

CORINNA TOWNSHIP
AGENDA
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
February 3, 2011

7:00 PM

1. Call to Order
2. Roll Call
3. Additions or Deletions to the Agenda
4. Public Hearings
 - a. Zoning Ordinance amendment to Section IX (Zoning Amendments) and X (Permits and Fees)
 - i. Applicant: Corinna Township
 - ii. Purpose: To eliminate possibly confusing language regarding the Township Evaluation procedure for rezoning requests. To revise the Township fee schedule to match with the Wright County Fee Schedule.
 - b. Zoning Ordinance amendment to Appendix A, Section 716 (Sewage and Wastewater Treatment and Disposal Standards)
 - i. Applicant: Corinna Township
 - ii. Purpose: To adopt regulations affecting subsurface sewage treatment systems as required by the State of Minnesota and Wright County. The amended regulations would be the same as those adopted by Wright County in April 2010.
5. Approve Previous Meeting Minutes
 - a. December 2, 2010
6. Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - i. Partially acted-upon variances
 - c. Enforcement Actions
7. New Business
8. Old Business
 - a. Continued discussion of Conservation Overlay District concept
 - b. Zoning Administration Update
9. Adjournment

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

STAFF REPORT

Agenda Item: 4a – Amend Corinna Township Land Use Ordinance to clarify process for Zoning Amendments and to match Township and County fee schedules.

Background: The two sections where amendments are proposed relate to the process for amending the Township’s official zoning map and the Township’s fee schedule.

Zoning Amendments

The current language includes the language “If Wright County requests input from Corinna Township as part of a process to establish or modify zoning classifications within Corinna Township, the Township shall make a recommendation...”

It was felt that this language could cause confusion in that 1) the County’s practices for many years has been to require Township input before making decisions on rezoning; and 2) the Township wants it to be clear that it does want an opportunity to comment on proposed rezoning before the County makes a final decision.

The proposed language would be a much simpler “Corinna Township shall make a recommendation regarding a rezoning to the County only after consideration of the following criteria...”

Fee Schedule

With the recent agreement between the County and the Township regarding administration of shoreland zoning, building permits and sewer permits, there was a desire to have the Township’s fee schedule match the County’s fee schedule. This will help avoid confusion both for County building and sewer inspectors as well as for the general public.

For the most part, the fee schedules did already match up, so the changes are not all that significant.

Copies of both proposed ordinance changes are attached.

E. A motion from the Board must be made, seconded and passed by a majority in order to decide all questions.

F. If a vote is not unanimous, a roll call vote shall be taken.

8.7 MINUTES AND RECORDING OF THE VOTING

The Planning Commission shall keep minutes of proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep the records of its examinations and other official actions, all of which shall be a public record. Conditional and Interim use permits shall be filed in the Office of the Recorder.

SECTION IX – ZONING AMENDMENTS¹

The language in Section 504 is deleted.

9.1. County Control. All requests for rezoning within Corinna Township shall be made to Wright County and follow the procedures adopted by Wright County. The final decision to establish a zoning classification within Corinna Township shall belong to the Wright County Board of Commissioners.

9.2. Township Evaluation. ~~If Wright County requests input from Corinna Township as part of a process to establish or modify zoning classifications within Corinna Township, the Township~~ shall make a recommendation regarding a rezoning to the County only after consideration of the following criteria:

- A. Preservation of natural sensitive areas.
- B. Present ownership and development.
- C. Soil types and their engineering capabilities.
- D. Topographic characteristics.
- E. Vegetative cover.
- F. Quality of the land for agricultural purposes.
- G. In-water physical characteristics.
- H. Recreational use of surface water.
- I. Road and service center accessibility.
- J. Socio economic development needs of the public.
- K. Availability of public sewer and water utilities.
- L. The necessity to reserve and restore certain areas having significant historical or ecological value.
- M. Conflicts between land uses and impacts of commercial uses or higher densities

¹ Amended 10/21/08

- on adjacent properties.
- N. Alternatives available for desired land use.
- O. Prevention of spot zoning.
- P. Conformance to the Corinna Township Comprehensive Plan.
- Q. Conformance to the Corinna Township Future Land Use Map and any other official maps of the Township.

SECTION X – PERMITS AND FEES

The language from Section 506.1, Subdivision 2, shall be omitted.

Where building permit application conforms in all respects to this Ordinance, a building permit shall be issued by the Zoning Administrator within 60 days.

State Statutes require that fees shall be established and modified by ordinance, not by reference. As such, the following fees shall apply for applications within Corinna Township:

BUILDING PERMITS

COMMERCIAL CONSTRUCTION

<u>Building Permit</u>	<u>Fee Schedule extracted from 1997 UBC based on current building value (data from state)</u>
<u>Plan Review Fee</u>	<u>65% of Building Permit</u>

RESIDENTIAL CONSTRUCTION

<u>Building Permit</u>	<u>Fee Schedule extracted from 1997 UBC based on current building value (data from state)</u>
<u>Plan Review Fee</u>	<u>65% of Building Permit</u>

Fixed Fees

Temporary Mobile Home	\$399.50
Fire Repair	\$399.50
Mechanical (new or replacement)	\$49.50
Fireplace (new or replacement)	\$49.50
New Plumbing in Existing Building	\$49.50
Basement Finish on Existing Home	\$99.50
Dwelling Remodel	\$99.50
Re-roof	\$49.50
Re-siding	\$49.50
Window Replacement	\$49.50

FIXED PERMIT FEES

- ~~1. Fireplace..... \$50.00~~
- ~~2. Re-roof (residential)..... \$50.00~~
- ~~3. Re-side (residential)..... \$50.00~~
- ~~4. Fence (over 6' in height)..... \$50.00~~
- ~~5. Demolition..... \$50.00~~
- ~~6. Plumbing (residential)..... \$5.00 per fixture~~
- ~~7. Mechanical (residential)..... \$25.00 per unit~~
- ~~8. Window Replacement (existing opening)..... \$50.00~~
- ~~9. Water Softener..... \$15.00~~
- ~~10. Irrigation System..... \$50.00~~
- ~~11. Water Heater..... \$50.00~~

ACCESSORY STRUCTURES

Building Permit

Fee Schedule extracted from 1997 UBC
based on current building value (data from
state)

Plan Review Fee

65% of Building Permit

Fixed Fees

Retaining Walls over 4 ft. high	\$49.50
Fences over 6 ft. high	\$49.50
Pools over 5,000 gallon capacity	\$49.50

STATE SURCHARGE

Per State Building Code sect. 16B.70

911 ADDRESSING

New Structure	No Charge with Building Permit
Other Addressing	\$25.00

OTHER FEES

- ~~1. Plan review fee shall be 65% of permit fee.~~
- ~~2. Mechanical fee for commercial shall be based on valuation.~~
- ~~3. Plumbing fee for commercial shall be based on valuation.~~
- ~~4. Re-inspection fee..... \$50.00~~
- ~~5. Inspections outside normal business hours (min. 1 hour).....\$50.00 per hour~~
- ~~6. Investigation fee shall be equal to building permit fee.~~
- ~~7. Manufactured home install fees shall be based on the valuation of on site work only.~~
- ~~8. Plan review fees for similar plans shall be 25% of building permit fee.~~
- ~~9. State surcharge fees shall be in accordance with MN Statutes, section 16B.70.
State surcharge fee for fixed permit fees shall be \$5.00~~

FEE REFUNDS

- ~~1. Refund requests must be submitted in writing by permit applicant before any work has started.~~
- ~~1. The applicant shall be responsible for 100% of plan review fee; all other fees shall be refunded.~~
2. Fees for land use and building permits, sewage treatment system permits and hearing fees may be collected at the time of application. No application shall be considered complete until all required fees have been paid in full. Acceptance by the Township of any application does not imply approval of the application, whether fees are paid in advance or not.
3. If a request for refund is made prior to Township staff, or the Township's designated contractors/building official, beginning any substantial work on the application (plan reviews, site inspections, notice preparation, etc.), the Township will keep a \$25 application processing fee and refund the remainder. In most cases, such a request for refund would have to be made within five days of the application.
4. Once an internal review has begun (plan review, site inspections, ~~notices sent,~~ etc.) but before the first hearing is held or a permit is issued and any on-site inspection has occurred: a refund of 70% of the amount collected will be granted, with a minimum retainer of \$25 by the Township.
- ~~5. If an application involving a public hearing is withdrawn before the hearing date, but after public notices have been submitted, the fee shall be refunded minus any costs incurred by the Township in noticing the meeting.~~

5.6. No refunds will be granted after a first public hearing has been held by the Planning Commission or Board of Adjustment. No refunds will be granted after any on-site inspections have been conducted pursuant to an issued permit for construction of any structure, building, sewer system, or land alteration.

Comment [BO1]: This language is effectively the County's policy. Edits within it are where additional changes could be made.

SEPTIC SYSTEMS

1. Holding Tanks	\$150.00
2. Standard System	\$300.00
3. Non-Standard Systems	\$450.00

LAND USE PERMITS

	<u>Fee</u>
<u>Agricultural Buildings:</u>	
-Grain Bins	\$25.00
-All Other AG Buildings	\$0 <u>\$100.00</u>
<u>Planning Commission:</u>	
-Rezoning	\$400.00
<u>Conditional Use Permits:</u>	
-Subdivision Approval	
-First five lots	\$250.00
-Per lot over five	\$+50.00
-1 per 40 Cluster	\$150.00/lot
-First five lots	<u>\$250.00</u>
-Per lot over five	<u>\$+50.00</u>
-Specific Use Permit	\$350.00
-Other, Misc.	\$350.00
<u>Interim Use Permits:</u>	
-Gravel Pits/Mineral Extraction	\$500.00
- Homestead-Extended Business	\$350.00
-Home Occupation	\$250.00
-Non-Commercial Contractor's Yard	\$350.00
-Move-in Structure	\$350.00
(\$100 of hearing fee will be applied to a subsequent permit fee)	

-Farm Accessory Mobile	\$250.00
-Other, Misc.	\$350.00

Land Alteration:

-Shoreland – 10-50 cubic yards (Administrative)	\$200.00
-Shoreland – 50-500 cubic yards (Hearing Required)	\$250.00
Under 500 cubic yards	\$250.00
-Over 500 cubic yards	\$350.00
-Shoreland under 50 cubic yards	\$200.00

Final Plat \$250.00 + \$25.00/lot

Board of Adjustment:

-Lot Line Adjustment	\$200.00
-Temporary Mobile <u>Home</u>	\$200.00
-Variance	\$400.00

Other Fees and Services:

-Deed Restriction/Administrative Orders	\$50.00
-Miscellaneous Site Inspections	\$50.00
-Miscellaneous Permits	\$100.00
-Miscellaneous Services/ <u>Research</u>	\$50.00/hr, \$50-1 hr minimum
-011 Address	\$25.00
-Hard copy of Land Use Plan or Zoning Ordinance	\$30.00
-Special Meetings (outside of normal scheduled meetings)	\$400.00

EAW/EIS Review \$500.00 + \$50.00/hr over 10 hours

When costs to the Township involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the Township for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the Township may need to retain in reviewing permits.

SECTION XI – ZONING DISTRICTS AND DISTRICT PROVISIONS

Section 607 and Section 613 are omitted.

STAFF REPORT

Agenda Item: 4b – Amend Corinna Township Land Use Ordinance to incorporate Wright County’s April 2010 amendments re: septic system regulations.

Background: The Minnesota Pollution Control Agency passed a major revision to the pre-existing set of regulations affecting the design and installation of private sewer systems. These changes must be adopted by local units of government that enforce sewer ordinances.

Counties were given until February 2010 to adopt the new rules. Wright County did so in March/April 2010.

Townships are given one year from the date that the County adopts the changes to adopt theirs. The Township ordinances must be as restrictive as the County.

The proposed ordinance amendment, which would likely be adopted by reference, is attached.

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.

- (c) It shall be the responsibility of the property owner or authorized agent to notify the Inspector on the workday preceding the day inspection is desired.
 - (d) If proper notice is given and the inspector does not appear for an inspection within two hours after the time is set, the permittee may complete the installation. The permittee shall then file a signed As-Built, including photographs of the system prior to covering, with the EHO within five (5) working days. The As-Built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.
 - (e) Upon satisfactory completion of the system the Inspector shall perform a final inspection. If upon inspection the Inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this Ordinance, the Inspector shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.
- (5) Neither the issuance of a permit nor the inspection of a system shall constitute any warranty or guarantee of operation of the system.
- (6) Permit Requests. When either of the following occur EHO department will review records of the SSTS on the property to determine adequate conformance. Said review may require conformance to 7080.2450 Subp. 2 and/or require a certification of compliance of the SSTS.
- (a) Any time that a permit is applied for in a Shoreland Management area (1000 feet of a lake, pond or flowage; or 300 feet of a river or stream or the landward extent of a floodplain).
 - (b) With the addition of a bedroom on the property.
- (7) Separation Allowances.
- (a) SSTS built after March 31, 1996 or in an SWF area as defined under part 7080.1100 subp. 84, shall have three (3) feet vertical separation or a vertical separation based on applicable requirements. Existing systems are allowed up to a fifteen (15) percent reduction from the three (3) foot required vertical separation distance to account for settling of sand or soil, normal variation of measurement, and interpretations of the limiting layer conditions.
 - (b) SSTS built before April 1, 1996, in areas that are not SWF areas as defined under part 7080.1100 subp. 84, must have at least two (2) feet of vertical separation.
- (8) When conducting compliance inspections and/or designing a replacement SSTS that will use the existing septic/lift tank(s), the tanks(s) shall be pumped by a licensed maintainer and certified. Pumping is not mandatory if documentation exists that the tank has been pumped within the past three (3) years, however this alone does not fulfill the tank certification requirement. In all cases, the tank integrity documentation must be completed and is required at the time of applying for a SSTS permit.

- (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.

- (13) Scope. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.
- (14) Prohibitive Discharge. It is unlawful for any person to construct, maintain, or use any SSTS regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollution Discharge Elimination System program by the MPCA.
- (15) Dispute. If a documented discrepancy arises on the depth of the periodically saturated soil, all parties involved with the discrepancy including the local unit of government, shall be contacted and the procedures set forth in 7082.0700 Sub. 5 shall be followed.
- (16) Floodplain. SSTS shall not be located in a floodway and whenever possible, location in a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Chapter 7080.2270 and all relevant local floodplain requirements are met.
- (17) Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.
- (18) Newly created lots. All lots created after January 23, 1996 must have a minimum of two (2) soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230, 7080.2260, or site conditions described in 7081.0270, Subp. 3 through 7. For the creation and division of new lots, verification by soil borings located on a plan must be submitted establishing that this requirement can be met.
- (19) Management plans. Management plans are required for all new or replacement SSTS. The management plan shall be submitted by the designer to the local unit of government before issuance of a SSTS permit. Management plans shall include requirements as listed in Chapter 7082.0600, Subp. 1(B) and other requirements as determined by the permitting authority.
- (20) Operating permits. SSTS specified in parts 7080.2290, 7080.2350, 7080.2400, and Chapter 7081 require an operating permit and shall include 7082.0600, Subp. 2 and other requirements as determined by the permitting authority. The operating permit for new SSTS and MSTs will be issued in tandem with the construction permit for the new system. Operating permits when needed for existing systems and or system repair will be issued as separate permits. Any additional fees for operating permits will be listed in the fee schedule determined by the County Board of Commissioners.
- (21) SSTS not operated under a management plan or operating permit must have treatment tanks inspected every three (3) years. Solids must be removed when their accumulations exceed the limits as described in Chapter 7080.2450.

- (22) No owner of a tract of land on which a dwelling is located, or tract of land on which a structure which is required to have an SSTS is located, shall sell or transfer to another party said tract of land unless requirements as stated in the Wright County Point of Sale Certification Ordinance for On-Site Septic Systems are met.
- (23) Septage Management. Septage shall be pumped, managed, land applied and disposed of in accordance with applicable state and federal laws.

716.3 Site Evaluation and Design Requirements

- (1) When designing systems a minimum of three (3) soil observations are required for each site, unless sites are adjacent. For adjacent sites a minimum of three (3) soil observations are required with a minimum of two (2) observations in the primary site and one (1) observation in the secondary site.
- (2) Benchmarks, borings, percolation sites, and dispersal area must be staked and labeled in the field. The elevations of the above items must be on the design.
- (3) Septic tank. A minimum 1500 gallon split tank is required. Split tank capacity can be achieved with multiple tanks. For a new dwelling, burial of the top of tank greater than four (4) feet only allowed with LUG approval and statement from tank manufacturer as to maximum designed depth for tank.
- (4) Pump tank. At minimum a 1000 gallon pump tank is needed for lifting the effluent to the soil treatment area.

**Table 1
Drainfield Sizing Treatment Level C Minimum Treatment Area***

SLR Bedrooms	Sand Loamy Sand 1.20 gpd/ft2	Sandy loam 0.78 gpd/ft2	Loam Fine sand 0.60 gpd.ft2	Silt Silt Loam 0.50 gpd/ft2	Clay Loams 0.45 gpd/ft2
2	600	600	600	600	667
3	700	800	800	900	1000
4	800	900	1000	1200	1333
5	900	1000	1250	1500	1667

**Table 2
Drainfield Sizing Treatment Level A/B Minimum Treatment Area***

SLR Bedrooms	Sand Loamy Sand 1.60 gpd/ft ²	Sandy loam 1.0 gpd/ft ²	Loam Fine sand 0.78 gpd.ft ²	Silt Silt Loam 0.78 gpd/ft ²	Clay Loams 0.6 gpd/ft ²
2	450	450	450	450	500
3	500	500	577	577	750
4	550	600	769	769	1000
5	600	750	962	962	1250

*there are structure and consistence qualifiers per code 7080.2150 that may require design modifications before being able to properly apply these tables.

- (5) When conducting percolation tests, soil texture shall be logged and accounted for. If there is a discrepancy between the soil texture and the percolation rate, the smaller soil loading rate needs to be used.
- (6) Trenches designed with twelve (12) inches of rock or more under the distribution pipe shall be sized according to Table 1 or Table 2.
- (7) Mound systems are to be sized at 1.0 GPD/SQ.FT.
- (8) Type III, IV,V and nonresidential SSTS shall be time dosed.
- (9) Bedroom additions with an existing compliant SSTS where the treatment area cannot be practically increased to the proper treatment area size, shall be time dosed.
- (10) When installing gravity trenches in sandy soil per 7080.2210 sub 4 section F item 2: the maximum single trench area shall be determined as 15% of the state required treatment area.
- (11) Remediation. A permit shall be required when an operational component is added, or a method employed to an SSTS to recover a failing treatment area. Required information for this permit will be a description of what is wrong with the existing SSTS, an inspection/compliance of the components of the system, a lab sample of the existing effluent to determine abnormalities, and a preliminary site evaluation of what the upgrade options will be on the property if remediation fails to correct the problem. A management plan/operating permit will also be required.

**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	-

* 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.

716.4 Setbacks and Placement of Building Sewer

- (1) The building sewer pipe extending from the house to the tank shall not be less than four (4) inches in diameter and must meet the strength requirements of Schedule 40 plastic pipe. The pipe shall be supported in such manner so that there is no deflection during backfilling and subsequent settling of the soil between the building foundation and the inlet to the septic tank. Construction of the line shall provide a grade of not less than 1/8 inch per foot for minimum grades. No 90 degree ells shall be permitted.
- (2) The sewer pipe extending from the tank to the distribution medium must meet the strength requirements of Schedule 40 plastic pipe. Sewer pipe lines, manholes and other appurtenances shall be constructed in accordance with the State Plumbing Code and Minnesota Pollution Control Agency requirements.

716.5 Enforcement

- (1) Any person who violates any of the provisions of this Ordinance or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.
- (2) In the event of a violation of this Ordinance, in addition to the other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

716.6 Subject to Change

The requirements of this Ordinance are intended to be comparable to the Environmental Protection Agency and Minnesota Pollution Control Agency standards. Should this Ordinance differ from other agency standards or should EPA or MPCA standards change, the more strict standards shall apply.

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION

January 6, 2011

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); Steve Huff (vice-chair); Dan Shay; Larry Smith; Lee Parks; and Barry Schultz

Staff: Ben Oleson, Zoning Administrator; Mary Barkley Brown, Township Clerk/Treasurer; Jennifer Kemp, Township Deputy Clerk/Treasurer/ P and Z Administrative Clerk

Others in Attendance: None.

3. Additions or Deletions to the Agenda:
Variance Standards

4. Public Hearings
 - a. None

5. Approve Previous Meeting Minutes
 - a. December 2, 2010

A motion was made by Shay, seconded by Smith, to approve the December 2, 2010 Meeting Minutes. Motion carried unanimously.

6. Zoning Administrator's Report
 - a. Permits

Ben Oleson reported on a request by Jim Wurm, 6501 Highland AV, NW, Maple Lake. Oleson stated that Mr. Wurm owns several parcels at the end of Highland Avenue. He is splitting 60 acres into 10 and 50 and selling the 50 acres to Tom Segner. Mr. Wurm originally said his son may want to build on the 10 acres someday. This would require public access from a public road. Wurm said he did not want to address the building issue now. Oleson contacted Wright County on this matter and they said Wurm needed a variance because the dwelling lot to be created would be over 10 acres in size. Oleson scheduled a public hearing, but continued conversations with Wright County staff about the matter. After further consideration, Wright County P and Z Administrator Tom Salkowski said he realized that Mr. Wurm does not want to build there at this time so this parcel split could be done administratively – with deed restrictions attaching the 10 ac and 50 ac portions to existing parcels with road frontage – or via a Board of Adjustment review if that was seen as preferable. Wright County is saying Jim Wurm

has one building entitlement left on the whole farm. Mr. Segner will not gain any new building entitlements. Segner will only have what he had before this sale as far as building entitlements. Oleson wants to make sure it is OK with the Corinna Planning Commission/Board of Adjustment for Oleson to handle this administratively.

There was discussion that followed. The Planning Commission felt that Oleson should handle this matter administratively as a review by the Board of Adjustment would not likely change how it would be handled and would only cost the applicant additional time and money.

b. Correspondence: None

c. Enforcement Actions: None

7. New Business

a. Variance Standards:

Oleson: Two recent MN Supreme Court cases occurred - one in 2008 and one in 2010. Oleson explained that there was a 2008 Supreme Court case involving Otter Tail County and the county variance statutes. The court read the statute - prove a hardship or prove a "practical difficulty". A hardship is defined - but a practical difficulty is not defined. The Supreme Court created a definition for practical difficulties and interpreted that these apply to Area Variances (too small a lot, too close to something), while the hardship standard applies to use variances (commercial in residential area, etc. - although many have pointed out since the decision that use variances are already prohibited by MN Statutes and thus wondered why the Court separated them out this way). A practical difficulty is defined as a lesser standard.

There is a list Oleson showed of 6 points that defined practical difficulties, according to the Court.

Oleson: They created new gray areas with this decision. Was this a proper decision from a legal standpoint? Result: All counties in the state had to change Variance process. They started using the 6 points in the packet. The bottom line: It is much easier to get a variance due to this decision by the Supreme Court of MN. When you just use the hardship standard - it is far more difficult to get a Variance. The Court did, however, go out of its way to state that they don't see their interpretation as meaning variances should be easy to get.

In 2010 *Krummenacher v. City of Minnetonka*, Krummenacher was a landowner in the City of Minnetonka. In this case they were dealing with the city statute. In this case - the statute does not talk about practical difficulties. It just talks about hardship. Question of reasonable use without a variance. A previous Court of Appeals decision from the late 1980s stated that if what you are proposing is reasonable - you have met the reasonable use. *Krummenacher* case said this was wrong - that if you have any reasonable use of the property, you should not be granted a variance under the statute language. For instance, the Courts

decision could easily be read to say that if you have a cabin – you do not get a Variance to build a bigger one. It is a much higher standard. City attorneys are handling this differently as a result of the decision. Some say not to bother to apply for a Variance because it is now such a high standard. There is a different standard for cities than counties, and a different standard than what was in place for the past 30 years. The Court stated in its decision that if the legislature wants to fix this, they should. Staff has learned that the League of MN Cities is proposing consistent language for cities, counties and townships in the next week or so at the Legislature. The proposed language would eliminate the use of the word “hardship” and just go with practical difficulties – no hardship standard. Our understanding is that at least some counties are opposed to this idea of eliminating hardship from the language.

Immediate question for Corinna is whether it is going to use the county standards or the city/township standards? Tim Young has given some initial comment, but not looked into this in detail and there is likely no precedent for it. Oleson and Quiggle think that we should use the county standard in the shoreland since we are, in effect, working as an agent of the County under the recently signed agreement. Outside of shoreland, since the Township is clearly the zoning authority, the logical answer would probably be to use the city/township standard for variances. This means we will have harder standard outside of shoreland than in. What does the Planning Commission/Board of Adjustment think?

The Commission discussed and agreed that the use of the different standards does make the most sense from a legal perspective. Hopefully, the Legislature will make a uniform standard and the problem will go away.

Oleson stated that given this, the next time we have a Variance application in shoreland we will use the County’s standards. Our staff report will give an analysis and recommendation based on the new criteria and we’ll all need to become familiar with these different standards.

b. Discussion – 2011 Fee Schedule Amendments

Oleson: There will be a public hearing on this item next month at the P and Z Meeting. Before we came up with the agreement with the county – we were planning to make one change to the commercial building code fee. Now that we have the agreement with the County, the County prefers that our fees match up with Wright County’s fees. Is there opposition to matching up with the county’s fee schedule? As we revise our fee schedule and hold the public hearing next month, should we use the same fee schedule as Wright County?

The Commission saw now reason to differ from the County’s fee schedule. Oleson noted that the last time we updated our fee schedule, we purposely differed from the County on the issue of agricultural buildings (\$50 vs \$100). The Commission agreed it would be fine to adjust this to \$100 to match with the County.

c. Discussion – Conservation Overlay District Concept

Oleson provided information regarding conservation overlay district concepts in the staff report.

Oleson: Do we want to do anything within the next year? A conservation subdivision is different from most subdivisions, which are uniform in size and width. "Cookie cutter" subdivisions have little to do with the natural limitations or value of the landscape. For the most part – you lay out conservation subdivisions keeping natural features in mind – sensitive shoreline, trees, wetlands, and the subdivision is developed with these features in mind. Conservation subdivisions is often associated with clustering of homes, but not always and sometimes clustering can create its own problems. We can take natural landscape more into account when laying out a conservation subdivision. The DNR has included language and regulations encouraging conservation subdivisions in its draft Shoreland Rules Update and is generally encouraging their use.

Quiggle: If passed as written, right now they would be density neutral. Currently with the county – shoreland rules would encourage these over piano key subdivision.

Oleson: Lots of lakeshore is developed. Back lot and country side lots would have the ability to have smaller lots – 1 acre or less – but work around farmland and wetlands. In your packet - 1000 friends of MN have a scoring system. There is a section from the DNR reasoning their new draft rules – what they think about conservation subdivisions. The first enclosure is from a group in Wisconsin. It gives a general overview. This is something to think over. The DNR may require this sometime anyway.

Quiggle: Although lakes in Corinna are highly developed – there is riparian property that is not developed and somebody may want to develop. There may be ways to subdivide in a responsible manner. If shoreland rules go through – we may get this anyway. It can be used to protect farmland.

Oleson: In talking with Tom Salkowski – he does not like the idea of shared sewer drain fields, which could be part of a conservation system. I believe part of his opposition is that they if the shared system fails, it affects many people instead of just one dwelling. Salkowski may not oppose if they have individual sewer systems, I've never discussed in that much detail with him.

Huff: Are you going to tell a developer that he needs to follow this Back to Mink/Somers Lake – 2 private individuals buy a lot and build. They have no input into the conservation designation. How do you throw that into the overall plan concept or are you going to set it up ahead of time?

Oleson: A developer has to choose to create a conservation subdivision – at least this is how it is typically set up. It would typically be all set up before anyone buys.

Huff: A person buys 10 acres along the lake. It sounds good – but may not be feasible,

Oleson: This is often set up best for large parcels. Some parcels may be too small for it to be feasible.

- d. Discussion – Other possible ordinance amendments:

Quiggle wants us to consider institutionalizing ways to mitigate a Variance from an ordinary high water mark. The point system could be used. It would be good to have something we can apply to every landowner. They would have list of things that they could do to get points.

Oleson: The theory is there are Variances because a building is too close to the lake. In the past we have approved these with stipulations including directing water a different direction, etc. This would be a more rigorous way to specify a list of things you can do to gain points in order to get your variance. Property owner would have to tell us how they were going to reach points. It is in the DNR shoreland rules that are being dealt with right now. This is not required at this point. It is encouraged that they do. Are you interested in learning more about this? Would you like to see this in the Ordinance ASAP? Because it is shoreland – is it better to stick with the Wright County rules or to be proactive?

Quiggle: It is better to be proactive with protecting the waters, etc. If we have a system in place to show we are serious – it is to our benefit.

Huff: Because we are in flux – I would rather wait, rather than change things several times. We are also doing this the best we can within the rules that are out there now.

Lee Parks: I agree that we should wait. We should not be making new rules at this time.

Smith: I do not like the idea of “earning” a Variance.

Quiggle: You still have to meet standards – so you do not get to “earn” a Variance.

Shay: I think we should look at Charlotte’s ideas. I do not think we should change within the next year. If we can start putting ideas together to give to people – it would help us make a decision if we knew some of this was going to happen.

Oleson passed out one example ordinance from Carlton County, which has developed such a point system.

8. Old Business

- a. Zoning Administration Update: Oleson discussed the joint powers agreement with the Commission, of which a copy was included in the Board’s packet.

9. Adjournment

A motion was made by Huff, seconded by Schultz, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 8:21 p.m.

Zoning Administrator's Report

Corinna Township

Application Status Report - Finalized

December 1, 2010 thru January 26, 2011

Parcel ID	Applicant	Nature of Request	Date of Final Action	Zoning District
Type of Application: Land Use (1 record)				
Application Status: Withdrawn (1 record)				
2.06062E+11	Roger Johnson	Basement finish		R1S
Type of Application: Subdivision - Metes and Bounds (1 record)				
Application Status: Approved (1 record)				
2.06E+11	Jim Wurm	Adjustment of lot lines to allow for sale of agricultural land.	1/12/2011	AG
Type of Application: Variance (1 record)				
Application Status: Withdrawn (1 record)				
2.06E+11	Michael Lease	Tear off and replace roof of existing cabin approximately 37 feet from Clearwater Lake (75 feet required). Increase roof pitch and change roof shape. Existing cabin is below the required regulatory flood protection elevation.	1/19/2011	R1S
Grand Totals (3 records)				

Application Status Report - Pending

As of January 26, 2011

Parcel ID	Applicant	Nature of Request	Date of Final Action	Zoning District
None				
Grand Totals (0 records)				

Investigation Status Report

As of January 26, 2011

Investigation Number	Date Reported	Nature of Violation	Date of Final Resolution	Report Notes
Current Status: Reported - Under Investigation (1 record)				
V-11-0355	1/6/2011	Question as to whether a variance previously granted has expired.		
Grand Totals (1 record)				

ZONING ADMINISTRATOR'S REPORT

Agenda Item: 6b –Expiration of variances which are only partially acted-upon

Background: Staff recently received a phone call from a resident wondering about the status of a variance that was granted several years ago, and was only partially acted upon. The question was whether the portion of the variance that has not been acted upon was still permitted by variance or if it had expired.

The current ordinance does have a three (3) year time limit for acting upon a variance request. Conditional use permits also expire, but with a shorter time frame of one (1) year.

502. APPEALS AND BOARD OF ADJUSTMENT

502.5 Procedure

(7) A variance 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.

505. CONDITIONAL USE PERMITS

(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.

Staff would like to request that the Commission discuss this type of situation and perhaps provide some guidance as to how we should address these kinds of situation now or in the future. This particular situation involves a deck and three-season porch that was granted by variance, but only the deck was constructed.

While it would be possible to try and develop a general policy or guideline for these kind of situations, Staff also recognizes that it would be difficult to do so given the wide variety of projects that are granted by variance and the variety of ways that a variance could be deemed “partially complete.”

As such, it may be most appropriate to handle such questions on a case-by-base basis. Generally speaking, if a reasonable argument could be made that the applicant had acted in some way upon their variance, Staff would consider the variance to still be valid. Only in those most obvious of situations – where the variance had clearly not been acted upon in any way – would Staff suggest that the variance would be expired.

Still, staff's typical practice on “grey” areas such as these is to bring them to the Planning Commission/Board of Adjustment for discussion and action.