

## STAFF REPORT

<b>Application:</b>	Requests related to the construction of a detached garage. Approvals required include variances to construct a 26' x 36' detached garage on a lot that is currently at approximately 37 percent impervious coverage and will be reduced to approximately 30-31 percent coverage (max. 25% allowed).
<b>Applicant and Property Owner:</b>	Kris and Monica Schwickerath
<b>Agenda Item:</b>	4(a)

### Background Information:

- **Proposal:** The applicants are proposing to construct a new 28' x 36' detached garage adjacent to their home on a parcel that is currently at about 35% impervious coverage (max. 25% allowed). As part of the overall project, there will be a net reduction of impervious coverage to 30.5% that will be achieved by removing an existing detached garage, the previous (Fall 2020) removal of a boathouse and other existing impervious decks and patios. Also as part of the project, the existing driveway will be reconfigured near the home so as to provide access to the new garage.
- **Location:**
  - Property address: 11571 89TH ST NW , ANNANDALE
  - Sec/Twp/Range: 19-121-27
  - Parcel number(s): 206062000140
- **Zoning:** R1 - Urban/Rural Transition/S2 - Residential-Recreational Shorelands, Pleasant Lake (General Development lake)
- **Lot size:** Approx. 19,928 sq ft (0.46 acres) according to provided survey.
  - Existing Impervious Coverage:
    - Buildings: About 2,427 sq ft (12.2%)
    - Total: About 6,972 sq ft (35%)
  - Proposed Impervious Coverage:
    - Buildings: About 2,824 sq ft (14.2%)
    - Total: About 6,074 sq ft (30.5%)
- **Septic System Status:** Private sewer system installed in 1994 and last found compliant in 2017.
- **Natural Features:**
  - Floodplain: The existing and proposed structures are not within an identified floodplain.
  - Bluff/Steep Slopes: The lot does contain a bluff or steep slopes near the shoreline, but not in the area of the proposed garage.
  - Wetlands: There does not appear to be any wetlands that would impact this proposal.

- Current Shoreline Conditions: Landscaped area with retaining walls and few trees.
- **Permit History:**
  - 1958 - apparent date the existing home was constructed on the lot (from Assessor's records)
  - 1985 - 5' x 20' solar room
  - 1994 - Dwelling addition
  - 1994 - septic system
  - 2006 - septic compliance inspection
  - 2017 - septic compliance inspection
  - Sept 2020 - land alteration (install retaining walls, remove boathouse)

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**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.

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**Staff Recommendation:** Based on the relevant findings of fact noted below, Staff recommends approval of the requested variance only if the Board finds that further reduction in impervious coverage is not feasible or reasonable.

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 consideration) That the garage be reduced in length from 36 feet to 28 feet.
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, 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.

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**Applicable Statutes/Ordinances:** See Appendix A.

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**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?**

**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 proposed new detached garage will be placed mostly over existing impervious coverage (driveway/parking area) and be combined with the removal of an existing detached garage and other impervious surfaces that have already been removed from the property in Fall 2020. In total, there will be a net reduction in impervious coverage from 35% to 30.5%. As such, the proposal will reduce the amount of impervious surface on the lot and improve the situation from what previously existed.

Findings Supporting Denial

While the proposed changes to the impervious coverage on the lot will bring the lot closer to the 25% limit normally allowed, it will not bring it to that standard. Further reductions in impervious coverage are feasible; even if the 25% standard cannot be achieved, it is feasible to come closer than the proposed 30.5%.

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 applicant can reasonably and feasibly achieve further reductions in impervious coverage on the lot to get closer to the 25% limit that normally applies.

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 appear to require the removal of one or more mature 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: Some amount of grading/land alterations will be a part of the proposed project and proper erosion and sediment control measures would be essential to protect the lake until the area is stabilized.

Findings Supporting Approval

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

Findings Supporting Denial

The proposed use would result in the continued significant exceedance of the 25% standard for impervious coverage and given that additional reductions are feasible, approval as presented would not be consistent with the Comprehensive Plan's goal of consistent enforcement of regulations when a practical difficulty has not been shown.

**3. Is the proposed use of the property reasonable?**

Findings Supporting Approval

The proposed changes to the lot are reasonable in that the resulting garage would not be excessively large and will bring it closer to the existing dwelling. The proposed changes will also bring the lot closer to the 25% impervious coverage standard than would occur if the applicant were only to replace the existing garage in its current location and size.

Findings Supporting Denial

The proposed garage is not excessively large, but is larger than is necessary given that the lot would remain significantly over 25% impervious coverage - despite the proposed overall reduction from the current 35% coverage to 30.5% coverage.

**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 1958), garage and other improvements on the lot - most of which appear to have been in place prior to current zoning regulations impacting impervious coverage limits.

Findings Supporting Denial

The applicant has the ability to come closer to the 25% impervious coverage limit, even if not all the way to that standard, with additional reasonable modifications to their plan. Most notably, the proposed garage could be reduced in size such that it does not encroach as far into existing pervious surface areas.

**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

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

Given the location of the existing home and the high impervious coverage that currently exists, the proposed changes represent a reasonably balance between coming closer to the 25% impervious coverage standard and allowing for reasonable improvements to the property.

Findings Supporting Denial

The applicant could further reduce impervious coverage on the lot to come closer to the 25% limit, even if not fully to that standard. Primarily, this could be done by reducing the footprint of the garage.

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

Findings Supporting Approval

Much of the potential impact from impervious coverage on the environment will be reduced due to the net reduction of impervious coverage on the lot from 35% to 30.5%. Any remaining impacts can be addressed through stormwater best management practices.

Findings Supporting Denial

The proposal, while reducing overall impervious coverage, will continue to have excess impacts on the environment as compared to most other lots in the immediate area.

## Appendix A

### Applicable Statutes and Ordinances

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#### 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.