

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION

June 12, 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); Larry Smith; Lee Parks

Absent: Steve Huff; Barry Schultz

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

Others in Attendance: Craig Johnson; Karen Mol; Cliff Mol; Jan Dixon; Paul Mielke; Jerry Auge, Jr.; Jane Mol; Tim Mol; Joshua Mol; Richard Naaktgeboren; Chuck Carlson; Jennifer Auge; Linda Gaines; Cyrus Gaines; Sarah Mol Happe; Gerald Auge, Sr.: Patrick Martin; Cheryl Martin

3. Additions to the Agenda: Camp Friendship – impervious surfaces; John Kittok – replacement/maintenance of illegal, nonconforming deck; Schafer CUP/Variance. A motion by Shay, second by Parks, to approve the additional agenda items. Motion carried unanimously.

4. Public Hearings

a. (Tabled until July at request of applicant) ~~Variance to create two nonconforming lots not meeting the minimum size, width or depth for the purpose of encompassing existing sewer systems and possible construction of residential accessory buildings. Variance for septic system no meeting the required side yard setback. Lots to be created would be approximately 4,500 and 8,500 sq ft (43,560 sq ft required), 40 and 80 feet wide (150 ft required) and 105 ft deep (150 ft required). The new lots would put a side property line within about 5-6 feet from an existing septic drainfield (10 ft required).~~

~~i. Applicant(s): Francis E. Ulfers Revocable Trust (Francis and Stuart Ulfers, Trustees)~~

~~ii. Property Address: Property west of 6862 Inman Avenue, Annandale~~

~~iii. Sec/Twp/Range: 34 121 27~~

~~iv. Parcel Number(s): 206024000124~~

b. (Tabled from previous meeting) Variance to replace and expand and existing dwelling foundation and construct an attached garage within the required lake setback. Additions to be lower level living space (12' x 12' on NW corner of home) and 8' x 17' lower level storage area. Both additions will have open decks over top. Garage addition to be 19' x 22' with open deck on top. Additions to be approximately 63 feet from Mink Lake (100 feet required). Applicant(s): Janelle Dixon

i. Property Address: 8067 Griffith Avenue NW, Maple Lake

ii. Sec/Twp/Range: 24-121-27

iii. Parcel Number(s): 206017001020 and 206017001010

Janelle Dixon and Paul Mielke addressed the Planning Commission.

Oleson: There is a system that can be put in for a drainfield. The additions are shown here. In preparing this, it was discovered that the tanks are within the required setback to the new addition. That is not something that was part of the original notice. It needs to be noticed again if they are going to ask for this type of variance. The applicants still wanted to talk to you today about other parts. The rest of it could be acted on tonight.

Paul Mielke: Bernie Miller suggested we inspect them again. Setback is so gasses don't get into the house – that is mainly for older tanks. He told me verbally that he had no problems putting on the addition and leaving the tanks where they are.

Oleson: when you excavate that close, the tanks can get damaged.

Quiggle: Did the county ever weigh in on the tanks being so close?

Oleson: No – I just got this site plan last night. It is fairly straightforward – keep distance so you keep away from the foundation if it were to crack and start leaking and for pumping to be done at a reasonable distance from the house.

Mielke: We are hoping to keep things rolling in the right direction.

Quiggle: The location of the tanks would require a variance, so it has to be re-noticed. We could not give you a variance on that tonight.

Oleson showed the original drawing.

Oleson: We did not know at that time where the tanks were. It is going to have to be noticed. Unfortunately it was not part of the original application.

Quiggle: At the last meeting we discussed everything that you are proposing for the cabin – so the only other issue is the tanks. There is not much to discuss. It is a legal technicality. Oleson will have to send out new neighbor notices and put a new notice in the newspaper.

Oleson: You will be on next month's meeting agenda.

A motion was made by Smith, seconded by Parks, to table the hearing until next month, so that it can be re-noticed in the newspaper and new neighbor notices sent. Motion carried unanimously.

- c. Conditional Use Permit as required by the Wright County Feedlot Ordinance, Section 6.005A and 604.4 of Appendix A of the Corinna Township Zoning Ordinance to allow an animal feedlot in excess of 500 animal units. The existing facility consists of 753 animal units of dairy steers, from calves to slaughter weight with six partial confinement barns and eight open lots, above ground liquid manure storage and a permanent manure stockpile. The proposed facility change will enclose one existing concrete open lot to create a total confinement barn. The remaining five partial confinement barns, seven open lots, liquid manure storage and manure stockpile are unchanged. Total animal unit capacity will remain 753 animal units.
 - i. Applicant(s): Timothy and Jane Mol
 - ii. Property Address: 7987 – 105th St NW and 7912 – 105th St NW, Annandale. Government Lot 6 and the SW 1/4 of the SW 1/4
 - iii. Sec/Twp/Range: 11-121-27, Wright County, Minnesota
 - iv. Parcel Number(s): 206000113204 and 206000113200

Tim Mol and Joshua Mol addressed the Planning Commission.

Quiggle explained the Conditional Use Permit application.

Tim Mol: What we propose to do is there is a 16 by 80 partial cover over this lot. What we want to do is totally cover this slab up. We pump manure into this tank. Originally that was used for hog manure.

Have not had hogs for 6 years. It is now just used for runoff from that slab. We would like to cover the slab, get rid of all potential manure run-off. We re-sealed this tank almost ten years ago. We would like to totally eliminate the potential for runoff. If we put a shed over the whole thing – we have had over 800 animal units with hogs. We have cut back with the cattle. We do not plan to increase, just want to graduate the calves out of the long barn, outside and have the calves protected spring and fall. In order to get a building permit, we have to get a CUP, as the state mandates that if you increase numbers over 500 animal units, we have to get a CUP.

Quiggle: Does anyone in the audience want to speak?

Craig Johnson: I am a property owner about 1250 ft to the E NE of the feedlot. In the family we have owned the property for 57 years and experienced a wide variety of emissions from the feedlot. There were times our property was not habitable at times, it was really tough. I appreciate what Tim wants to do. It starts with an issue in the Star Tribune last week, the air quality on the 7 county metro area. The nitrous oxides and the methane, in addition to being poisonous and hazardous, are really pretty vile. While making the transition from swine to cattle, what if the market changes and we go back to swine, we would get another belt of noxious gasses, which flies in the face of peaceful enjoyment of property? There are provisions for an air quality plan and treatment of the effluent – and I know that some years ago – a family on the south side gave Mols some chemicals to help with the odors.

There were no other comments from the audience.

Tim Mol: I will 100 percent guarantee we will not go into the hog business. It would not be feasible to switch back to hogs. You have to finish 25,000 per year. Craig was referring to Bob Miller. He provided us with 5 – 10 gallons that we poured in the system. We would probably need 500 – 700 gallons per year. Bob said that was not feasible or economical. Steaks and pork chops stink. We try to keep our end of it as clean as we can. We have been there 111 years – since 1903. Lot of heritage there. We have always appreciated Sugar Lake. We have kept buffers. We don't haul manure where we are not supposed to. We have never had an accident. We don't want it running into the lake either. Tracy Janikula has requested we not haul manure during the three- day weekends. We have had calls such as – we are going to have a party at our lake – is there any way you could not haul manure a few days before? That is not a problem. We like our neighbors and we want them to like us.

Oleson: The requirements for the CUP. There are two tracks for regulations of feedlots. There is the technical side delegated by the state to the county. We deal with the land use side of it. Is a feedlot appropriate for the area? It is already there. There are the same number of animal units that are already there. CUP talks about impact on the neighborhood. Mr. Mol is not denying smell and odor. It just comes down to - is there anything else that can be done? It is already permitted for 750 animal units. Manure management....is there going to be an improvement because it is not going to be liquid manure when the roof is going to be on there?

Smith: Solid manure is not as vile as liquid manure. With liquid, you tend to haul certain times of the year. That is when you get your smell. This should improve it.

Parks: You are going to manually take the manure out of the shed after the roof gets put on?

Tim Mol: Stockpile from when we stop planting corn – then we raise rye – harvested mid July – some rye fields are on the NW side of the lake. We haul 7 miles one way – because we have to have a manure management plan – we take samples of the manure – find nutrient levels, take soil samples every three years, need to keep track of where every load of manure goes, tons, time of day, incorporated within 2 or 24 hours. We have to keep track of nutrient labels so we are not applying too much into any one area, so there is not runoff into the swamps, lakes, etc. The stock pile is in the furthest west side of our property. There is a clay berm that we hook it out – if there is run off – that clay berm will hold it. Most of it is semi-solid.

Shay: I think as Ben and the Mols have said – we are not increasing the size of the animal count. The roof should help with the odors. If we grant CUP and follow the county’s guidelines – there is not much else we can do.

Quiggle: I want to add that as a neighbor – on the lake – as you know – animals crap stinks. You have been here over 100 years. This is all agricultural. All of us that live on the lake chose the beauty of the lake in a rural community and sometimes that includes odors. You have been good stewards. If someone like Craig would not like noxious fumes for a special occasion – you can work it out with the neighbors.

Smith: Condition Use permit – what is life on that – is it there forever until they change their number of animal units?

Oleson: It runs with the land. As long as it is approved and acted upon within a certain amount of time– basically get 6 months to act upon and 12 months to finish -as long as they meet the conditions – it continues on indefinitely. Theoretically, if it were to get re-zoned to something else in the future, it would limit potential for future expansion.

Mol: Setbacks for building, like housing for a feedlot? It is 1,000 feet? 80 acres next to us is for sale. It was bought for hunting purposes ten years ago. To get 1,000 feet, you have to get quite a ways back. Is this from the building site or from the property line?

Oleson: It is either from the feedlot building location or from the property line – I will check on that.

A motion was made by Shay, seconded by Smith, to grant Conditional Use Permit as required by the Wright County Feedlot Ordinance, Section 6.005A and 604.4 of Appendix A of the Corinna Township Zoning Ordinance to allow an animal feedlot in excess of 500 animal units, and include the staff recommendations, and Wright County Feedlot Program Administrator’s recommendations – the feedlot permit must be issued prior to construction; the land owner/feedlot operator shall not apply manure during of the holidays or three day weekends established by the State of MN, and the land owner/feedlot operator shall provide to the Wright County Feedlot Program Administrator – by Feb. 15 of each year - a copy of the manure stockpile results and soil samples that received manure that reporting year.

Motion carried unanimously.

Oleson: The setback is measured from the furthest extent of the feedlot, wherever the barn or concrete lot or dirt open feedlot is located – not from the property line.

- d. Variance to enlarge an existing 30' x 30' single-story cabin with a new 30' x 30' cabin with 2nd story loft. Existing and enlarged cabin to be 4-6 ft and 7-8 feet from the side property lines. Replace existing 10' x 15' open deck with new 12' x 16' open deck approximately 26.7 feet from the top of a bluff (30 ft required), 73.7 feet from Clearwater Lake (75 ft required) and 6.9 feet from a side lot line (15 feet required). Enlarge an existing 16' x 28' detached garage to 28' x 28'. Enlarged cabin to be approximately 4 and 8 feet from the side property lines (10 feet required) and 29.5 feet from the road centerline (65 feet required). Enlarged cabin to have a 12/12 roof pitch (max. 6/12 pitch allowed). New septic system drainfield to be 15 ft from proposed garage (20 ft required) and 5 ft from side property line (10 ft required).
 - i. Applicant(s): Gerald Auge, Jr. and Jennifer Auge
 - ii. Property Address: 9614 Kramer Ave NW, Annandale
 - iii. Sec/Twp/Range: 18-121-27
 - iv. Parcel Number(s): 206000181412

Gerald Auge, Jr. and Jennifer Auge addressed the Planning Commission.

Quiggle read the variance request as proposed.

Oleson: Both would have 12/12/roof pitch – cabin and garage. Variance on roof pitch is for the garage.

Gerald Auge, Jr.: We purchase property a couple years ago - 30 by 30 foot cabin exists, existing deck 16 ft by 12 ft – patio under existing deck. There is an existing garage 16 by 28 feet toward Kramer. There was a cesspool system. It did not pass septic inspection when we were going to purchase the cabin. The previous owner installed a holding tank so that we could close on the property in a timely manner. We have lived there for 2 years on existing drain field as a seasonal cabin. We are hoping to use the existing foundation of the structure– it is in good shape. We want to add a loft to the existing structure. The footprint will stay the same. In addition we are proposing to build an addition to the side of the garage – addition 12 foot – so it would be a 28 by 28 foot garage structure. We would be adding a couple septic tanks as along with a lift – 15 feet off the garage. The existing well does not meet required distance from the pressure bed. It is hard to find the well location. We are proposing to put the well out by the roadway between the garage and Kramer Avenue. As part of the garage we want a 12/12 roof pitch, with a maximum 6 foot head height, in order to meet the code for the township.

Quiggle: Does anyone in the audience have comments or questions?

Patrick Martin: Is the well 75 feet from the septic?

Quiggle: It is 50 feet. That is what is required for a deep well.

There were no other questions or comments from the audience.

Gerald Auge, Jr.: We are going to leave the existing deck as it is on the back side of the cabin. It is 73.7 feet off the ordinary high and 26.3 feet from the bluff. In order to meet the new location of the door - we need to expand out this deck 2 feet - to not encroach any closer to the bluff - we are proposing to put a 45 degree angle on this corner. We have worked with the architect. We were unsuccessful, so we had to keep the door centered on the structure.

Oleson: The house is existing 30 by 30 – so the setbacks to the side lot lines and the lake are not proposed to change. They are just going up with lofted story. Deck addition is here. From garage – west setback is not going to change. East setback would be reduced to below 10 feet, which is the minimum required. The bluff setback is not getting any worse, there is just more deck proposed within that setback.

Oleson: I have talked to Mr. Auge about the pumper route to get to the tanks up by the lake? There is county park land on either side of the property. You must have a route to get there.

Quiggle: Is there an easement there?

Oleson: not that I am aware of. Have you talked to Marc Mattice from the Wright County Parks Department?

Gerald Auge, Jr.: Mark Mattice and I talked about access to put in the tanks. I did not talk to him about pumping any of the tanks. Mattice said he would like to take a look to see how we would put in the tanks. He said they allowed the original owner to cut across County Park to put in the tanks. He was willing to work with us and understood our concerns...

Quiggle: In case the park would ever sell – there are prime building spots there. If at all possible – to get an easement just for access – it might be a good idea.

Gerald Auge, Jr.: I don't know if the county parks would grant an easement over the property unless they really had to. There is plenty of access to run a hose to pump. Now the pumper truck sits by the garage and runs a hose.

Quiggle: Side yard setbacks we cannot do much about. The property is 40 feet wide. The house is where it is. How about the deck?

Smith: To me it seems like he is not adding much to it – just another 2 feet.

Parks: I don't have a problem with that, either.

Shay: You are even trying to do the angle to minimize.

Quiggle: That takes care of the side yards, the bluff and the ordinary high with the deck.

Quiggle: Is there a variance for the location of the tanks?

Oleson: It is not a structure. It is not required.

Quiggle: Within the bluff impact zone is the only place to put the tanks.

Oleson: The road setback for the garage?

Parks: Is the road plowed by the township?

Oleson: I believe the road is plowed by the township.

There was laughter from all.

Quiggle: It is a point of contention.

Shay: Even though we are not sure that it is a township road.

Smith: How do they turn around there?

Chuck Carlson: There is a turn-around at the end.

Dick Naaktgeboren: We had proposed to take down some trees, including dead ones, for the plowing, and we were not given permission.

Smith: Have you been there in the winter? Does the snow pile up in front of your garage? Do you take care of it from there?

Gerald Auge, Jr.: It actually piles up on the backside of the cabin. So on the back step it will drift up along the back.

Shay: The road is in good shape all winter long with them plowing it.

Gerald Auge, Jr.: They do a great job!

Smith: They already have existing garage there – they are not making it a whole lot worse.

Shay: We may have to take a look at 12/12 roof pitch. County has been adamant about 6/12 pitch on the roof. The county wants to make sure there is not more than 6 feet of headroom – so there is not a living space up there.

Quiggle: I would not be in favor of 12/12 roof pitch. The county has been adamant about that. There is no practical difficulty on the property. Aesthetics is not a practical difficulty. I would stick to the 6/12 limitation.

Parks: On the addition – side yard setback – 8.5 feet and 8.1 from the foundation...

Gerald Auge, Jr.: Overhang on existing garage is 2 feet. Proposed is also 2 feet.

Oleson: Minimum setback is 10 feet required.

Parks: If you ever need to drive something back there, and stay on your own property, you almost need 8 feet on the side. I would like to see 26 foot on the garage with the 6/12 pitch.

Quiggle: It is park land on both sides – but you are not guaranteed it will always be park land.

Squeezing it all in – potentially another neighbor could be there. It is just squeezing too much. There is a shed that is currently on park land. Is that going to be brought onto your land? Where would we stand on impervious?

Gerald Auge, Jr.: I bought the property the way it is. The shed is not on the physical property boundary. The shed is full of wood. I am trying to burn the wood up. Then I am going to take the shed off the county property.

Quiggle: Get Mark Mattice to put something in writing – get him to OK that – once you burn up the wood, with a time limit? How long will it take you to burn up the wood?

Gerald Auge, Jr.: It will take two or three years.

Oleson: The Parks Dept. can impose whatever limit they want. This is really not up to us.

Quiggle: I don't want that shed to be there indefinitely.

Oleson: It is an existing situation. You are not approving trespassing by not addressing this. If you want to put the condition in – you could – not sure it would hold up.

Shay: I am not sure we can put it in as a condition. It is not on the property. The county has spent a year re-surveying everything. There are big discrepancies. We can suggest they talk to Marc Mattice about it.

Smith: Is it your intent to put it on your property?

Gerald Auge, Jr.: We are not moving the shed onto our property.

Quiggle: When I went on the site visit and looked at the house plans – is the basement technically a basement or a story? Whether or not 50% of it is above ground or enclosed. That could be an issue. The county does not allow for 3 story buildings. This is a very tall building on a very narrow lot. This is 35 feet high to the peak.

Oleson: This is like the Schreiner 3 story issue. In terms of the Ordinance - a basement shall not be counted as a story for height regulations.

Quiggle: If it is a basement, it is not an issue. Is this defined as a basement or not?

Oleson: We have to calculate how much of the basement is covered up with ground. How much of the basement floor to ceiling height – is below the average ground level. Say the road side is covered – and there is nothing on the lake side. If more than half of that is covered up with soil – it is considered a basement. If it is less than 50 percent covered – it is not considered a basement and goes against the 2.5 story limit.

Quiggle: It is a tall, massive structure in a very narrow space.

Craig Johnson: Look at side elevation – might tell you where the earth is.

Quiggle: The side elevations look about 50/50. It does not help.

Oleson: Is this accurate in terms of what is actually out there?

Jennifer Auge: I think on the west side there is a lot more dirt.

Gerald Auge, Jr.: There is a retaining wall that comes out – the dirt line is about door handle height. On the east side – it is at grade and goes virtually straight up. There is about a course of blocks shown on this side right here.

Oleson: Required to meet the definition of a basement as a condition. They would have to bring in fill. Hopefully it won't get over the 50 cubic yard mark.

Quiggle: Make it a condition that the basement meets the definition of a basement.

Quiggle: How do we all feel about the roof pitch on the garage?

Parks: I say 6/12.

Shay: The county has been very adamant about 6/12. I understand what they are trying to do with aesthetics.

Quiggle: Stick with 6/12.

Smith: 6/12.

Gerald Auge, Jr. handed out an alternate plan for the garage. It shows a wall height of 14 feet, which meets the code for a garage. It has like a dormer on the side. The main part of the garage is 6/12 pitch. The overhang on both sides of the garage has a 12/12, which gives it the look so it meets the architectural similarities of the house.

Smith: My opinion is that it is a 12/12 look. It does not give me a 6/12 look at all.

Gerald Auge, Jr.: That is exactly what it is – it is a look. It is not a 12/12 pitch on the inside.

Smith: Not on the inside, but the exterior is.

Parks: If you increase the side wall height – you are increasing the ceiling height on the inside?

Oleson: Is it still a 6 foot ceiling inside?

Gerald Auge, Jr.: Yes. The space inside would be for storage – 6 feet. The inside of the garage – I could move up the ceiling height.

Quiggle: You are doing a visual illusion. Ben – how does it fit with the ordinance? The county's issue is - is there livable space up there and what is the interior height?

Oleson: It does not get into the “why” so much, it just says keep it at 6/12 pitch and 6/12 ceiling height. There is not definition about how we measure 6/12 pitch. The intent, in my mind, is to limit the dwelling space and the other is to prevent height issues in terms of views for neighbors. It does not really say why in the ordinance.

Quiggle: The side wall up to the 6/12 part... the 14 feet fits the max.

Oleson: You’re saying - From the 14 foot side wall to the peak is the 6/12? Right? From that point up it is a 6/12 pitch?

Gerald Auge, Jr.: Correct.

Oleson: This is just an architectural – it is not structural or anything?

Gerald Auge, Jr.: It is overhang. The triangle is the overhang.

Smith: You definitely did your homework.

Shay: With the 14 foot sidewall, it is a 6/12 pitch.

Quiggle: You will have no more than 6 feet of headroom in the upper interior garage?

Smith: It meets it – but the other issue is - are we going with the narrower building?

Gerald Auge, Jr.: It is the wider building, 28 feet by 28 feet. But I have another drawing that is 26 feet. But with the narrowing of the building, I would then ask for the building to extend out the back two feet. It would put the structure closer to the pressure bed – and I am already trying to get a variance for a setback to the pressure bed.

Gerald Auge, Jr.: The second page shows the dimension - 26 feet by 30 foot depth on new garage drawing.

Smith: We are already at 15 feet, supposed to be 20 feet. Now we would be 13 feet.

Oleson: The well is being abandoned.

Quiggle: The well is being brought to the road side.

Oleson: Bernie Miller did not think it would be a good idea to put the new sewer drain field over the old well location. I think you legally can – he just didn’t think it was a good idea. Whether it can go back another couple feet...I don’t know.

Smith: Can’t you turn the drain field the other way?

Carlson: The elevations are pretty flat. It isn’t a raised mound, is it? What is the slope?

Gerald Auge, Jr.: Bernie Miller wanted to keep it in this location because of the two soil borings. We can sure try to turn it – it looks like there is 2 feet between the pressure bed and the well. If it is an option to turn it – I would like ask you to allow a five foot setback, no matter which way it is turned.

Oleson: You would want to maintain your ten foot setback for emergency vehicles. That is the minimum setback – ten feet.

Quiggle: Everything else on the property is 4 feet, plus or minus, from the property line.

Oleson: I think you could allow for a 5 foot side yard setback in your variance, and then, short of tabling it - to see what they can do - see if they can move it closer and still maintain at least a 15 foot setback, unless there is....

Parks: I would rather see it turned than go over the top of the well....

Oleson: You would have to word it in such a way – that is has to be, you want it off the well, but as close to that as you can get it without doing it – up to 15 feet away or you have to kind of

Parks: You’d probably want that for whatever water vein you are in.

Gerald Auge, Jr.: The old well?

Parks: Yes – or isn’t it very deep?

Gerald Auge, Jr.: It is a deep well.

Parks: So are we going with the 26 foot?

Oleson: Or if you are in favor of the 13 foot setback, then you can go with that.

Quiggle: I am in favor of the narrower 26 foot wide (exterior dimension) garage.

Parks: He maintains the 6/12...

A motion was made by Parks, seconded by Shay, to approve staff recommendations as listed in:

1. Dwelling: Side yard and lake setbacks.
2. Deck: Side yard, bluff and lake setback.
3. Garage: Road centerline setbacks.
4. Septic: Side yard setback would be 5 feet.

Hardship/reason is the existing location for the buildings and the property.

Motion carried unanimously.

A motion was made by Shay, seconded by Smith, to approve the side yard setback on the west (4.2 feet is existing) , and denying variance for 8.1 foot setback on the east side. Motion carried unanimously.

Note: A 26' by 30' garage design was presented by the applicant and the Board noted that the new design would meet the required east side yard setback, so no variance was necessary.

A motion was made by Parks, seconded by Smith, to deny the 12/12 garage roof pitch, and approve the 6/12 garage roof pitch, as per new plan submitted at meeting for 26' by 30' with 14' sidewalls. Clarified there can only be 6 feet of headroom in the upper portion of the garage. Motion carried unanimously.

Note: Garage roof pitch (the applicant presented a new garage design at the meeting that would create a 26' x 30' garage with 14' sidewalls and a 6/12 roof pitch. There would be a "façade" of a 12/12 pitch on the town ends of the garage that will create the appearance of a 12' x 12' roof pitch with dormers. The Board of Adjustment discussed this new design and concluded it met the requirements for a maximum 6/12 roof pitch.) The Board also emphasized that the maximum ceiling height in the upper level must be 6 feet or less.

Septic:

Quiggle: Since we have approved 26 by 30 – they need to go back to Bernie Miller to go back about shifting....

Parks: I would rather see....What is the technical reason for the 20 foot requirement from the building?

Oleson: To protect the building from effluent. And allow for construction or replacement of the drainfield.

Parks: Are we going to try to approve something tonight? I would rather see it closer to the structure rather than close to the abandoned well.

Quiggle: If he turns it on the side, it will be about the same difference.

Smith: Do you have a dimension on that?

Oleson: 25' by 18'.

Smith: 5 foot variance on west side – don't see why they can't get 20 feet away from the garage.

Gerald Auge, Jr.: There is probably about a foot or two of fall between south and north side of the pressure bed. Everything on that lot slopes toward the primary structure.

Quiggle: Do we make assumption that Bernie Miller can make this work and putting conditions to that effect, or wait for him to come back and confirm that it will work?

Oleson: If you are comfortable with 15 foot setback then you can grant it that way and they would have to configure it to that it meets that. If you are not comfortable with any variance, we could deny it, and

they would need to see if they can meet the 20 foot setback and if not, they would have to come back and ask for the variance approval to be amended.

Smith: He has a lot of variances here. I would like to try to avoid any more than we need to. Can we table this one until next time or do we just want to get it cleaned up?

Parks: We can't approve something the sewer guy has not approved.

Quiggle: We can put conditions on it that it has to meet the 20 foot setback from the structure. If Bernie Miller cannot meet the conditions, they have to come back to us and discuss it again. If they can make it work, they could go ahead with their building plans.

Oleson: If you wanted to say that they can be within the setback only if there is a reason the septic designer determines that there is a reason they cannot meet that requirement...and I review that and I agree with them, or the county agrees with them... if you want to leave it to the technical people again...I am not saying you should, I am just saying that is one way to deal with it. If you would rather deal with it yourselves, then you can deny and make them come back and explain why.

Shay: That makes sense – one way or the other that is what it is going to come down to – working it out.

Oleson: If you want to say no closer than 15 feet then...

A motion was made by Smith, seconded by Shay, to accept the septic variance of 5 feet on west lot line, achieve 20 feet if possible, but no closer than 15 feet from the new proposed garage, as determined by sewer designer and reviewed by County staff. Motion carried unanimously.

Quiggle: Oleson will have to work to make sure this is fitting the definition for a basement.

Olson: You have not granted a variance from the height limitation, so they have to come back if they do not meet the conditions of a basement.

Quiggle: Standard erosion and sediment control during construction and permanent storm water management on site. (All necessary construction shall be completed at the time of the construction of the additions. Erosion and sediment control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences on down slope areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets or other forms of temporary cover until vegetation is re-established.)

Oleson: The plan was sort of addressed that there is a lot of space on both side for it to soak in. If that is an adequate plan, maybe we do not need to require anything more.

Quiggle: You are maxed out on your lot. You cannot put on any more drive way or anything. You are maxed out. Work with Oleson, Bernie Miller and your architect.

5. Approve Previous Meeting Minutes

e. May 8, 2012

A motion was made by Shay, seconded by Smith, to approve the May 8 meeting minutes. Motion carried unanimously.

6. Zoning Administrator's Report

f. Permits

g. Correspondence

h. Enforcement Actions

7. Old Business

- i. Discuss end-of-year ordinance updates/clarifications.
- j. Discussion – Potential update of 2007 Comprehensive Plan
- k. Interpretation of “fence”
- l. Training (if time allows) – “Understanding Legal Requirements for Granting/Denying Requests”

4. New Business

- a. Camp Friendship – impervious surfaces
- b. John Kittok – replacement/maintenance of illegal, nonconforming deck
- c. Schafer CUP/Variance
- d.

Patrick and Cheryl Martin addressed the Planning Commission.

Oleson: Mr. Martin – is a hedge a fence? You had asked that I consult with the township attorney. He thinks it could be interpreted either way. Whichever way you interpret is defensible and what do you interpret the current ordinance to say? Do you want to change it to make it clearer? Mr. Martin would like to see an answer tonight. From my perspective – how would you like me to interpret this ordinance?

Oleson: Trees planted close together in a line –they obstruct the view. The regulation is that you are not supposed to put up a fence that obstructs the lake view.

Cheryl Martin: Planted 2 feet apart, right straight back from the lake, all the way back through the property.

Patrick Martin: If you have a structure: Screening may be a fence or shrubs.

Cheryl Martin: We are afraid they are going to re-plant. You can't see anything. It makes that area very dark. That used to be one of the prettiest views we would see.

Patrick Martin: The other issue is that the dead trees are a fire hazard. By forcing him to remove at least 75 feet of it, it forces him to take out at least 75 feet of it. It takes out some of the fire hazard.

Quiggle: I have a hard time seeing how trees can be interpreted as a fence. Here it is not a partition, a wall, a structure.

Patrick Martin: To me, it fits all.

Quiggle: We are not dealing with a hedge here.

Patrick Martin: The definition that I have - the ordinance says a fence is defined as any partition, barrier, located along a boundary.

Shay: With what we have here, I don't see the trees as a fence. If we want to pursue it at another meeting, as far as what is listed in the ordinance – it is not a fence.

Cheryl Martin: They are 14-16 feet tall. They are a wall of trees.

Quiggle: I think we understand that, but it does not fit the definition in the ordinance.

Shay: What is written here, we would have to change the ordinance to include trees. With what is here, our hands are tied.

Patrick Martin: Your attorney said it could be argued either way. If you rule in favor of me – I guarantee that Mr. Steinbach will lawyer up.

Shay: Right now, we can't make a decision with what we see here.

Patrick Martin: Hedge is not in the definition, but it is in the Webster's dictionary. It is if you take Webster's definition of a fence or hedge.

Quiggle: It is not a partition, as structure, a wall or a gate.

Patrick Martin: It is a visual barrier.

Quiggle: There is not something that is erected.

Cheryl Martin: It was erected every time they planted there.

Quiggle: We understand....

Cheryl Martin: It is a barrier – you cannot walk through them. You cannot spread them – they are that close. It is like 14 feet tall. It is a wall that is sitting here, blocking the view of the lake.

Patrick Martin: Webster's - A hedge is a fence. Your ordinance says that a fence within 75 feet of the lake is not allowed. I am asking him to interpret in favor of me. If he takes out every 4th tree – there is nothing I can do about it – and you can bet your bottom line that he plans to take them out and replant with new trees.

Patrick Martin: Repeated Webster's definition again.

Quiggle: I think that we have all said that the way that we read the ordinance, the ordinance would have to be re-crafted to include trees. We understand.

Patrick Martin: I have been to three meetings. I have driven 300 miles. Mr. Steinbach has not done a frickin thing. Do you think I am happy with this board right now?

Patrick Martin: This obstructs more view than what a fence would do. If it were be re-worded, would they be grandfathered in?

Oleson: It is a legal question. With structures, they are typically grandfathered in. With plantings, I don't know. I would think that when a plant dies, it would no longer be grandfathered in.

Cheryl Martin: I think he has 60 trees on there.

Oleson: This is a policy decision. If you think here should not be visual barriers – my concern is that if trees or shrubs constitute a fence – we have to come up with definitions.

Quiggle: You have a can of worms.

Oleson: We do not have definitions right now.

Shay: You have to define barriers, height and width wise – right now this is so open and gray – there is no meat to it at all right now. If you think there is some direction to look into this.

Quiggle: For me – the trees do not constitute a fence.

Patrick Martin: Then you don't agree with Webster's definition of a hedge?

Parks: I think it something we should at least look at. If you have someone do that all the way down to the lake.

Patrick Martin: His insurance said he had to have a barrier because of in ground trampoline. Flood did me a favor in killing them. Wright County said they did not want to pursue it at this time.

Smith: I agree that trees do not constitute a fence. I can't help you in this situation.

Shay: Trees, the way it is defined there, is not included. That cannot happen tonight.

Quiggle: You should be aware that this is not going to be a short process. We will have to consider the unintended consequences of an ordinance about tress.

Patrick Martin: You have the authority to invoke the ordinance. Is that correct?

Quiggle: Our interpretation is that the ordinance does not include trees at this time.

Patrick Martin: Who do I take to court when I go to court.... Corinna, Mr. Steinbach, I warn you, it is not going to stop here. If I take you to court, it may be at a cost to Corinna. Mr. Steinbach is going to lawyer up.

Parks: There are 5,000 lake lots around here – all with different tree considerations.

Patrick Martin: He purposely planted them. I want him to cease and desist. They are dead.

Parks: I can't say that he broke an ordinance by what he did.

Shay: We are trying to tell you, we cannot agree with you tonight, but if you want to go see a judge – that is up to you.

Patrick Martin: 704 has screens as a barrier. Read the whole thing. It may be a fence or screening.

Quiggle: I understand.

Patrick Martin: It is in your ordinance.

Oleson: This is talking about businesses. This is a different circumstance.

Quiggle: Businesses are different from lake lots. We have to be thinking of all the lake lots in this township.

Quiggle: Ben – please come back to us with language that other communities have and how it may apply to us and how it may or may not work for us. We have to work in a methodical way.

Shay: You have been before this board one time, last month. We have not heard of this before.

Martin: You leave me no choice.

Quiggle: It says that Wright County does not agree that trees are a fence. It is 9:00 and we have other things on our agenda.

Patrick Martin: My lawyer will act faster than that.

Quiggle: You have to do what you have to do.

Quiggle: It looks like we are not going to get to the ordinance update portion of the meeting.

Oleson: Camp Friendship: Last year they wanted to add on to the meeting hall.

Stan Hillestad addressed the Planning Commission.

Oleson: They have had a survey, they have calculations of impervious. When you add them all together, they are slightly over the impervious. They are looking at some other projects that would add impervious. Since they are already over on impervious, (they are at about 26 % impervious) could they build if they took away a like amount – or do you want them to stay at 25% or less?

Stan: We had to calculate all the impervious – decks, surfaces, roadways, etc..

Oleson: Red lettering – on lake side – if you look here – (I just got this today) between the road and the lake there are two parcel numbers. We are considering the two as one since it is one unified site. It is either 25 without the decks, 26.18 with the decks.

Hillestad: We are proposing we build 5,000 square feet – we will take out 5,000 square feet. We would swap. Last year we took out as much as we built. We are taking out two entrances off of 108th – one that takes you up to the new building. There is another to the dining hall – we will take that road out. That road will be taken out, removed, and sodded.

Quiggle: Where are they on structure coverage? We have to consider both structure and total impervious coverage.

Oleson: We have to figure that out. I was going to pull up the statute. We have this statute you can replace but not expand. It was intended to imply to structures for sure. Whether it applies to things like impervious surface coverage is a little more gray. If we are going off existing law and ordinance, we can say if they're not making it worse, and they are not expanding, it is OK, or we can take a more conservative approach and say that it requires a variance. Practically speaking, if I said I am over on my impervious, and I am going to take out my driveway, as an example, if that were to happen in that order, we would clearly allow for that to be done. Would we allow it to be done with one step. You can allow this with a variance. Should we process this with a variance – or with an over-the-counter permit – as long as they stay with an equal amount?

Quiggle: I am not comfortable since I don't know building coverage percent.

Smith: Bring it as a variance.

Quiggle: The swap is theoretically OK up to 15%.

Oleson: If I were to work with them and found out they are under on the building coverage, and they are going to swap, even though over on 26% -is that OK for over-the counter?

Everyone nodded yes.

Oleson: We should be able to figure building coverage out from the calculations submitted. I will get in touch with Chad.

Someone came to me to replace their lakeside deck. Actually they started out wanting to enlarge it slightly. I said it would require a variance because it was within the lake setback. Then they came back to just replace the existing deck. In the meantime, we figured out through county records that there was no record of a permit being issued to build the deck originally. It appears that it would have been in the time period where a permit would have been required. They got a couple of variances in 1997 and one in 2003 and none of those surveys show a deck on there. There is nothing in the minutes that talks about a deck being on there from those meetings. The question is – pretty clearly – if they want to replace the deck completely –it would need a variance, because that is what they should have gotten in the past. A secondary question came up - if the structure is OK and they just want to replace the decking boards – this is considered maintenance, which would not normally require a permit, would you still want a variance, because it should have had one in the first place, or is that something they can do? Quiggle: They need an after -the fact-variance - period. They are trying to maintain an illegal structure. They did not get a building permit, I will bet.

Oleson: And it has sold in the meantime.

Quiggle: Whoever put it up did not get a permit because it would have triggered a variance. It is an illegal structure.

Shay: I agree.

Oleson: That is pretty much what I have told them so far. They need a variance to do anything? You are kind of arguing that even if they don't do anything, they should get a variance.

Quiggle: Yes...or take it off.

Oleson: OK. We talked about how they can do a patio without a permit, so that might be one option.

Oleson: Another interpretation questions- bluff across the road from across the lake. They want to build a road to the top of the bluff – so they can access vehicles – moving for more than 50 yards – needed a conditional use permit and applied for that. Placing fill in a bluff – that is a variance. In this case – they are moving around native materials. I initially said they need a CUP and then get a determination if they need variance or not.

Quiggle: To put a road in a bluff?

Oleson: The only other way to get to the top of the bluff is walking. He started to build this last year. Wright County stopped him. Now we are here. Clearly, he can apply for a CUP. Ordinance says you cannot place material in a bluff – so do we require a variance? My interpretation was that he did need a variance, but he wanted to take this step by step and I told him I could discuss it with the Board of Adjustment.

Parks: I would have to look at it.

Oleson: My interpretation is that it is a variance.

Quiggle: It is a considerable amount that he is moving.

Oleson: There is a hole in this hill. Arguably that is a danger. He is trying to resolve that. He also wants the option to build on that hill at some point. It will be here as a CUP next month. At that point you can decide if the needs a variance as well. If the CUP gets shot down, there is no need for them to continue.

Old business was all tabled.

9. Adjournment

A motion was made by Smith, seconded by Parks, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:21 p.m.

Minutes respectfully submitted by Mary Barkley Brown