

STAFF REPORT

Application:	Requests related to the construction of a 9' x 18.5' breezeway and 28' x 28' attached garage addition to an existing home. Approvals required include variances to construct a garage addition approx. 6 feet from a septic drainfield (min. 20 ft required), to increase building coverage to approx. 15.2% (max. 15% allowed) and to increase impervious surface coverage from approx. 26% to 34% (maximum 25% allowed).
Applicant and Property Owner:	Richard and Sandra Miller
Agenda Item:	4(a)

Background Information:

- **Proposal:** *This application was tabled at the April meeting of the Board of Adjustment so that the applicant could explore the possibility of purchasing land from the neighboring property owner so that they wouldn't need a variance or would lessen the amount of variance they needed. The applicants have requested to be placed on the agenda so that they can update the Board of Adjustment in that regard (they have not yet purchased additional land or negotiated out a purchase as Staff understands it) and request approval of their variance request with the condition that they do purchase some amount of additional land.*

The applicants are proposing to tear off a portion of their existing home and add on a breezeway and attached two-car garage. The proposed garage would be located approximately 6 feet from the existing septic drainfield (min. 10-20 feet required). In addition, the net increase in building coverage and the necessary addition of driveway space to serve the new garage will increase the impervious coverage on the lot from approximately 26% to approximately 34% (no survey of impervious coverage has been provided so the impervious coverages are based on aerial photo and other estimates).

- **Location:**
 - Property address: 9505 110TH ST NW , ANNANDALE
 - Sec/Twp/Range: 9-121-27
 - Parcel number(s): 206000091200
- **Zoning:** General Agriculture (AG)
- **Lot size:** Approx. 22,400 sq ft (0.51 acres) according to Beacon GIS estimate.

Existing Impervious Coverage:

- Buildings: About 2,854 sq ft (12.7%)
- Total: About 5,858 sq ft (26.2%)

Proposed Impervious Coverage:

- Buildings: About 3,340 sq ft (14.9%)
- Total: About 7,544 sq ft (33.7%)

- **Septic System Status:** The applicant recently had a new septic system installed (December 2019)

- **Natural Features:**

- Floodplain: The existing and proposed structures are not within an identified floodplain.
- Bluff/Steep Slopes: The lot does not contain a bluff or steep slopes.
- Wetlands: There does not appear to be any wetlands that would impact this proposal.

- **Permit History:**

- 1926 – apparent date the existing home was constructed on the lot (from Assessor's records)
- 1972 – 14' x 16' addition and remodel to dwelling
- 1972 – 24' x 45' storage building
- 2009 – Denied permit application for addition to existing pole shed (did not meet setbacks, impervious)
- 2009 – reroof
- 2019 – new septic system (pressure bed)

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.

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.

716. SEWAGE AND WASTEWATER TREATMENT AND DISPOSAL STANDARDS

Table 3

Minimum Setback Distances (Feet)

	Sewage or Holding Tank	Soil Treatment or Absorption Area	Building Sewer or Supply Pipes
Water Supply Wells*	50	50	50**

(50 feet of continuous casing or encountering 10 feet of impervious material)			
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	-
General Development Lakes	50	50	-
Recreational Development Lakes, Mississippi River, Agricultural Rivers and Tributaries as defined in Section 612.4	75	75	-
All public water wetlands as defined by Minnesota Statutes, Section 103G.005, Subd. 15a, as it may be amended from time to time, 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 Corinna Township Zoning Ordinance.

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?

Septic setback to structure: The spirit and intent of the ordinance (septic setback to building/structure) is to minimize the potential for interference between the septic component and the building activities during construction and operation and to ensure that systems can be

effectively replaced and maintained over time without damaging buildings or preventing pumper trucks from accessing the tank.

Findings Supporting Approval

The proposed building addition that would be within about 6-7 feet of the septic drainfield installed in 2019 would be an attached garage with no basement underneath. There is adequate space to maintain the drainfield and the effluent from the drainfield should not significantly impact the foundation of the garage. While the septic system drainfield was just installed in late 2019, it could only have been moved about 2 feet further to the west without needing a variance itself.

Findings Supporting Denial

The addition being proposed could have been accommodated while maintaining a 10 foot setback if the applicant had applied and been approved for a variance to move the drainfield closer to the west lot line. Further, the proposed garage addition adding to impervious coverage suggests that a smaller addition may be warranted, which would allow for the garage to be built at least 10 feet from the drainfield.

Building or impervious coverage: The spirit and intent of the ordinance (impervious surface limit) is to help minimize the amount of stormwater that runs off a property where it would be more likely to negatively impact nearby properties and public right-of-way. In shoreland areas, it is also intended to help protect lake water quality by allowing more stormwater runoff to infiltrate into the ground rather than into the lake.

Findings Supporting Approval

The applicant's land is not located in a shoreland district and the surrounding agricultural land would not be negatively impacted by the drainage of stormwater onto the field as the downslope field to the east is irrigated. Further, due to the topography of the site, which generally slopes from the southwest to the northeast, any additional stormwater runoff is likely to be blocked by the driveway or run across a significant distance of grass, which should allow for adequate infiltration. While the applicant already does have a two-stall garage on the property, it is detached from the home and the proposed attached garage will make transfer between the garage and the home safer and more convenient.

Findings Supporting Denial

Granting a variance to allow for a site that already appears to exceed the 25% impervious coverage limit even further (increasing from about 26% to about 34% is an excessive increase that would set a bad precedent for other properties). The applicant already has a relatively large detached garage/storage building on the property and as such does not lack adequate space for parking of vehicles.

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 primarily issue related to fair and consistent application of the ordinance

requirements with this application is allowing a site that is already over the impervious coverage limit to go significantly higher.

Findings Supporting Approval

See "Findings Supporting Approval" in #1 above.

Findings Supporting Denial

See "Findings Supporting Denial" in #1 above.

3. Is the proposed use of the property reasonable?

Findings Supporting Approval

The desire to have an attached garage with a breezeway addition is reasonable in that the existing home is not unusually large and the additions will provide additional living space and convenience. The proposed additions are reasonably sized and the variances for the septic drainfield setback and impervious coverage are reasonable given the small size of the lot and limited space.

Findings Supporting Denial

The proposed setback variance for the septic drainfield and impervious coverage are both significantly beyond what is normally allowed and could be avoided with reasonable changes to the proposal. The garage/breezeway could be reduced in width by about 3-4 feet to achieve a 10 ft setback to the drainfield. The reduction in the building additions would also help to minimize the increase of impervious coverage, as would removing existing impervious coverage elsewhere on the lot.

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 relatively small size of the lot, which was created well before zoning regulations took effect. Also, the location of the house on the lot (built in 1926) necessitates a longer driveway than might otherwise be needed and contributes to the impervious coverage issues.

Findings Supporting Denial

The applicant could possibly have accommodated the desired building additions without need for a septic drainfield setback variance by locating the drainfield in a different location or applying for a variance to move the drainfield closer to the west lot line. The impervious coverage issues are created due to the applicant's desire for an attached garage rather than the existing detached garage.

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

Findings Supporting Approval

The site is very isolated (surrounded by farm fields) and would not impact the character of the area in any way.

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

The location of the existing septic drainfield limits the space available to construct a dwelling addition without putting it in close proximity to the drainfield.

Due to the relatively small size of the lot and the need for a significant share of the lot to be driveway, the options for eliminating the need for an impervious coverage variance are very limited.

Findings Supporting Denial

The septic drainfield setback variance could be avoided by constructing an addition that is about 4 feet smaller than what is currently proposed.

The impervious coverage variance could be lessened by reducing the size of the proposed addition and eliminating impervious coverage elsewhere on the lot.

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

Findings Supporting Approval

The main impact of the proposal on the environment would be increased runoff. Since the property is not in a shoreland area, its impact on the environment would be negligible.

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 cannot recommend approval of the requested variances as presented. There appear to be reasonable options for achieving a setback to the drainfield of at least 10 feet and the increase in impervious coverage is excessive - increasing from about 26% to 34%.

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. 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.