

STAFF REPORT

Application: Variance to construct a 20' x 21' dwelling addition approx. 48 feet from the centerline of a township road (min. 65 ft required). Existing dwelling is approx. 110 feet from the centerline of a state highway (min. 130 ft required).

Applicant: Nick Cain

Agenda Item: 4(b)

Background Information:

) **Proposal:** The applicants are proposing to construct an addition to their existing dwelling that would allow for a master bedroom/bath, laundry room and walk-in closet. The proposed addition would be located within the required setbacks to both the adjacent township road (Illsley Ave NW) and State Highway 55.

) **Location:**

- o Property address: 7970 STATE HWY 55 NW
- o Sec/Twp/Range: 35-121-27
- o Parcel number(s): 206000353300

) **Zoning:** AG - General Agriculture

) **Lot size:** Approx. 62 acres

Existing and Proposed Impervious Coverage: Well under limits.

) **Septic System Status:** The property is served by an existing septic system that was installed in 1998. It is located far away from the existing dwelling or proposed addition.

) **Natural Features:**

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

) **Permit History:**

- o 1967 - 40' x 60' pole shed
- o 1968 - existing dwelling was moved on to the site
- o 1968 - Septic system installed
- o 1978 - 50' x 120' pole shed
- o 1980 - 20' x 33' silo
- o 1998 - New septic system installed

- 2002 - Septic system inspected and found compliant
- 2002 - Variance to split land

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.

605. URBAN/RURAL TRANSITIONAL R-1

605.5 Performance Standards

- (2) Front Yard Regulations:
 - (a) Required Setback Distance

<u>Required Setback Distance From Road Centerline</u>	<u>Road Class</u>
130	State Highway
130	County Road and State Aid Highway
65	Local Street (Twp. Rd.)

Findings of Fact: The following findings of fact 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?**

Needs discussion: The spirit and intent of the ordinance (road setback) for buildings is to help ensure adequate space for road maintenance activities (i.e. snowplowing, road grading, ditch spraying, etc...), to prevent damage to property and promote public safety should a vehicle drive off the road and to allow adequate space for parking of vehicles on driveways without endangering public safety.

In other zoning districts where development occurs more densely, the ordinance allows for setbacks from the right-of-way of a road as low as 20 feet. This is presumably to allow adequate space for a vehicle to park on the driveway without impinging on the road right-of-way.

The proposed setback for the house addition would be reasonably consistent with the intent of the ordinance in that there are limited options on the lot given the location of the current home. However, the addition would only be about 15-16 feet away from where the right of way would be for a full 66 ft right of way for Illsley Ave NW. This is less important when its not involving a driveway where cars need to park off of the road right of way, but is still relatively close to the road.

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

Needs discussion: The Comprehensive Plan does not directly address situations such as these, except to make general statements about enforcing ordinances consistently.

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

Needs discussion: The desire to have additional living space is reasonable in that the existing home is not excessively large and the use of the property would remain residential/agricultural.

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

Yes: The need for the variances is due largely to the location of the existing house (placed on the property in 1968). The applicant did not come to own the property until much more recently.

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

No: The property will remain residential and agricultural in nature. The largest impact would simply be from having a house addition closer to Illsley Ave than what exists now (the addition will be further back from State Highway 55 than the existing dwelling).

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

No: The need for the variance is due to other factors mentioned in #4 above. In addition, a house addition on other sides of the house, according to the applicant, would be impractical given the layout of the home.

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

Needs discussion: The primary way to minimize the variance necessary would be to construct the addition on the north or east side of the existing home. The applicant states this is impractical or not feasible due to the layout of the home and the location of the septic system and well.

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

No: There are no particularly sensitive environmental resources in the immediate area that would be impacted by the proposed addition.

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: The primary question involved in this application is whether an addition could be built elsewhere on the home where the need for a variance would not be eliminated, but minimized.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval:

1. That a septic inspection be completed prior to the issuance of a permit for the addition, should it be deemed necessary by Wright County Environmental Health staff.
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.