshore development and redevelopment of existing sites, to ensure that storm water runoff is properly managed and treated before entering surface waters.
 - Comment: If the proposed project is allowed, a stormwater plan to ensure protection of the lake and to manage stormwater in general is advised.
- Seek ways to ensure that new development, landscaping, or other alterations on lakeshore properties preserve and/or provide for the planting of native trees and shoreline vegetation.
 - Comment: The application would not appear to require the removal of any trees.
- Require the use of best management practices as outlined by the Minnesota DNR, University of Minnesota Extension, or other appropriate agencies during the development and re-development of all property in the Township to prevent erosion and sedimentation that eventually reaches area lakes and wetlands through ditches, direct runoff, or other means.
 - Comment: See comments above.
- Limit the amount of grading and filling in the shoreland area so as to minimize the disturbance of soil and prevent erosion.
 - Comment: It does not appear that any significant grading will be necessary for the proposed project.

Findings Supporting Approval

The proposed use (residential) would represent an anticipated use within the shoreland zoning district and as such is not inconsistent with the Comprehensive Plan.

Findings Supporting Denial

The approval of a variance would be in conflict with the Comprehensive Plan’s goal of consistent enforcement of ordinances in that it would allow for a home that is already larger than most in the area to be further expanded within a lake setback.

3. Is the proposed use of the property reasonable?

Findings Supporting Approval

The desire to have a larger home is reasonable in that the resulting home would not be excessively large given the size of the lot in comparison to others in the immediate area.

Findings Supporting Denial

The requested lake setback is reasonable, but the proposal to go even closer to the septic tank than what already exists (from 4 ft to 3 ft when 10 ft is the normal requirement) is unreasonable since a slight modification to the plans would eliminate the need for this variance.

4. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

Findings Supporting Approval

The need for the variances is due largely to the location of the existing house (originally built in 1962) and the shape and layout of the lot.

Findings Supporting Denial

None

5. Will the variance, if granted, alter the essential character of the locality?

Findings Supporting Approval

The character of the area would remain residential in character and as such the essential character of the area would remain as it is.

Findings Supporting Denial

The proposed home, as viewed from the lake, would be a substantial change given that it is essentially a second story addition as viewed from the lake.

6. Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?

Findings Supporting Approval

The need for the variance is due to non-economic factors mentioned above.

Findings Supporting Denial

None

7. Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?

Findings Supporting Approval

In regards to lake setback, there is no way for them to construct a house addition that would mee the required 100 ft setback.

Findings Supporting Denial

The applicant could eliminate the extension of the house toward the septic tank in that area of the addition.

8. Will the granting of the variance adversely affect the environmental quality of the area?

Findings Supporting Approval

The proposed addition will not add significantly to impervious coverage beyond what already exists and as such the environmental impact will be negligible. Any impacts of the impervious coverage can be sufficiently managed with stormwater best management practices.

Findings Supporting Denial

None

Appendix A

Applicable Statutes and Ordinances

Minnesota Statutes

462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Corinna Township/Wright County Regulations

502. APPEALS AND BOARD OF ADJUSTMENT

502.4 Findings

(1) The Board of Adjustment must review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.

(a) The granting of the variance will be in harmony with the County Land Use Plan.

- (b) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
- (c) The plight of the owner is due to circumstances unique to the property not created by the owner.
- (d) The proposal does not alter the essential character of the locality.
- (e) The practical difficulty cannot be alleviated by a method other than a variance; and.
- (f) The granting of the variance will not adversely affect the environmental quality of the area.

The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

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.

(b) Recreational Development Standards:

Structure setback from OWHL	100 ft.
Structure setback from Bluff	30 ft.
Structure setback from unplatted cemetery	50 ft.
Lot Size	As per underlying zoning district
Lot Width	As per underlying zoning district
Height	2 1/2 stories (35 ft.)
Elevation of lowest floor above highest known water level (livable structures only)	4 ft.
Water Oriented Accessory Structure setback from OWHL	10 ft.