

STAFF REPORT

Application:	Requests related to the construction of a 25' x 26' attached garage with living space above. Approvals required include variances to construct a garage/dwelling addition approximately 65 feet from Cedar Lake (min. 75 ft required) and to a dwelling that is approximately 40 feet from the lake and for the addition to be approximately 10 feet from a side lot line (min. 15 ft required).
Applicant and Property Owner:	Mike Mack
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicant is proposing to construct a 25' x 26' addition to the non-lakeside portion of their existing 20' x 24' cabin. The addition would include a ground level garage with living space above that would include two bedrooms a bathroom. The existing cabin area would not include any bedrooms – just a kitchen and bathroom and living area. The existing cabin is currently within the required 75 ft lake setback (about 40 ft) and the required 15 ft side yard setback (about 9.8 feet). The addition would also be about 9.8 feet from the side lot line and would be about 65 feet from the lake.
- **Location:**
 - Property address: 7916 IRVINE AVE NW , ANNANDALE
 - Sec/Twp/Range: 27-121-27
 - Parcel number(s): 206000272101
- **Zoning:** R-1 Urban/Rural Transition/S-2 Residential-Recreational Shorelands, Cedar Lake (General Development lake)
- **Lot size:** Approx. 15,842 sq ft (0.36 acres) according to Beacon GIS estimate (a survey that includes this parcel and the parcel across the road also owned by the applicant indicates a total lot size of 23,250 sq ft.)

Existing Impervious Coverage:

- Buildings: About 620 sq ft (3.9%)
- Total: About 2,320 sq ft (14.6%)

Proposed Impervious Coverage:

- Buildings: About 1,270 sq ft (8.0%)
- Total: About 2,600 sq ft (16.4%)

- **Septic System Status:** The property is served by a 1000 gallon septic tank and a 600 sq ft drainfield that was installed in 1983 and found compliant in 2017. Staff has verified with Wright County inspectors that a sewer of that size is sufficient for the proposed two-bedroom home.
- **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. That would require an elevation of 1003.3 (NGVD29) for the lowest floor. The lowest floor of the existing cabin is at an elevation of 1006.98 according to the provided survey, with the ground level at the proposed addition location at about 1003.09 or higher. The final elevations will need to be verified at the time of construction.
 - Bluff/Steep Slopes: The lot does contain steep slopes, but these are primarily are near the road and would not impact the proposed addition location.
 - Wetlands: There does not appear to be any wetlands that would impact this proposal, although it may be necessary to verify that the low spot on the lot near the proposed addition is not a wetland.
 - Current Shoreline Conditions: Mostly a sand beach and mowed grass.
- **Permit History:**
 - 1926 - apparent date the existing home was constructed on the lot (from Assessor's records)
 - 1983 - Septic system installed
 - 2008 - Reroof
 - 2017 - Septic system found compliant

Applicable Statutes/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.

394.36 (2016) NONCONFORMITIES

Subd. 5. Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the

requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

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.

403. LOT COVERAGE

Not more than fifteen (15) percent of a lot may be covered by buildings (including covered porches or other roofed structures) 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.

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.

(c) General Development Minimum Standards:

Structure setback from OWHL	75 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.

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

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?**

Lake setback: The spirit and intent of the ordinance (lake setback), according to the DNRs SONAR statement in 1989, is:

"In general, structure setbacks are needed to provide an adequate distance between the development of a shoreland area and the adjacent waterbody or near blufftops to control the resource damaging effects of non-point source pollution. Soil erosion and subsequent sedimentation in water bodies and the loading of nutrients, toxics and other pollutants to the water body from shoreland area surface water runoff are examples of non-point source pollution."

Findings Supporting Approval

The proposed addition will be further back than the existing cabin and further back than many of the homes in the immediate area. In addition, stormwater runoff from the addition will naturally flow toward the road into an existing depression where it would soak into the ground before it could ever reach the lake. As such, there would be very little impact, if any, on the lake from soil erosion or stormwater runoff.

Findings Supporting Denial

The proposed addition would more than double the footprint of the existing cabin – a cabin which is already very nearly in the shore impact zone (approx. 40 ft lake setback as compared to the 37.5 ft shore impact zone). Given that, an attempt to move the home further back from the lake would be more in keeping with the spirit and intent of the ordinance.

Side yard setback: The spirit and intent of the ordinance (side yard setback) is to require some space between buildings and other improvements and the adjacent lot and to maintain space between structures. Its' intent is also to maintain consistency from one property to the next in this setback.

Findings Supporting Approval

The proposed addition would be no closer to the side lot line than the existing structure which has existed since the mid-1920s. There is more than adequate distance between the home on the subject property and that of the neighboring property to the north.

Findings Supporting Denial

The applicant will be more than doubling the size of the home and of the building that is within the side yard setback. If the existing cabin were torn down, or the addition reconfigured somewhat, there is room to shift the garage further to the south to increase the side yard setback.

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

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. Fill will be required to raise the elevation of the garage/house addition, but any soil erosion that may take place would likely be contained on the site due to the natural topography.

Findings Supporting Approval

The proposed use would represent an anticipated use within the shoreland and floodplain zoning districts and is not inconsistent with the Comprehensive Plan. Due to the natural topography of the site, any soil erosion potential will likely be contained on site and any that may drain toward the lake can be controlled with silt fence during construction.

Findings Supporting Denial

The proposed addition would represent an enlargement of a dwelling that is already almost 50% closer to the lake than is required by the ordinance.

3. Is the proposed use of the property reasonable?

Findings Supporting Approval

The desire to have a larger house is reasonable in that the existing dwelling is very small (20 x 24) and the proposed home would not be inconsistent with the setbacks of other homes in the area.

Findings Supporting Denial

Given that the existing cabin is so small, it could be moved or replaced at the time the new dwelling area is created, which would allow for the home to be moved further back from the lake, the side lot line, or both - even if the full required setbacks could not be met.

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 the 1920s) and the small size of the lot. The topography of the lot, the location of the well and the location of the septic system are all factors as well.

Findings Supporting Denial

None

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

Findings Supporting Approval

The proposed home, when completed, would not be out of character with the residential character of the area nor the typical size of homes in the area.

Findings Supporting Denial

None

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

Moving the existing cabin back and then enlarging it would involve a significant amount of fill to level out the lot, the location of the sewer system and the location of the well. If the house is not moved, there is nowhere to add on that wouldn't need a variance.

Findings Supporting Denial

If the existing cabin were replaced or moved, it appears the applicant could shift the home further back in the lot to increase the lake setback and to reduce or eliminate the side yard setback variance.

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

Findings Supporting Approval

The proposal would place more building coverage in close proximity to the lake, but all runoff from the addition can easily be directed away from the lake with simple stormwater management practices.

Findings Supporting Denial

None

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 above, Staff recommends approval of the requested variances as presented if the Board finds that moving or replacing the existing cabin to a different location is not feasible.

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. That the lowest floor of the addition (including the garage floor) must meet an elevation of at least 1003.3 (NGVD29).
2. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between any areas of disturbance (if there will be any) and the lake as well as to any neighboring properties which are downslope of the disturbed areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets, hydroseed or other forms of temporary cover until vegetation is re-established.
3. The applicant shall submit a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allow adequate time for infiltration or

other treatment of rainwater from the lot prior to it flowing into the lake. These may include directing rain gutters to appropriate areas, rain barrels, 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.