

STAFF REPORT

Application: Variance to construct a septic system approx. 3 feet from a side property line (min. 10 ft required).

Applicant: Mark and Monica Raskob

Agenda Item: 4(c)

Background Information:

-) **Proposal:** The applicants are proposing to replace an existing septic system that was found to be non-compliant with a new Type IV septic system. Due to the very limited space on the lot, the drainfield would be located within the required 10 ft side yard setback that is normally required.
-) **Location:**
 - o Property address: 11702 HOLLISTER AVE NW
 - o Sec/Twp/Range: 2-121-27
 - o Parcel number(s): 206000021301
-) **Zoning:** R1 - Urban/Rural Transition/S2 - Residential-Recreational Shorelands, Sugar Lake 86-233 (General Development lake)
-) **Lot size:** Approx. 14,872 sq ft (0.34 acres) according to survey
 - Impervious Coverage: Proposed septic system will have no impact on existing or proposed impervious coverage.
-) **Septic System Status:** The application is to replace a non-compliant sewer system with a compliant system.
-) **Natural Features:**
 - o Floodplain: The property is 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 1976 - 30' x 45' home
 - o 1976 - Septic system
 - o 1993 - 12' x 15' storage shed
 - o 2009 - miscellaneous building
 - o 2017 - Septic system compliance inspection found system failing

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.

(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.

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.

716. SEWAGE AND WASTEWATER TREATMENT AND DISPOSAL STANDARDS

716.3 Site Evaluation and Design Requirements

**Table 3
Minimum Setback Distances (Feet)**

	Sewage or Holding Tank	Soil Treatment or Absorption Area	Building Sewer or Supply Pipes
Water Supply Wells* (50 feet of continuous casing or encountering 10 feet of impervious material)	50	50	50**
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	-
Recreational Development Lakes, Mississippi River, Agricultural Rivers and Tributaries as defined in Section 612.4	75	75	-
General Development Lakes	50	50	-
All public water wetlands as defined by Minnesota Statutes, Section 103G.005, Subd. 15a 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 Wright County Zoning Ordinance.

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 (side yard setback) for septic systems, according to the Statement of Need and Reasonableness prepared for the 1996 Rule Changes, states as follows:

“The property line setback is placed in the rule to highlight to landowners that they must consider their neighbors during placement of their ISTS. It is reasonable to require documentation for property line setbacks at the state level to assure that affected parties are privy to the information and accept the infringement to their property.”

The Township has not received any comments from the neighboring property owner at the time this report was written. There is very limited space on the property for a drainfield.

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 this, except general statements about ensuring compliant sewage treatment systems and consistent enforcement of regulations.

3. Is the proposed use of the property reasonable?

Yes: The desire and need to have a compliant sewer system is reasonable and the limitations of the lot appear to necessitate a closer setback than the required 10 feet.

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 size of the lot and the location of existing buildings.

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

No: The proposed septic system would be underground and replacing an existing septic system.

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.

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

No: There is not enough space on the lot to place a drainfield without needing some kind of setback variance.

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

No: The purpose of the proposed septic system is to protect ground and surface water quality. The location within the side yard setback does not have any extra impact on the environment than a compliant location.

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 findings of fact noted above, Staff recommends approval of the requested variance, as presented.