

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION

January 10, 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); Dan Shay (Vice-Chair); Lee Parks; Larry Smith; Steve Huff; Barry Schultz

Staff: Ben Oleson, Zoning Administrator; Mary Barkley Brown, Township Clerk/Treasurer

Others in Attendance: John Dearing; Richard Naaktgeboren; John Bishop; Paul Otto of Otto Associates; Carter Diers; Orville Jonsrud; Bill Arendt; Leslie Kruetter; Kathy Jonsrud; Lisa Ramme Latterell; Peter Ramme

3. Additions or Deletions to the Agenda:

A motion was made by Shay, seconded by Smith, to accept the agenda. Motion carried unanimously.

4. Public Hearings

- a. (Tabled from October 11, 2011 meeting) Request to amend Comprehensive Plan Future Land Use Map designation from Rural Preservation to Shoreline Residential and to rezone lakeshore portion of property from AG to R-1.
 - i. Applicant(s): John Bishop
 - ii. Property Address: None (70 acres north of 110th St NW and east of Hart Avenue, Maple Lake)
 - iii. Sec/Twp/Range: 1-121-27
 - iv. Parcel Number(s): 206000013200

Paul Otto, of Otto Associates, and John Bishop addressed the Planning Commission.

Ben Oleson showed a preliminary drawing from October. The Planning Commission had asked for more detailed information showing wetland delineation, etc. They have changed the widths of the lots. One house is set further back. Septic systems are in back.

Oleson: We are here to talk about rezoning. What is the concept for how it could be developed if the rezoning were approved? This is a request to amend the Comprehensive Plan Future Land Use Map designation from Rural Preservation to Shoreline Residential and to rezone the lakeshore portion of property from AG to R-1. 150 foot minimum lot width - they are about twice the minimum size for acreage required. We had asked for wetlands information. I think the big question is still the drainage, how does it go through there, how will it be held back? This may require more detailed information. We still do not have soil borings for the septic. I think you planned to do that later in the spring. There are steep hills, and a bluff on one side. Our main comment is that the drainage issue should be explored more. A rezoning is usually looked at independently from any particular development plan, but in this case, given the unique environmental and topographic features of the property, it makes

more sense to look at both the rezoning and the subdivision concept together. This might help avoid rezoning a piece of land that later turns out to be unworkable for a development consistent with that zoning district.

Otto: Staff did a very nice job on the report. We are at the rezoning step. The steps are to come to the township to get a recommendation to bring to the county, and then go to county to get the rezoning done. Everything highlighted in the staff report will have to be done in the preliminary plat. But we need to move through the county process first. There may be issues that we are not seeing. With that, there is additional information, calculations, and design that need to be done on this. Do 150 foot lots seem to work? This second plan provides quite a bit more detail that we usually see in a rezoning application. I ask that we can move this along so that we can bring it to the county. As far as the point of the plan - there is a bluff and a 30 foot setback from the bluff. That is why this house got moved further back. It would be on top of the hill. It is not as close to the lake as you would want – but will be great. As far as the swale running through there – we expect that we would be putting an easement on there so that that drainage is maintained. Construction will have to be outside of that easement. I don't see that as an issue. The house is at least 20 feet off the center of that drainage way. I would expect that these would be custom designed homes. As far as the driveway – we showed that it would stay out of the drainage way and out of the septic systems. I don't anticipate that the driveways will be a problem. Storm water ponding would be according to MPCA rules. Raising the elevation of a wetland – this wetland is a grassy area – it would be easy to raise that level - so that there is more water in that wetland - providing more water storage. John has said he would look at that if it is simple enough to do. We would have to get a permit. It would have to comply with wetland rules. This was discussed at last meeting. We would build a township specification road to where we would connect to the township cul-de-sac on the end. We would not improve Hart Ave. John would provide an easement, in case it would need to be improved in the future.

Quiggle: Are there any public comments?

Peter Ramme: I own property adjacent to this. I have a question about the road. The character of the neighborhood – 33 foot road going into property – is it necessary to build this up to a 66 foot wide road?

Bishop: I have no problem with whatever the township is willing to accept.

Ramme: There is a wetland down there. A smaller road would be better for the character of the neighborhood. I don't know what the county requirements are.

Otto: They would defer to the township in regard to the road.

Bishop: The County said that they are willing to accept what the township is willing to accept.

Bishop: I would rather have more property than less.

Ramme: Other questions – this drainage into Sugar Lake is really bad now. It is a major issue. It is almost like raw manure going into the lake. Can we get a holding pond there to stop the pollution into the lake? It goes through lot number 1, I think. In spring we get the big rains and it all goes down into that area. I don't know if there are state funds available to help with that. It would be important to the owners of the lot as well as the quality of the lake.

Otto: The water that intersects and hits our road or ditch – that will all get diverted into a storm water pond. We would have the storm water pond – depends on final design. A pretty good portion of this would be pushed into the storm water pond. If we could back up this wetland – if we could raise the elevation of the wetland - if we put a culvert in that is higher than the wetland – say one foot for example – raising elevation of the water up a foot. The water that stands there acts as a sediment trap – so that wetland area can hold more water in a storm than it can hold right now. In this case it is more what is limited by the wetland authority. If we raise it up we get sediment control and more water storage in a storm. We have to treat the water that is coming off the road – we have to match or lessen the outflow to the public water. Our runoff rates would not be any higher. But technically – we would not need to treat any of the runoff from the farm area. John has been in the area. He is willing to

entertain that. It would provide more filtration. It does help lot number 1 – if we can store more water back there – the lot will be drier. When you get steep slopes and there is farming – it can erode pretty fast.

Ramme: What would the timing be to put in the road?

Otto: Typically the process that we are in is that we would rezone, and then come back with full plan, details, septic, ponding, house elevations, etc. That would come to the township for approval – another public hearing – before we could build. The best case scenario would be 4-5 months away.

Bishop: I won't be back to deal with the county until April.

Otto: They would require a road to be built before filing the plat. It could be later this summer. My suggestion would be to do it this fall when it is drier.

Ramme: The road would have to get done within 12 months of the rezoning approval?

Otto: The road has to be built for the township to accept the plat.

Oleson: There is a provision for putting up a bond if the road is not completed by the time final plat approval is requested.

Bishop: I would be willing to put up a bond. I am not in any hurry to build a road.

Ramme: I am not in a hurry about the road – just to address the water runoff.

Bishop: I am not going to consider this if I don't get zoning approval.

Ramme: In terms of the plat approval time, all of the driveways are located – in terms of tree preservation?

Otto: The road construction would happen. Whatever was approved on the plans would be installed. Each owner would have to get approval for their plans on each lot.

Ramme: Final question – how much detail are they going to require?

Otto: To get the rezoning – this is more detail than we would typically put on our plans for rezoning. You could come in for rezoning without a plan.

Ramme: You have done a lot of work. You have come a long way since October.

Otto: Everybody's input was time well spent.

Ramme: One other question – what happens to the back 60 acres?

Bishop: I have no plans. I will either rent it or put it in CRP. As far as development is concerned – I have nothing – it is of no value to me – just whatever income I can get from it.

Quiggle: It would remain zoned AG. They are only asking to rezone the front.

Oleson: There could be one home on the back 59 acres.

Ramme: I commend you for all the hard work.

Bishop: The less I have to do – the better I will like it. I am not in a hurry to do anything.

Ramme: Looking forward to having you as neighbors.

No other public comments.

Smith: The easement you are talking about on lot number 1 – for drainage – what width are you thinking?

Otto: I would think between 10 and 20 feet – may need to be a bit wider. We would probably get more detail and survey that area to know where that water is going to go. Then we would know how much water is going through. In the large storm – we don't want things eroding. 10 to 20 feet – mostly more on the order of 20 feet wide.

Smith: To move the road – what material will need to be moved?

Otto: We don't want to import any material. We may need to lower the road in the higher parts to fill in the lower parts. The only improvement we would bring in would be gravel. We want to balance the site.

Bishop: Again – bonding for the road and not building would be good for me.

Schultz: I am fine with what has been shown.

Huff: We don't actually know if the lots are buildable. Have you done any square footage – is there enough room?

Otto: Septic 50 x 100 – good for standard 4 bedroom. 2.5 acres – I don't see a problem. Maple trees are growing – they do not usually grow in wet soil. I don't expect any problems with that. If the lot does not work – then it does not work. Where we are at is – does this make sense - does it look like it is going to work? I don't see issues at this time. I would not bring this to the township if I could see major problems. In a perfect world – it would be great to put this together in one step.

Bishop: I don't want to go through the expense if we cannot get rezoned. All criteria will be met once the rezoning is approved.

Otto: From the township standpoint – the next step gives you all those details – like if a septic did not work – then there would need to be a change to the plan – or maybe one lot won't work. If it turns out that one of these won't work – there is still that risk.

Huff: As a board we get into trouble if the third step goes wrong – after we have approved the first two steps – we will get yelled at.

Quiggle: Question for Ben - If something like that happened - say we recommend R1 – three lots – but then something does not work – can it be backed up and still look at getting three homes in a PUD type situation?

Oleson: Rezone first – then go on to subdivision. If three lots can't fit in – there is nothing that says you have to approve three lots. If the Township approves the rezoning, it would be saying they are generally alright with the concept of three lots along the lake. If you wanted to be more cautious, you could table the rezoning request and Mr. Bishop could start the subdivision process – then both could be approved at once if all ok – subject to final rezoning approval by the County.

Bishop: Prefer to proceed the way we are. I understand that you can't approve something that really does not work. I am willing to take that risk.

Oleson: You are looking for our recommendation to the county board – so that you can get their approval.

Quiggle: Could they, in R1, look at a PUD situation? The R1 does not limit them?

Oleson: If three lots would not work like this – they would almost have to shift to a PUD style development. Or else only create two lots.

Otto: If one does not work – I don't think this is a scenario where a PUD will be in order. I think one house in each area is better.

Huff: We have on record that Wright County did not like this in 2005 and 2006? Has something changed?

Oleson: The County never formally denied the application as I understand it. There was concern about if R1 was going to work. They did not come back. There was no formal action taken.

Quiggle: They had done a site visit and went through the ten acres by the lake. Their leaning was to a maximum of two lots. That might have been due to what the property owners at the time were proposing, which was many more lots on the back.

Bishop: We sat down with county staff and they did not seem to have a problem with this.

Huff: They are going to be non-committal.

Shay: Several of my questions were just answered. Also – if they find out that they can't do three lots – then they can do two. It fits in with what is going on there.

Parks: That is mostly my take, too.

Quiggle: The Email from the DNR regarding the bulrush stand in the water – have you thought about positioning of docks to minimize any impact on that?

Otto: The report was the first I have heard of this.

Quiggle: They are in front of lot number three and sliding into lot number two.

Oleson: The way I am reading it is that they are saying – over here there is a good stand of bulrushes. When people put in boats and docks – the bulrushes often disappear. I think he means to not put a house on lot three – but to leave it as an out lot. I have seen ways to preserve the bulrushes. I don't know if the DNR is going to go to an extreme about this.

Quiggle: Three homes with docks – the docking should be positioned to do no harm to bulrushes.

Bishop: When we come back with the survey – then we can see where the bulrushes are. Is that my responsibility or the person that builds there?

Oleson: It can be a condition of approval. The shoreline that is left around the state – tends to be the stuff that still has the bulrushes. I do not know how strict the DNR will be about this.

Quiggle: Although I don't think it is up to us – I would be all in favor of a much narrower road going to that area. It is a dead end. There is no need. My road is 33 feet and they plow it just fine.

On the drainage – having been on the site visit – I think I am safe in saying that soil and water seemed amenable in working with you. The lake association would also probably like to be involved in an endeavor to protect the lake.

Bishop: I have indicated in the past my willingness to do that.

Oleson: Recommendation – we had talked about getting more detail about drainage – do you want that before you recommend for rezoning?

Quiggle: My personal feeling is that even if we recommend it get rezoned to R1 – and lot number one doesn't work – I think those issues can be addressed at the subdivision stage – so that we still retain some flexibility.

Parks: I agree.

Oleson: it might be beneficial to somehow communicate to the County what the Township will be expecting for more information later in the process – just so that they know – maybe somehow in the motion.

Otto: My biggest concerns - if it went through the county process before – is to see what those issues were – get it real and in writing. My concern in putting too much into your wording is that the county may read into what they think the township meant.

Oleson: R1 is three lots at the most. R2 is two lots at the most. As long as everything works out – then you can go with three lots.

Huff: How do you say that we would approve an R1 without saying that?

Oleson: I can do it informally – here is the recommendation and this was the discussion...

Otto: The rezoning does not guarantee lot placement, lots, or house placement. What I can tell you is that last year the county sent a rezoning request back to the township because they were not sure what the township wanted. My concern is that you be as clear as possible when telling the county. Telling the number of lots, etc. now just throws confusion into this process.

Bishop: I don't know how it works when you go to the county to get rezoned – do I need to know how wide the road is going to be? If I wanted to bond – can it come later, too?

Oleson: It can come later.

Otto: Typically – how it works on the county level – we do a plat – we do the whole property and the road, or write a surveyor's description – and file that.

A motion was made by Huff to approve the rezoning of lots 1-3 in the proposed concept plan to R1, and seconded by Smith. The motion carried unanimously.

This recommendation goes to the town board, which will make a recommendation to the county planning commission, who will make a recommendation to the county board.

Bishop: I am leaving on Jan. 24. This is not imminent.

Oleson: They may allow for a spokesperson on your behalf.

Bishop: I would just as soon be present.

Quiggle called for a couple minute break at 8:06 PM. Quiggle called meeting back to order at 8:08 PM.

- b. Zoning Ordinance amendment to Section VII (Board of Adjustment) of the Corinna Township Land Use Ordinance (Ordinance 2010-03). Applicant: Corinna Township. Purpose:
To determine whether the Town Board or the Township Board of Adjustment makes final decisions on variance and certain other decisions. Other changes regarding the operation of the Board of Adjustment may also be discussed.

Quiggle: The purpose of this hearing is to determine whether the Town Board or the Township Board of Adjustment should make final decisions on variance and certain other decisions.

Oleson: State law says we have to be as restrictive as the county. As we were discussing with the county about obtaining shore land zoning control this past December – one of the issues that came up is that they want our process to match with their process, so that the Township Board of Adjustment is the final authority on variances and certain other decisions. The proposed ordinance change is to revert back to the county's process. There would be no appeal to the town board. If someone did not like your decision, they would have right to appeal to a court – rather than to the town board. There are philosophical differences. Are you OK with changing this so that you are the authority on variances?

Quiggle: Any public comments? There were none.

Smith: I am not sure that we want to be responsible for the final decisions.

Quiggle: Why would it be any different from the county, where the Board of Adjustment makes the final decisions?

Schultz: I am OK with changing this as long as the supervisors are OK with changing this. They are like a safety net. They deal with the township people continually. We are on as as-needed basis. We don't have the same historical background.

Quiggle: We only deal with application and decision at a time. We don't always need history.

Huff: I want to know the difference regarding liability and the legal standpoint for me personally?

Oleson: I am not an attorney. That is a fairly common question. In my experience dealing with this question with attorneys, they say that you are making decisions as a township. As long as you are not doing something illegal when making a decision – then you cannot be held personally responsible. If you had open meeting violations – you could be held personally responsible for that, as I understand it. If you make a decision, go through the findings of fact legally – you are just acting on behalf of the township and cannot be sued personally for a decision. The township would be sued.

Huff: Right now we are appointed. Will it stay that way- as opposed to being elected?

Oleson: No – you do not have to be elected when you are making final decisions like this.

Shay: I guess I don't have a problem with the buck stopping here – as long as the township board is OK with this. There are times we use them as a safety net. That is probably not the correct answer. Board of adjustment are just appointed individuals – we are now BOA/Planning Board – the county is coming back with the suggestion that we need to be like them – the buck stops with us. The county planning commission has one member of the county board on the planning commission board.

Oleson: You are not required to have that by state law. I don't know if I have ever seen this written out – but a liaison is usually on the planning commission to report back to the town board. In our case – the town board members often come to the planning commission meeting. It is basically up to the township to figure out if they want to do that. If the county requires something like that prior to turning over

shore land – then we'd have to consider it. There are a number of things they could pick out I suppose. The issue of who makes the final decision seemed to be the primary issue.

Parks: If we make the final decision – it does not go to the town board?

Oleson: Right.

Schultz: When we started this process to do planning and zoning – our goal was to simplify the process for property owners. That is why I am OK with this. It would be simpler for property owners.

Oleson: Practical changes - before you were able to say, "We don't have all the information – but as long as the town board gets the extra information - we are OK with it." Now – we have to have all information in order to make the final decision. That might actually lengthen the process. But that is why we try to be clear with people up front about having all the information in during the first hearing – rather than having to table and ask for it.

Schultz: I am more comfortable with it now.

Oleson 4b-2 page – that would be what changes.

Quiggle: At this point that would be consistent with some of the provisions of the planning commission.

A motion was made by Shay, to amend the Zoning Ordinance in Section VII (Board of Adjustment) of the Corinna Township Land Use Ordinance (Ordinance 2010-03), as noted in the staff report. Seconded by Parks. Motion carried unanimously.

5. Approve Previous Meeting Minutes

- c. December 13, 2011

A motion was made by Shay, seconded by Huff, to approve the December 13, 2001 Meeting Minutes. Motion carried unanimously.

6. Zoning Administrator's Report

- d. Permits
- e. Correspondence
- f. Enforcement Actions

Oleson: Report listed permits that have been issued recently. One issue – we dealt with a while back – Phillip and Beth Trout and Burkes were going to adjust a lot line on the west side of Cedar Lake. That got approved. We were working to record it. The Recorder rejected it, saying it needed a registered land survey that works for Torrens property. Abstract is how property is typically described. Torrens property requires a RLS. MacDonald said that if they just go 10 feet from the existing line, then they can do it without going through RLS. The township attorney says it should come back as a separate e variance hearing. Or they can get a RLS. It may be coming back to us – it depends what path the landowners want to take.

Quiggle: Could this have been caught before?

Oleson: Possibly – either by the surveyor or possibly us. We are becoming aware how much Torrens property there is in the Township and will know to look for it more now.

Quiggle: Should it be a check mark on the application?

Oleson: You would usually rely on the surveyor to figure out it was Torrens. This is more about how it gets recorded. In the interest in helping people solve problems – yes – we would like to have caught this earlier.

7. New Business - None

8. Old Business

- g. Discuss interpretation of “expansion” when applying MN Statutes 394.36, Subd. 4 and 462.357, Subd. 1e (Nonconformity statutes)

Oleson: Discussion started early on with the county – how do they interpret expansion? They did not define expansion. The county does not have a formal definition or policy on it. My feeling is that it is better to try to define this. It behooves us to try to put this in writing. Second page of our staff report – shows common situations where this comes up, such as roof pitch, crawl space, etc. It is a starting point for discussion.

Roof pitch – if not adding floor space – we are saying that steeper than 4/12 that did not exist before or if it adds a bedroom – that is an expansion. Not an expansion – any increase up to a 4/12 pitch and does not add any floor space.

Huff: I struggle with the 50% of the value thing. But that is in the county ordinance. How do we address?

Oleson: I agree that this is tough. It is a moving target.

Quiggle: Is that a county thing or a state statute?

Oleson: County. I like setting more boundaries that are based on the physical structure – rather than a value issue. If you go from – replace your entire roof – and that is more than 50% of the value – we would be more. The county tells me that they take the roof pitch on a case by case basis – based on the neighborhood.

Schultz: How do you know if you are being more restrictive – it they take it on a case by case basis?

Oleson: This may spur movement on this issue. We are going to have to get input from the county on all this. Is that 4/12 as the cut off logical?

Smith: With 6/12 you are still not getting any more space.

Oleson: 4/12 is the minimum you need to shed water and snow. Maybe you are right with 6/12.

Shay: It think the key is not expanding living space. The key is limiting the expansion of living space.

Quiggle: County seems to go with 6/12 pitch but no direct access to the space above. Set up in such as way that it is definitely not living space – nor will it ever be.

Parks: Even if it is 50 foot wide – we have to look at 6/12 to see that it does not allow extra living space.

Quiggle: 4/12 will never give anyone any living space.

Huff: Are these the rules the county has in place?

Oleson: The County does not have written rules. They take it on a case by case. One month you tell someone they can have a 6/12 pitch, the next person you say only 4/12 pitch.

Huff: You have listed 3 examples – are there 6 or 8 more things?

Oleson: I picked the three categories that came up the most.

Huff: What about porch tuning into year-around?

Oleson: That would be another good category to add here.

Shay: The County has ruled that way – had to tear it off – then let them build a 2 story house instead.

Schultz: It would be interesting to see if Yager thinks it will increase your living space.

Oleson: Is this list of three enough? I think we have the sense that there is another one to add. Do you want to make a written policy change or an ordinance change? A written policy change is easier. Does not take as much time.

Huff: Does the written policy have anything to do with more or less than Wright County?

Oleson: If they come along with a written policy – then we have to follow them. They basically go on a case by case basis now.

Oleson: Wright County can react in a couple different ways: They could say that this is not the way we had interpreted in the past. They could say they don't like the idea of setting up policies at all – you are being less restrictive. We are looking for some direction from them.

Huff: Add front porch thing to this list. Porch or three season to year round – is it an expansion? As soon as you put windows in you pretty much have to. What do you mean by reconfiguring on existing?

Oleson: For instance – if you had a square house – with a jog in the corner – which had a water heater. They wanted to enclose the water heater so that it could be inside. It is a minor expansion. Or 2 jogs – and want to square them up. Is that an expansion? Say your house is in the lake setback – you want to square it off – you are going to compensate by taking another part off – but you are closer to the lake now.

Quiggle: You have increased the nonconformity.

Oleson: Some would say that if you did not go further than the closest previous point...

Huff: So you are trying to help people before they have to apply for a variance?

Oleson: If we can help people not go through the time and expense of a variance hearing - if they will not get one or do not need one.

Quiggle: The cube volume does not change – except up to a 4/12 or a crawl space – we would not consider it an expansion?

Oleson: I will revise this and come back to you.

Quiggle: Then we will run it by the county so that our administration is at least as restrictive as the county's administration.

Oleson will come back next month for continuing discussion.

h. Discuss end-of-year ordinance updates/clarifications.

Oleson: If you have not already looked at this – I have put in quoted comments from Barry or Sean as to how they have commented on that. The idea would be is there a way to formalize this to make it clearer – again we will have to run it by the county. We want it more clear for residents, land owners and yourselves. Highlight anything you want to talk about and we will do it next time. Where I put in red working – it was what they were trying to get to at the time.

i. Update on status of Corinna Township request for recognition as shore land and floodplain zoning authority.

The county board tabled it. We do not have a timetable to go back to them. We have considered their request. Maybe will pass it next week. As of right now – we have signed building and sewer inspectors for three years. The rest of the agreement was extended until May, 2012, to see if they will turn over shore land control completely. If they won't then we come back and figure out what that means.

9. Adjournment

A motion was made by Huff, seconded by Smith, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 8:57 p.m.

Minutes respectfully submitted by Mary Barkley Brown

DRAFT