

CORINNA TOWNSHIP  
MINUTES  
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION  
August 15, 2012

7:00 PM

1. Call to Order: Chair Charlotte Quiggle called the meeting to order at 7:00 PM.
2. Roll Call: Board of Adjustment/Planning Commission Members Present: Charlotte Quiggle (Chair); Larry Smith; Steve Huff; Barry Schultz

Absent: Dan Shay (Vice-Chair); Lee Parks

Others in Attendance: Jim Martin, Judy Martin, Mel Dykhuisen, Dick Naaktgeboren, Chuck Carlson, Jim Adams, Terry Morse, Jim Kutzner, Steve Sanocki, Maria Sanocki, Thomas Klingelhutz, Dick Warden, Kenneth Bayliss, Kathy Jonsrud, Bill Westhoff, Rita Westhoff, Dave Levi, Bob Minor

3. Additions or Deletions to the Agenda: None. A motion by Schultz, second by Huff, to approve the agenda. Motion carried unanimously.
4. Public Hearings
  - a. Request to amend a variance granted November 15, 2011 that allowed for the expansion of an existing nonconforming recreational campground to allow for up to 6 RVs, campers, fish houses or tents at any one time. The revised application is to allow for up to 4 such units.
    - i. Applicant(s): Cedar Acres Association, Inc.
    - ii. Property Address: 7755 Isaak Ave NW, Annandale
    - iii. Sec/Twp/Range: 27-121-27
    - iv. Parcel Number(s): 206035000020

Quiggle read the variance request and Oleson deferred to the township attorney in this matter. Bayliss: My name is Ken Bayliss from Quinlivan & Hughes Law Firm in St. Cloud. I got involved in this dispute because I represent Corinna Township. Basically this dispute is on Cedar Lake, it is between two different groups of land owners. On the one side we have Levi, Jonsrud and Wagner and on the other side we have Cedar Acres Home Owners Association across the lake. Over time they had disputes. Back in November of last year there was a variance that was granted for four or six units if they got approval from the Minnesota Department of Health for the number of units they could have as campers, tents and those kinds of things at certain times of the year when they would have various celebrations. They've had, according to them anyways, for many, many years. I don't think there was dispute that they have done it for some time. There is debate about how long they have been doing it. Anyways, eventually a lawsuit was brought by Levi, Jonsrud and Wagner against the Cedar Acres Townhome Association across the lake. In that lawsuit Corinna Township was named as a party and as we entered the lawsuit we basically thought that this is essentially a lawsuit between the two groups of landowners and Corinna Township wasn't particularly interested in trying to say we're going to go all that way or all that way. We're just trying to make things work. As with most legal proceedings parties are required to go to what is called mediation. To try to see if they can work out their differences and that's what happened in this case. So they went to

mediation and they sat there with representatives of Cedar Acres and the Township and also plaintiff group, Wagner. They weren't able to work it out at that time. In subsequent discussions parties went back and forth with different terms and conditions and eventually reached an agreement as to how the lawsuit might resolve. The way it was going to be resolved was by the Cedar Acres Home Owners Association voluntarily reducing the number of units they had available from six to four and then in exchange they were going to make certain binding promises to the people across the lake as certain things they would and would not do. That would be accomplished by amending the park rules that relate to what they can do with that area where they have the camping from time to time. So it is kind of a give and take and both sides agreed. Eventually the settlement agreement was circulated and at this point we have the settlement agreement signed by the township. We have a signed copy by Levi and I have been in consultation with the attorney for Cedar Acres today. They had previously agreed to this, the terms, but had not gotten back to me with their executed copy of the agreement. They have agreed they are going to sign it. Mr. Marx is out of town right now so he is not able to sign-off on it, but he said "Yes that's a done deal." So the news is we have a done deal and it's a mediated settlement agreement. The mediated settlement agreement had a couple conditions; one was that the settlement itself had to get approved by the township board because the township board can't at mediation or just through the attorney actually take official action. So we had that meeting with the township board and they officially approved it, that was the first condition. The second condition of approval settlement was that they come before this board and the variance was granted by the board last time, in November of 2011 is now going to be approved by the presiding agency at this time which is the board of adjustment. The change is going to be the variance they now have is going to be instead of going up to six units, it's going to be four units. Apart from that none of the other conditions that were imposed upon the variance are going to change. At some point I think in the application there was some reference to try to get a change. That would be something that we thought was inconsistent with what we had talked about so we tracked that down, tracked it back, went and said okay are there any changes? And the attorneys have agreed no there are not going to be any changes and in fact they are going to sign off on a document that will say that there are not going to be any changes. So, I stand here as a representative of Corinna Township board just trying to explain what has gone forth up to this point and to suggest that it is a good resolution for the township and it's a good resolution for all the parties concerned if they could work out this particular dispute.

A member of the audience was confused as to which item on the agenda was being discussed. Bayliss addressed and cleared the confusion.

B. Minor: I am immediately north of Cedar Acre park. You are saying that they agreed to four units and they're ready to sign off on that?

Bayliss: Yes.

B. Minor: Well, why are we here?

Bayliss: Because we're going to amend a variance. Part of the settlement agreement was we are going to amend a variance and the only entity that has legal authority to amend a variance is this board. It's non-controversial. The parties told me they both were not going to attend and if they did attend they were not going to speak-up and participate and get into the details.

Minor: Who is petitioning for 6 units?

Bayliss: Nobody at this time has asked for six units. That happened back in November of 2011.

B. Minor: Well, let's move this settlement forward and be done with it.

Bayliss: I think that is brilliant reasoning. That's what I have to say.

Quiggle: Is there any other discussion from the public? [silence] In which case does anybody here (the board of adjustment) have anything they'd like to discuss?

Quiggle read the conditions from staff report. (Page 4a-11) and the last condition would be that we have an executed settlement with a time limit of Wednesday, August 29<sup>th</sup>, 2012.

A motion was made by Huff, seconded by Smith, to approve the variance amendment so that the only change from the variance granted in November 2011 was a reduction in the allowable number of RV's, campers, fish houses or tents at any one time from a possible six (6) to no greater than four (4). An additional condition was imposed that signed, executed copies (from all parties involved) of the mediation settlement involved with this request be delivered to the Township's Attorney (Ken Bayliss) not later than August 29, 2012. All other conditions imposed on the approval in November 2011 were made part of the August 15, 2012 variance amendment. Those conditions were:

- 1) The applicant must submit a plan for adequate sewage treatment. This may include submitting a copy of a contract with a portable toilet company for maintenance of the portable toilet on the site at all times when camping is occurring on the site. This documentation must be kept current and the portable toilet property maintained at all times so as not to create a pollution problem.
- 2) The applicant shall ensure that RV's and tents meet a minimum lake setback of 75 feet at all times.
- 3) The applicant shall ensure that RBs and tents meet a minimum side-yard setback of 50 feet and a minimum road setback of 300 feet (or enough so that they are not located on the steep slopes leading up to the road) at all times.
- 4) The applicant shall create a 10-foot vegetative buffer along the shoreline that is to remain un-mowed, between the lake and the lawn area, for permanent storm water management.
- 5) The applicants shall designate a person to serve as the contact person with the Township.
- 6) Covered trash receptacles shall be on site and need to be emptied properly on at least a weekly basis.
- 7) No camping unit shall be located on the property for longer than seven (7) days at a time.
- 8) No fire rings shall be located within 50 feet of Cedar Lake.
- 9) The Township shall review, before January of every year, compliance with the above conditions.

Motion carried unanimously.

- b. Variance to construct a new dwelling served by a Type III sewage treatment system (Type I system required) involving Phase II of a previously granted conditional use/land alteration permit for additional fill.
  - i. Applicant(s): Steve and Maria Sanocki
  - ii. Property Address: Between 9531 and 9581 Jeske Ave NW, Annandale, MN
  - iii. Sec/Twp/Range: 16-121-27
  - iv. Parcel Number(s): 206031000320

Quiggle read aloud the variance request.

Klingelhutz: I have a letter here that describes what has happened over the years. Originally I had three lots. They were all buildable lots at one time. I went to the county and had them changed to two lots and this happens to be the lot that I added extra footage to. It was originally a 75 foot lot on the lake. It is now a 100 foot by 109 foot on the back and I think it's over 350 feet deep. The water has been running down the hill across our property since the ice age, I believe and it has never been a problem then and it is no problem now. The problem is going to

be that road they want to raise, blocking the flowage of that water. The road is the problem. You're building a dyke.

Huff: We talked about this last time when we were talking about bringing the dirt in. We talked exactly about what that road was going to do.

Klingelhutz: It should be to the ditch. That's where it belongs. They could put a swale up to the road and it would flow down the ditch and then it would have to cross across my property because your road is partially on my property around the corner. The entire corner is on my property, in fact. So that's no problem. I will maintain a ditch on my property for flowage. This is my son-in-law and my daughter. I don't think they appreciate it now that I gave them the lot for all the crap they have to go through. I've been a builder all of my life and all the cities around Minneapolis area and I've never seen anything like this. Why does it take six months to get a permit? It doesn't make sense. It's wrong. Is that your fault? [Indicating Ben Oleson] Or whose? Why did you take this away from the county? The county had everything together. They were easy to work with.

Quiggle: As are we, but in any case this is something that is a flood plain issue and would have been the same issue at the county as it is here and it would have been handled in the same way.

Oleson: We have a proposed house here. They had an old cabin (built in 1933). That has been torn down. Last summer they brought in fill to start preparing for building a house which now they want to complete so there was two phases to what we approved last year. Phase I was to bring in the fill that they've brought in already. Phase II is to bring in some more fill and then build a house on top of it and place fill around the house. Phase II also included making sure that this driveway met the floodplain requirement that a driveway be within two feet of the flood level.

Klingelhutz: Why is that necessary?

Oleson: It's a...

Klingelhutz: It only happened twice in the last forty years.

Oleson: It's a state rule that we're stuck with. It's handed down to us from the state. Whether we agree with it or not it is given to us as that is the rules so this driveway had to be at 995.7. They proposed a driveway which does create a dike that this neighbor (visual reference) was concerned with it would prevent water from continuing to flow this way (visual reference).

Klingelhutz: Like I said, it's been flowing down that hill since the ice age, I imagine and we've never had any problem with it. It just percolates away.

S. Sanocki: The real issue is where does the water come from if there is a heavy rain? The water basically, it's so sandy there, it basically goes right into the soil. I think Brian sent you a note last time that basically said it's very sandy and it down percolate in. The issue is when there is a flood event, when the lake level rises; the water actually comes from the ground.

Quiggle: Because it's got nowhere to go.

S. Sanocki: That's the issue and then when the water goes down or when the lake level goes back to down then the water goes back down. I agree that yes there should be a culvert out by the road. I know you talked with Dave today or he talked with you and you guys had some other suggestions, but I think that...the more I think about that...that is the wrong solution by putting a second culvert in because then you're setting up precedence that when the property north of us is sold or changes names then I essentially have a drainage easement through the middle of my property. What we're trying to do is...

M. Sanocki: They're going to have to meet that 100 year floodplain eventually, too.

S. Sanocki: Eventually if something is torn down or if they add on or whatever. I'd assume they'd have to bring their driveway up.

M. Sanocki: And their driveway is right on the lot line, too.

S. Sanocki: I'm looking at what are the solutions here? First of all the reason we're here is because is this a buildable lot or not? Can we put a type III sewer system in on yes or no and

that if the answer is no then the rest of this...we don't even have to continue talking about it. Then it is a different issue. So maybe we should answer that question first....Is this a buildable lot and will it accept putting a type III sewer system on it yes or no?

Oleson: There are two things here. One, the key question being asked is can they build a house on a type III system when it is supposed to be a type I standard sewer system for new construction? That's really what we are here for tonight. The reason the drainage is coming into discussion is because last summer when we approved this in two phases, the second phase was supposed to be done only after we had addressed the drainage to make sure that wasn't going to be a problem. They really can't do phase II until they address the drainage issue and it doesn't make sense to build a house until they have phase II figured out.

M. Sanocki: We don't want to invest more into this and find out it's not a buildable lot.

Oleson: The issue of two culverts, just to give the board some more background. I sent the application which included this site plan, which was submitted as part of the application. I sent this over to Brian Sanoski from Soil and Water Conservation District. They saw this plan. The basic idea is that they're going to build this driveway up which going to create a bit of a barrier for water flowing this way (visual reference). They were going to have a swale at a 2% grade down to the road ditch, put a culvert under the new driveway and then run it down this way and around the neighbor's property, Mr. Klingelhutz, and then down to the lake. This area is very, very flat. There is not much grade to it. You come down the hill here, this way and this way (visual reference) and then you get here and it's just very, very flat. So, Brian looked at it and I looked at it and we had this question of does it really flow this way? It's very flat. Is it really going to flow? We had some discussion about a lot of it just sinks into the ground anyway.

Klingelhutz: We know for sure, it won't go up hill.

Oleson: He wrote the email which I handed out and this was Brian's email which basically said yes I don't know if it will drain that way or not. Does the applicant have more elevation points or not? I talked to your engineer who is Dave. He said the one thing we could maybe do is put a culvert here as well because that is kind of where the water...I hate to say flow, it doesn't really flow.

S. Sanocki: It doesn't flow. The run-off water just kind of sits there. In order for me to get his water to flow I'd have to put a lot of dirt on his property. That's the truth.

Oleson: That's why we're here. The plan is to put one in here (visual reference). The thing that was brought up and now you're basically saying you're not sure it makes sense or you don't want to do it.

S. Sanocki: If we put a culvert here (visual reference) then we have a drainage easement. If we put a second culvert here, down the road if property changes hands someone else is going to own either our property or the property to the north of us and if they do any upgrades and they have to raise their driveway. They'll use this likely as a drainage easement even though the water doesn't actually flow. But if they ended up bringing in a ton of fill and doing that then I would have a greater risk of being flooded out versus if you could direct the flow down the property line out near the road. To me that makes a lot more sense.

Oleson: Your request is as originally submitted to just have this swale down here?

S. Sanocki: There's another option. I can get rid of the garage. I already have a garage. I can use this as my garage. Then I wouldn't have to bring in all of this additional fill. The ordinance is for a driveway. It doesn't say a driveway to your cabin. This is without a detached garage. I'm just using this as a garage. My driveway is not going to be all the way up here.

Oleson: I'll have to look up that language but I...

S. Sanocki: (interrupts) We were talking on the way. What are possible solutions? Because some of this is not practical and you're actually it's creating additional problems and potential future problems. What I'm trying to do is do what's right and I agree that yes the driveway should be brought up so you can get an emergency vehicle in as far as you can. That makes sense, but at the same time if it's not a law for everybody, if it's not implemented that way, it's

only on new construction then you have to think about well the neighbor to the north of me. The neighbor to the north of me will likely, it's an old place, it's in pretty tough shape, it will either probably be torn down or upgraded at some time. When it's upgraded I would assume you have to bring the driveway up.

Oleson: The ordinance that affects the driveway height is this one here that says "All new principal structures..." which is what we're dealing with here now "shall have vehicular access at or above..." the elevation that we're talking about. So whether that's all the way to the house or only to the garage... Is it for the benefit of the landowner so that they can get their cars in and out? Or is it for the benefit of emergency services getting into the house?

Kligelhutz: They've never had trouble before.

Oleson: That's the language that we're dealing with. (4a)

Huff: Isn't the doors to garage on the lake side?

S. Sanocki: Yes. It's not that difficult to put them on the other side.

Huff: You're saying to run a driveway from the road down to there?

M. Sanocki: Yes.

S. Sanocki: Get rid of this (visual reference). Right now the low area is right here. (Visual reference) The lowest area...

Huff: If we do like you just said, then you can do whatever you want with the driveway then.

Smith: Wouldn't that impede the sewer though?

Huff: Where is the sewer?

Quiggle: The sewer is in back of the garage.

S. Sanocki: The sewer would be behind the garage.

Huff: Do you have enough room in there?

M. Sanocki: Yes. The fence is actually...

Smith: Because you're getting rid of the water not to the sewer, but away from it.

Huff: And you're not blocking the neighbor.

M. Sanocki: And we really don't need the extra garage when we really thought about it.

Schultz: Where would the drain pipe be?

S. Sanocki indicated the location on the map.

S. Sanocki: What we proposed with this original plan is right here we'd put a culvert in at the road. What Brian was concerned about in his email was what happens if you have a serious rain event and you get maybe 12 inches of rain and you start flooding this over here. Is this enough? If we have 12 inches or we have a huge rain, it's going to come from the ground. I can't stop the water from coming from the ground without adding a lot of dirt.

Oleson: Is the neighbor to the north here? Last time they were here that was their concern that this was somehow going to keep water from coming off of their property like it naturally did. So that's why we had that condition that said work with engineers to figure out how to prevent that from happening. Brian was looking at it, sent that email, and then I expressed that concern to the engineer. He said one thing we could do is maybe put another culvert in. He was going to talk to you.

S. Sanocki: We talked a little bit. I said "Yes." That we can do that, but then the more I think about it we do not want to have a drainage easement in the middle of your property. That's just a potential for problems.

Schultz: You're going to put a swale in there, right, to drain the water?

S. Sanocki: If we have this plan it essentially is draining if it doesn't soak into the ground. It would drain this way. (Visual reference) You might have to take a little bit of dirt out near the road because of how when they built it it's a little higher right at the road.

Schultz: But now if your neighbor adds more dirt, you're basically creating a place for him to drain also.

S. Sanocki: I'm actually fixing his problem. If I do it this way I am fixing a potential problem for him.

M. Sanocki: Because we don't have the drainage problem. He does.

Quiggle: It is not a current problem for him, right?

S. Sanocki: It is not a current problem.

Kligelhutz: The guy up on top of the hill created the problem.

Oleson: If this works and water doesn't back up then it's great.

Carlson: But you're not just solving the problem. It's a good solution.

S. Sanocki: Right there is so sandy.

Carlson: Except it does come down that hill.

S. Sanocki: Yes. It comes down the hill.

Carlson: I grew up right there.

Oleson: A type I system is your standard, mound, drain-field system. It's adequately sized. It meets the state's standards and everything. A type III is where there is something that doesn't quite fit with that. Either it's undersized or the ground water is too high or something like that. In this case what we have is they are bringing fill in and fill soil is not considered natural soil. So it is not a standard system if it is not built on natural soil. It's kind of a raised bed. They are excavating out some top soil. They are backfilling it with some sand and then they're building more sand on top of that.

Quiggle: Similar to Dan's?

Oleson: Similar.

Quiggle: It's a solution for a piece of property that can't sustain a standard system.

Huff: It's better than a holding tank.

Quiggle: Yes.

Oleson: In the findings it says the intent of having a type I is that it's going to work well. It's going to function. It's going to treat things. It's not going to fail. Type III systems are very reliable from what I have seen. They have monitoring plans for them to make sure they work well over time so my thought is given the site and the limitations it has a type III sewer system can accomplish the same thing as a type I system. That's the key question that we're here for tonight. Can they build a new house on a type III system? The house that they are proposing is smaller than what they had anticipated back last year. Especially if they have taken the garage off of it. It is even smaller. Question two is the plan that they submitted for drainage is that adequate to allow them to move forward to phase two which is to bring in more fill to bring the driveway up.

Quiggle: How big and long will the driveway be? If you're not going to have the attached garage it will be a much smaller driveway.

Oleson: The concern with the driveway here is we're crossing the sewer area. At a minimum we're driving over a sewer line which basically means it needs to be insulated so it doesn't freeze.

S. Sanocki: They'll actually be insulated.

There was some discussion on the location of the well and septic.

Oleson: If they were to move their driveway we would be talking quite a bit less fill. You would still need to fill around the house to get your fifteen on either side.

S. Sanocki: So that's to size now? Did you take the pictures? So most of the dirt is basically...it's a little bit high in the middle? So it's essentially just the driveway fill and then some additional top soil that's required.

Oleson: So you'd be reducing the amount of fill. This (visual reference) if you want to call it drainage, drains this way would be maintained, right? We're not filling it right? We're still away from this out here (visual reference) and then we'll have this extra swale.

S. Sanocki: There are two options. Get rid of the garage.

Huff: Which garage, the new one?

S. Sanocki: The attached garage. That's one option.

Huff: It takes away all of the problems.

Quiggle asked the audience for any questions or discussion.

Quiggle: Which way are you guys leaning as far as the driveway and all of that is concerned?

S. Sanocki: The original plan that's up there on the board right now. If that can be approved that's going to solve issues in the future if we add on a garage. If you say you're too concerned about flow then we would just bring in a little bit of fill to the existing garage and worry about it later on in the future is we decide to add-on an attached garage.

Quiggle: So if we approved this one then that would come with a future storm water plan management. If you were to ever do that so you would already have the plan in place.

S. Sanocki: Basically, this plan is if this plan is acceptable or not in the future.

Quiggle: I'll defer to you guys. Is it reasonable that there be only that one culvert, with or without that driveway?

Huff: With that driveway in there it's going to take a couple. Without the driveway, with going to the existing garage then you don't need to do anything.

S. Sanocki: We don't have to bring in any fill?

Huff: You have to be from the road down to the garage, you have to be that two foot thing, but you don't have to have culverts. You don't have to have squat. You just make that garage. That eliminates a whole pile of fill and money. And it eliminates any water drainage problems.

Smith: I think you're right. You're on track.

Huff: It makes your house buildable. I'm fully prepared to do the type III thing. I'm saying this is a little package I'm looking at. Seeing if you're agreeable or not.

S. Sanocki: Yes.

Huff: I'm trying to make it work.

Smith: I think you'll find that's going to be a lot better for the fit of the lot. It's tough, I know. It's a sacrifice.

Huff: I'd think seriously on moving that because your access is clustered.

Schultz: Why couldn't you still run your sewer on the down side of the garage and when you come up and feed that one end, leave the feed where you've got it into the drain field, you'd still be pretty close to your road and yet you wouldn't be driving over the sewer then.

Quiggle: That's sewer design issue. That's not a board of adjustment issue.

Huff: This makes sense?

S. Sanocki: Yes. What I'll do is jack the garage up a little bit too then.

Quiggle: Any other discussion?

There was some discussion pertaining to the necessity of culverts.

S. Sanocki: I think the right thing to do is to put the culvert in. What it does is in the future if I own the property or someone else does and they want to add something and they wanted to use this plan then everything is set-up for this plan?

Huff: Yes.

Oleson: Then, the driveway is going to be re-directed into the east end of the garage.

S. Sanocki explained the location and options available on the site plan.

Quiggle: Would a permit be necessary for shifting the garage?

Oleson: Yes, the bigger question if you're going to move the garage is the building code and the building inspector. The variance is for the type III. The rest of it we didn't say that phase II and the drainage plan had to be approved by the board of adjustment. It just had to be approved.

We can handle that administratively. I've heard your conversation which is helpful because I'd rather know how you're thinking about that than not. I think we can deal with the driveway location, the sewer location, the garage separately administratively.

A motion was made by Smith, seconded by Huff, to approve the variance to construct a new dwelling served by a Type III sewage treatment system (Type I system required).

No conditions were imposed as part of the approval. However, there was discussion related to how Phase II of the 2011 conditional use permit granted for this property (to bring in additional



fill in order to construct a driveway and home meeting floodplain elevation requirements) would be met.

The applicant submitted a plan for such fill that would involve installing a culvert under the driveway within the road ditch. Water was to be directed from the north part of the lot to this culvert, which was then to drain to the south and west into the lake. Upon further discussion, the applicant indicated they may eliminate the attached garage in their house plans, direct the new driveway in to the existing detached garage so as to minimize the need for more fill and minimize concerns expressed about holding floodwaters on the lot immediately to the north. The Board of Adjustment/Planning Commission was generally satisfied with this plan and agreed that the details of Phase II of the 2011 conditional use permit, the location and design of the proposed house and the septic location/design could all be worked out administratively.

Motion carried unanimously.

5. Approve Previous Meeting Minutes (tabled)

- a. July 10, 2012

6. Zoning Administrator's Report

- a. Permits
- b. Correspondence
- c. Enforcement Actions

7. Other Business

Oleson: The first item is the ordinance interpretation question. I've been getting calls lately about a property that has a retaining wall behind the house. The retaining wall is holding back a bluff basically. I don't know the height of that wall.

Dick Warden and Chuck Carlson addressed the board. Oleson brought pictures of the property up on the overhead for visual reference.

Carlson: It is an existing wall. Can we re-do it without a CUP? What is the proper step?

Quiggle: We need to hear what the ordinance says.

Oleson: The retaining wall is holding, but it's buckling. It's in a bluff. Behind it is a bluff. The ordinance has two requirements. One is that if you're moving dirt in a bluff or placing fill in a bluff or doing that kind of like we did with Keith Jerpseth on Clearwater Lake if you remember that one with the big ravine and we were going a bunch of retaining walls. It was bluff he needs a variance for doing that in a bluff. The conditional use permit comes into play because it's more than 50 cubic yards of material and potentially is an erosion issue. That was my first comment was that we needed those two things. I talked to Brian Sanoski at Soil and Water District. He went out and looked at it and said "Yes, I think there needs to be an engineered plan with this." To make sure it's going to work right. The first conversation with this was that it's going to be tiered back. I don't know what the heights were going to be. Is that still the plan?

Carlson: If you look at that wall, the top six laterals are not touching dirt. The dirt is below it. The proposal is to start the wall here and go four or six feet with 18 inch blocks. Each block would step back 6 inches and then somewhere in the planter range we'd move back about 4 or 6 feet again and go up the rest of the way.

Oleson: Here's what the ordinance says about retaining walls just in general. There is no permit necessary unless they are greater than 4 feet in height and if they are greater than 4 feet in

height then they need a building code. The problem with this one is there is the bluff. There's a lot of dirt that would have to be moved and then you're going to get over the 50 cubic yards. I'm assuming.

Carlson: It would be about 100 yards. Really close to that.

Oleson: Regardless of whether what permits are needed for a thing if you are moving more than 50 cubic yards of material then that's a conditional use permit. If you're doing it in a bluff....

Quiggle: We want an engineered plan for that.

You'd probably get the engineered plan through the building code anyways. If it's just the engineered plan then you can probably handle that administratively through the permit process, but because of the amount of dirt being moved and because it's in a bluff we're talking about CUP and variance.

Carlson: Even though it's an existing wall?

Huff: It's not so much the question of if we should or shouldn't. It's how, because in another five years that'll just bust and he'll have a pile right up against house.

Oleson: Regardless something needs to be done.

Quiggle: The only question before us right now is whether a variance and a CUP are required and I would say by ordinance yes. They still haven't filed an application so we're not discussing it any further.

Carlson: Is it a replacement? Can we just replace it and be done with it? Okay you answered my questions so what you need for a CUP and a variance is...

Quiggle: A plan.

Carlson: Okay. That's it?

Oleson: Showing the height of the walls, how many tiers there are, how much dirt is going to be moved around and then something from the engineer to show how it is going to be dug so it stays in place. How are they going to drain water from behind the walls so there's not that pressure? Maybe they don't need to....

Carlson: It's all sand, but yes. Sewer inspection?

Quiggle: Yes.

Oleson: Because of the property transfer it's going to happen anyway.

Carlson: Because of the CUP and variance or because of the property transfer?

Oleson: If it wasn't because of the property transfer then it would be required because of the permit in shore land, but it's going to be required because of the property transfer anyways.

Carlson to Warden: How long has it been?

D. Warden: Two years.

Carlson: Okay so two years ago is still good then?

Oleson: It was installed two years ago?

Carlson: No, sewer serviced two years ago.

Oleson: If it was inspected by an inspector and said "Yes, it is compliant." Two years ago that should be good. You shouldn't need a new one.

Carlson: Three years, correct?

Oleson: Yes. We'd be looking at an October meeting then.

Oleson: This is something that came up over last couple of weeks as I was talking about a particular project somebody is looking at. If we look at their very last thing on this policy that we've worked through, we figured out for expansions what were expansions or not. Under footprint change number 2, we were talking about if you were going to keep the same square footage, but change the shape of the building how that footprint lays out. We basically said here as long as it doesn't go closer to the lake or whatever other setback is a problem then you can do it. And that's any part of it going closer so like if there was a part of an "L" shape there is going to be more of the building within a side yard setback then it would be a variance as I read this. If they're not going closer to any setback they are free to do whatever changes to the footprint that

they want as long as it doesn't increase the square footage. So if it was a nine-hundred square foot building and it's going to be a nine-hundred square foot building afterwards and it's not going any closer to any of the setbacks on the property than before they can do it, right?

Quiggle: Yes, so if they had a 2 by 12 building they could change it to a 4 by 6 as long as no setbacks were further encroached on.

Oleson: There are two little twists. One that I'm pretty confident about. And that is if they are changing the roof-pitch to 6/12 which is our first item from something flatter. Those two can happen at the same time and it's still not an expansion, right? (agreements from the board) The last twist is if the building is less than 24 feet wide long now which is the minimum required in the ordinance and they're reconfiguration of it is going to still be less than 24 feet wide is that replacement without expansion and they can still do that without a variance?

Huff: You kept the same square feet.

Oleson: Yes. Is it still just replacement without expansion? And can therefore be done without a variance by state statute? Or are we talking about something that requires a variance?

Quiggle: Let's talk about; what's the purpose of requiring something to be more than 24 sq ft.

Oleson: Honestly, I think people have sometimes put that in their ordinance so that they don't have mobile homes. In this particular case it's a trailer that's had an addition put onto it. They want to tear it all out and put it back with a cabin that's less than 24 feet wide because that's what they need to do to keep it to the same square footage so it's not an expansion.

Quiggle: I don't have an issue with that.

Smith: I don't think it bothers me, but I don't think that people, if there's a setback reason yes I can understand why they would stay with that narrow, but if they got the chance I think they're going with 24.

Quiggle: They're going 24 because their constraint.

Oleson: They're bending over backwards to not go through the variance process.

Huff: If they're getting rid of a trailer and putting a stick built in there this can't be a bad thing. The only reason I get hesitant is I know in a year or two somebody is going to come with some cockeyed thing and say well you guys said this was okay. Why did you do that? Because if there is a way to squirrel something around somebody will think of something, but you can't win all of them otherwise you wouldn't do anything.

Oleson: What I handed out we worked through this. You requested a copy of it so this is your copy.

Oleson: I've got one other interpretation question. Based on your lot size there are limitations on how big an accessory building you can have. If you're 0-20,000 square feet you can have "x" square feet and so much side wall height. If it gets above that you get bigger. I've got a situation where a lot is one acre which is right at the cut-off of one of those, but to get to that one acre it includes right of way of a road. The lot existed and owned all of that land. It has since been taken by mn dot and dot wants to give it back but they are going to keep the right of way as their right of way right now, not easement. What they are giving back is less than an acre unless you count the right of way that previously existed. It is not traveled surface. So, because what the person is actually going to get back from mn dot is less than an acre mean that they have to stick to whatever size limits they get then for that size lot and then they can come in for a variance if they want to go larger and prove that they have a hardship or a practical difficulty because mn dot took the land and gave it back? Or do we just go with an acre because...It's hard for me to say that we can just go with an acre because if they don't live on an acre...

Quiggle: I think you have to go through the process.

#### a. Discussion – Potential update of 2007 Comprehensive Plan

Oleson: Where we left it sit the last meeting was people were going to get a chance to review the comp plan and see if they thought there were areas that needed to be changed or updated or sections that you thought were missing so to speak that we didn't address the last time that now you want to address. I know there was discussion about from the town board and maybe some others about maybe updating the future land use map because there are differences between the county and the township ones. Do we want to match-up more or do we want to just do things differently?

Quiggle: We haven't had any commercial requests.

Oleson: I know there was discussion of 108<sup>th</sup> by the bar and where the old country store used to be. There were differences between what the township identified. We had kind of identified a strip from 105<sup>th</sup> to 108<sup>th</sup> all the way up and down both side and the county didn't really like that strip idea. They wanted it more at the corners. So that would be one area where I know there's a difference. But beyond that I know some of the town board members have talked to me about some of the residential setting like Dykheisen was here and we kind of had difference between what he had and what the county had. They're different language and they're different phrasing the outcome doesn't necessarily have to be different, but it can be. So do we want to still have those differences or not? Those are some of the things that I know that the town board has talked about. Just general, if you had a chance to look through the comp plan was there things that you saw that we need significant updates? Do we need some minor tweaks? Do we need more time to look at it? Think about it

Quiggle: When I read through it. I was actually pretty darn impressed with how good it was. I think that there are some things that we can take out now that we have addressed, especially dealing with the county. We might want to just update that language at some point to reflect what is going on now. If we were to update the comp plan and I think even if we don't, I think it would be good to get some data on part of the whole thing is the gradual conversion from seasonal to year-round residential. The only data that we have there are the number of permanent residents in the township. We have not data on seasonal residents. I'd like to see the data on seasonal residents and how that breaks down and where they are located and all of that. I think that could be gotten from the tax records.

Oleson: Yes, you can get to that pretty closely

Quiggle: I think that would be useful to give us something to think about.

Oleson: You're thinking maybe some informational updates like here's a map or here's a table of what the situation is for seasonal vs. year-round and where and not necessarily changing policies based on that.

Quiggle: That data might give use food for thought on changing policies or opening something up, but without that data who knows?

Oleson: Okay. I've got it up here so if you have certain sections you want to...

Quiggle: A couple of other things, some of the maps seemed off. The watershed map didn't seem to be accurate to me. It had Sugar Lake in the Clearwater River Watershed and it's not. It's in the Silver Creek Watershed.

Oleson: Okay.

Quiggle: And I don't think Bass Lake is in the same watershed.

Oleson: That shouldn't have changed. It should be whatever the source for this is, the DNR. We just have to go back and verify that with them.

Quiggle: We need to get a more accurate watershed map which isn't really a change to the comp plan. It's just a change to the supporting documents. By and large I think our goals and our strategy is, we've achieved some of those goals, implemented some of the strategies and others we'll continue to work on.

Oleson: The orderly annexation agreement with Annandale, we've kind of done. The town board went through that a while back. Some of this is outdated. I think the idea to me of an update is what can we take out because it's already been done? What has changed since we did

this the first time? Maybe we need new policies and new strategies. Now that we're administering zoning, is there a next step to that? Is there something new completely new that we want to deal with? Like the seasonal versus year-round issue. Are there new issues that are going to come up with storm water management or wind power or whatever? Something new that's come up that we want to deal with?

Quiggle: Storm water management is addressed in the comp plan and the only thing that you would change might be the ordinances and how you address that, but it says deal with storm water. I don't know how much more you have to say about that.

Oleson: Maybe short of dealing with the controversy that we talked about last time of telling people they can't convert to year-round or not. We want to have at least some general guidelines or goals for how your redevelopment is handled. If you're going to redevelop and do year-round then we want to make sure that you're handling storm water right or that sewage is treated right. You want to sort of formalize a little bit some of those goals without getting into specific ordinance changes.

Quiggle: Isn't that in the comp plan? Doesn't it say with any new development or re-development permanent storm water management will be addressed and I think there is an awful lot in there, but I think that it's hard to plan, plan unless you know the data.

Oleson: Right.

Quiggle: If we don't know where the seasonal cabins are clustered. Where there are more permanent homes we have no clue what picture we're dealing with except anecdotally.

Oleson: Yes, not that the county can't do that county wide because they can, but I think that's one of the benefits of doing this at sort of a smaller scale on the township level so that you can zero in on some of those things. The county hesitates to do that because of the scale of it. I think that's useful, but I'm not advocating one way or the other, I'm just asking the question. Generally we find it's good to ask these questions every five or six years or so. So you don't lose track of it and just let it get out of date. Have it become meaningless.

Quiggle: I don't think we've had many ag-residential conflicts. We've been

Schultz: Building has been slow, too.

Quiggle: Yes, but our goals haven't changed as far as we want to maintain Ag, we want to make sure that there aren't conflicts between Ag and residential. What more is there to say on that?

Oleson: I think the existing plan gives a lot of good general goals. That's what it is there for.

Quiggle: Yes, so I'd like to see that additional data.

Oleson: What we're working towards here is do you want a recommendation to the town board? Yes we should tweak it, yes we should make major updates. Or no, we shouldn't touch it at all and if you're going to recommend changes what's a basic outline of what you'd recommend a change to? The town board is ultimately going to have to decide. Are we going to do a big update that's going to require bids from planning companies whether it's us or somebody else or is it just tweaks that we can handle within our existing contract or some kind of small hourly thing?

Huff: I think we're still too new into it to get really excited about turning it upside down. We're still getting used to what we've got.

Quiggle: I think any changes that we make because we've handled stuff like taking over from Wright County and this-n-that. Those we can do within this have a public hearing to just re-jigger that and maybe add other language to reinforce the sort of relationship we have with the county now going forward, but I don't think that we need full blown visioning sessions until we have a vision to talk about.

Oleson: It sounds to me like a map, because it starts out as like a table of okay here's where seasonal are and here's where the year-round are but then mapping it out so you can see if there is a cluster of like this really a seasonal neighborhood.

Quiggle: Yes. This is a seasonal enclave and we have little roads here that are never going to be plowed during the winter. In that case....

Oleson: Maybe you see a cluster, maybe you don't see a cluster, and maybe it's so scattered and so intermixed...

Quiggle: We just don't know.

Oleson: If you have short little road that has four homes on it and they are all seasonal and it's not plowed maybe that's enough of a cluster to say boy we should handle this area differently than the rest of it? Or maybe not? I think what you're saying is that you don't know how to ask those questions or how to answer those questions until you see the data.

Quiggle: Right.

Oleson: Is that a recommendation to the town board that we do something like that?

Huff: Something to ask is how much is something like that going to cost.

Oleson: What I understand is that you'd rather take this as a step by step approach to this update than some big comprehensive thing where you hold hearings and hold public meetings and do visiting sessions and all of that.

The Planning Commission agreed with Oleson's statement.

- b. Discuss end-of-year ordinance updates/clarifications. (tabled)

## 8. Adjournment

A motion to adjourn was made by Schultz, seconded by Smith. Motion carried unanimously. The meeting adjourned at 8:33 PM

Minutes respectfully submitted by Jennifer Kemp.

DRAFT