

STAFF REPORT

Application: Conditional use permit to place greater than 50 cu yards of fill from basement excavation in rear portion of lot for a potential future building pad.

Applicant: Wayne and Paula Hoistad

Agenda Item: 4(e)

Background Information:

) **Proposal:** The applicants are proposing to excavate out approx. 125 cu yds of material as part of excavating for a basement (see related variance application) and place that excavated material on the back part of their lot.

The fill would be placed adjacent to an area that Wright County SWCD has indicated appears to be wetland. Any filling of the wetland area would require permits from SWCD. The depth of the fill would range from 1-3 feet depending on where on the lot it is located. Part of the reason for the fill is to provide a space for a potential future garage. The remainder is to make the site more manageable for mowing, and to address low areas.

) **Location:**

- o Property address: 7330 ISAAK AVE NW
- o Sec/Twp/Range: 27-121-27
- o Parcel number(s): 206068000050

) **Zoning:** R1 - Urban/Rural Transition/S2 - Residential-Recreational Shorelands, Cedar Lake 86-227 (General Development lake)

) **Lot size:** Approx. 28,663 sq ft (0.626 acres) according to Beacon GIS estimate.

Existing Impervious Coverage:

-) Buildings: About 972 sq ft (3.4%)
-) Total: About 3,687 sq ft (12.9%)

Proposed Impervious Coverage:

-) Buildings: About 1,307 sq ft (4.6%)
-) Total: About 4,022 sq ft (14.0%)

) **Septic System Status:** The property is served by an existing septic system that was installed in 1978. It was last inspected and found compliant in 2013.

) **Natural Features:**

- o 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 for the lowest floor. While no specific numbers have been submitted, it appears the lowest floor would be at an elevation of about 1008.

- Bluff/Steep Slopes: The lot does not contain a bluff, but does have a steep slope near the lake. The cabin would be located on a relatively flat area.
- Wetlands: There do not appear to be any wetlands that would impact this proposal.
- Current Shoreline Conditions: Little aquatic vegetation. Various mature trees near shoreline, otherwise lawn is mowed to the lake. Sand beach area at shoreline.

) **Permit History:**

- 1973 - Setback variance for dwelling to be 60 ft from Cedar Lake
- 1978 - 30' x 32' dwelling
- 1978 - Septic system
- 2013 - Septic system compliance inspection - found compliant.

Applicable Statutes/Ordinances:

505. CONDITIONAL USE PERMITS

505.1 Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Wright County Planning Commission shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands. Among other things, the County Planning Commission shall make the following findings where applicable.

- (1) That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;
- (2) That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
- (3) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- (4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- (5) The use is not in conflict with the Policies Plan of the County; and,
- (6) That adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other

lights in such a manner that no disturbance to neighboring properties will result.

505.2 Additional Conditions

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- (1) Increasing the required lot size or yard dimension.
- (2) Limiting the height, size or location of buildings.
- (3) Controlling the location and number of vehicle access points.
- (4) Increasing the street width.
- (5) Increasing the number of required off-street parking spaces.
- (6) Limiting the number, size, location or lighting of signs.
- (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.

Any change involving structural alterations, enlargements, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Wright County Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission; time limits, review dates, and such other information as may be appropriate.

728. LAND ALTERATIONS

728.1 Permit Required

- (1) A Land Alteration Permit shall be required in all cases where excavation, grading and/or filling of any land within the county would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion or would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the County.

- (2) Substantial alteration shall be defined as the extraction, grading, or filling of land involving movement of earth and materials in excess of fifty (50) cubic yards in the Shorelands Districts and in excess of five hundred (500) cubic yards in all other districts except drain tiles and ditch cleaning in agricultural areas. Such substantial alteration shall require a conditional use permit.
- (5) A Land Alteration Permit is also required from the County and from the Commissioner of Natural Resources for any alteration in the Flood Plain District and the Shorelands Districts. Such alteration shall include any filling, dredging, channeling, or any other work in the beds of public waters which would change the course, current or cross section of a public water.
- (6) A Land Alteration Permit shall be valid for a period of six (6) months from the date of issue. A Land Alteration Permit shall be administered in the same manner as a Conditional Use Permit.

728.2 Requirements

Before the issuance of a Land Alteration Permit or an Administrative Land Alteration Permit, it must be established that all of the following conditions are met. These conditions must also be adhered to during the issuance of construction permits, permits, conditional use permits, variances and subdivision approvals:

- (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (this evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised):
 - (a) sediment and pollutant trapping and retention;
 - (b) storage of surface runoff to prevent or reduce flood damage;
 - (c) fish and wildlife habitat;
 - (d) recreational use;
 - (e) shoreline or bank stabilization; and
 - (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

- (2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- (4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- (5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- (6) Fill or excavated material must not be placed in a manner that creates an unstable slope;
- (7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (8) Fill or excavated material must not be placed in bluff impact zones;
- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 105.42;
- (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- (11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

Staff Findings: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) Will the Conditional use be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the immediate vicinity?

Needs discussion. Any impact on neighboring properties would be most likely if the fill were to reduce the storage capacity of the lot to the point where water from heavy or extended periods of rain or during flood events were to be pushed onto neighboring property (presumably mostly to the north). The neighborhood

has had a history of raising concerns with the Town Board regarding ponding of water on lots during heavy rain events or wet periods of time.

2) Will the establishment of the Conditional Use impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area?

Needs discussion. See discussion in 1) above.

3) Do adequate utilities, access roads, drainage and other necessary facilities exist or will they be provided?

Yes. The area is already served by utilities and a township road.

4) Have adequate measures been taken to provide sufficient off-street parking and loading space to serve the proposed use?

Yes. The fill itself requested does not create a need for additional off-street parking. There is adequate off-street parking for the property now.

5) Will the use conflict with the Policies Plan of Corinna Township and/or Wright County?

Needs discussion. The Comprehensive Plan states the following as strategies to “protect, preserve, and enhance lake water quality” and to “Protect, preserve, and work to ensure effective management of wetlands, wildlife, and other important natural and environmental features”.

- 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: The applicant will need to adequately stabilize any areas of fill and ensure that stormwater is properly managed to drain water towards appropriate areas rather than areas likely to harm neighboring properties or public right of way.
- 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 site of the proposed fill mostly does not contain trees. Several mature trees on the edge of the fill area may have their roots on one side buried a bit deeper.
- 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: The proposal will obviously involve a significant amount of fill on the property that would be subject to erosion until it is stabilized. Proper placement and retention of the fill will help to avoid problems.

6) Have adequate measures been taken, or will they be taken, to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result?

Yes. The proposed project would have the potential to create temporary noise, dust, fumes, vibrations and other such characteristics during the fill placement process. These should not be excessive or unusual however and would not be present once construction is complete.

7) Are there any other conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole?

Planning Commission/Board of Adjustment Direction: The Planning Commission/Board of Adjustment may approve the conditional use request, deny the request, or table the request if the Commission/Board should need additional information from the applicant. If the Commission/Board should approve or deny the request, it should state the findings which support either of these actions.

Staff Recommendation: Staff recommends that the application be approved only if the applicant can show that the fill would not negatively impact neighboring properties.

If the applications are approved, Staff would recommend the following conditions:

1. (For consideration) That the area of fill be limited to the minimal necessary to allow for creation of a pad for a reasonably sized garage and for leveling out the area near the road to allow for easier lawn maintenance. This will allow for reasonable areas of fill while minimizing the loss of stormwater storage area.
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 the area of disturbance and the road and neighboring property to the west, seeding of all disturbed areas and installation of erosion control blankets as identified in the submitted erosion control plan, or as otherwise recommended by Wright County SWCD and/or approved by the Zoning Administrator.
3. The applicant shall implement 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 runoff from the site prior to it flowing onto the township road and/or the neighboring property to the east. These may include directing rain gutters to appropriate areas, rain barrels, 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.

4. The applicant shall submit a stormwater mitigation plan that identifies additional best management practices that could be taken to address stormwater containment that may be necessary if the fill were to negatively impact the neighboring property or the lake if the approved plan proves to be inadequate.
5. If, at any time within five (5) years of the approval of the placement of the fill the Zoning Administrator determines, after consultation with the Wright County SWCD and the landowner, that significant erosion, drainage or other negative impacts from stormwater runoff are occurring as a result of this project, the applicant shall implement best management practices sufficient to mitigate those negative impacts, whether or not such necessary practices were contained in the original or mitigation plan identified in #3 and 4 above. This may include the removal of fill placed during this process to restore an area for flow or detention of water.