

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
October 9, 2012

7:00 PM

1. Call to Order: 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; Barry Schultz; Steve Huff

Absent: Larry Smith

Others in attendance: Dick Naaktgeboren; John Bishop; Arv Klemz; Pam Klemz; Cynthia Westhoff; Dale Westhoff; Lars Rasmussen; Cindy Janke; Jane Flude; Robert Schnell; Jake O’Konek; Sarah O’Konek; Gerald Schafer; Janet Schafer; Ken Vande Steeg; Vicki Morgan; Lee Morgan; Cathy Ransom; Dean Flygare; Sandy Ransom; David Ransom; Steve Bruggeman;

3. Additions or Deletions to the Agenda: None.

A motion was made by Schultz, seconded by Shay, to approve the agenda. Motion carried unanimously.

4. Public Hearings

- a. Variance to allow for more than two years to seek final plat approval of an approved preliminary plat.
 - 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

Quiggle read the request aloud.

Bishop: I am here to request an extension of time for seeking final approval of the plat that was preliminary approved by planning & zoning and township board at the last meeting. I think Dan and Charlotte were both there. I think it is pretty straight forward at this point.

Oleson: He has his preliminary plat approval. The ordinance says he is supposed to bring it back for final plat approval within a year. Basically what happens in that interim period is he has to meet the conditions of the preliminary plat which in this case means building the road, storm-water and all of that. He is supposed to bring it back within a year if he doesn’t then it expires and he has to go through the process again. The ordinance does allow for the town board to give him an extra year so he can have up to two years and then at the point that he applies for final plat approval he either has

to have the road built and approved and inspected and all of that or he can put a financial security in the form of a bond or a letter of credit or whatever it is to give himself two more years to build it. So with the ordinance the way it is written without a variance you could basically get up to four years. What he is asking for five (5) years to bring it back to final plat. He would have to have the road built by then or he would have to have financial security in place to give himself seven (7) years total. So it's a difference between four (4) years and seven (7) years total.

Quiggle inquired of audience comments or questions.

Shay: So basically we're looking to extend it out to five (5) years instead of the two (2) years, is that correct? I see no problem with it I know that the town board had a lengthy discussion after our meeting the last time and they came to the conclusion that the five (5) years makes sense as long as if John's plans change and he decides to go ahead with things the road has to be put in before. Other than that I think extending it is fine.

Schultz: My concern is that by us granting this does that make it so that we would have to grant this every time?

Quiggle: My personal opinion is that every situation is different. You deal with the situation you're presented with. Here we have undeveloped land which John wants to keep it undeveloped until somebody is going to build on it. That may or may not be the case in some other situation.

Schultz: A lot could change in that amount of time.

Quiggle: One of the suggested conditions is that should there be subdivision ordinance changes that John would have to abide by those at the time of final plat, correct?

Oleson: Yes and no. The way I wrote that up was not that if there are any changes to the subdivision ordinance, but if there is any changes as to what the storm-water requirements are or how the road is built, in that limited area. If you had a concern that this is going to set a precedent that anybody could ask for that time frame and sort of skirt any potential rule changes that might be one where you...I floated that past the township attorney and it didn't seem like he thought it was all that necessary. Yes, that's one of the thoughts I had. Does it set a precedent? How do we define this as being different from any other situation? I think there are some potentially unique things that you could say. This is a unique situation and that doesn't tie it to anything else in the future that would be the exact same. If you wanted to protect yourself against, even if not legally just sort of common sense wise if you wanted to give reason why you would consider this extension of time appropriate for this case. That would give you reasons to say that was a unique situation then. Maybe the next situation has a different set of unique circumstances that you would give a variance for, maybe not. If you specify your reasons or some of the thought process as to why you're giving this extension then that will help protect against that.

Huff: I read through all of these minutes and I got a little bit lost. Does this come up with a plan for the actual road? That seemed to be the biggest concern last time.

Bishop: Yes, the preliminary plat had a road. We had a long discussion; Charlotte & Ben were there at the town board. It was agreed that it didn't have to be hard surface, but it had to have a 66-foot right-of-way all the way in plus I had to build a 28-foot road bed. And then there were storm-water provisions in there as well.

Oleson: This request is related to that, but it's not contingent on any of that. We're just talking about time frame. The plat has already been approved. The road has to be built full width and full right-of-way.

Oleson: He is asking for 5 yrs to bring it to apply for final plat approval. When he applies for final plat approval he can either have the road done and just be done with it or he can put a bond out and get two extra years to build it. After five the ordinance takes over. That could be one thing that changes in between. That option for doing a bond could go away or get longer. That could change, but the five years is what we're approving.

Bishop: Just for a little background. Part of the reason it would be of benefit to the township is nobody wants that road. The neighbors don't want the road. I don't want the road. The township doesn't want to have to maintain the road. There is really no purpose in having the road until there is a purpose.

Huff: The dilemma is not your road. It's another person doing a similar situation. There-in lays the detail.

Bishop: Other than the fact that they agreed that it didn't have to be hard surfaced they didn't compromise on the road. It has to be 66-foot easement is going to go all the way from of Hart in.

Quiggle: For me, given the unique situation here some of the last undeveloped land on Sugar Lake, heavily treed and the thought of the road to nowhere that can become a nuisance. If you've got kids who are at the end of it or that breaks down because of lack of use it seems to make sense not to build the road immediately to put it out for the five (5) years or if you start building a house. I'd be in favor of it.

A motion was made by Shay, seconded by Huff, to recommend approval of the request to allow the applicant five (5) years to bring a final plat application on his previously approved preliminary plan with one condition. If the applicant does not apply for final plat approval within two years of the date of preliminary plat approval, the applicant, or their heirs or assigns shall amend their plans, if necessary, to adhere to any Township regulations regarding road construction, storm-water facilities or other public facilities applicable at the time of application for final plat approval. Motion carried unanimously.

- b. Land Alteration/Conditional use permit for the movement of approximately 250 1,500 cubic yards of earth and materials (546 cu yards of cut, 971 cu yards of fill) to fill and re-grade an existing slope (tabled from July 2012 meeting). Variance for the excavation and placement of fill within a bluff (new application). The project is for the purpose of re-grading a previously excavated area and creating a driveway to the top of a bluff.
- i. Applicant(s): Gerald and Janet Schafer
 - ii. Property Location: Across from 6455 - 117th Street NW, Maple Lake
 - iii. Sec/Twp/Range: 1-121-27
 - iv. Parcel Number(s): 206080002010

Quiggle read request aloud.

G. Schafer: I had it drawn up by an engineer. How it is going to be done.

Quiggle inquired of any comments or questions from the audience.

Arv Klemz: I'm the next door neighbor. I think the project is going to devalue our home somewhat because we're pretty close to that property. Especially if he cuts down more

trees that's going to make us pretty open up there. The other thing I'm thinking about is you're cutting into the bluff? Is that the plan?

J. Schafer: No, we're filling it in and leveling it out so we can get up there. You know you've got that steep slope for your driveway, too. So it's kind of the same thing we're doing.

Arv Klemz: But you're cutting into the bluff?

J. Schafer: Leveling it down. We didn't make that big hole.

Arv Klemz: I thought that was illegal to mess with a bluff.

J. Schaefer: Nope, because that was a burrow that has been in there since many years ago.

Arv Klemz: I remember when that went in there.

J. Schafer: With the road...

G. Schafer: Corinna Township cut the burrow away.

J. Schafer: and took that out. We didn't do that.

Arv Klemz: No, I know you didn't do it. I know who did it.

J. Schafer: We're just making something that's dangerous, it's slippery, and it's everything else. It's got to be corrected.

Arv Klemz: The only problem is bringing that much soil in I'm afraid of erosion, of serious erosion.

J. Schafer: You can look over the drawings and everything from the engineer. We've got a lot expense put into this.

G. Schafer: Are you an engineer, Arv?

A. Klemz: No.

G. Schafer: I had an engineer draw it up.

A. Klemz: I saw the drawing.

G. Schafer: You're no engineer you shouldn't weigh-in...

A. Klemz: Fourteen (14) foot driveway? Is that right?

G. Schafer: Yes.

A. Klemz: There's going to be an awful lot of earth going into there.

G. Schafer: Well, Corinna took a lot of earth out of there. They built the road up down past you with the low-land. That's where all of the ground went that was taken out of there.

A. Klemz: I guess my concern is if we get a heavy rain that's all going to be down 117th street, very easily.

G. Schafer: Where does your water go?

A. Klemz: In our pond.

G. Schafer: Ya right. Arv doesn't want nobody up on that hill. I gave them an offer to buy the land and he didn't want it.

A. Klemz: You never did.

Quiggle: This isn't really a back and forth discussion here, I'm sorry.

A. Klemz: Three or four years ago 117th flooded. It was like a four (4) inch rain. If we get another rain like that and we're going to have a mess on our hands. That's my only concern.

Schultz: Where is your house at? (visual reference given)

A. Klemz: Right next door. The only culvert that drains it drains under our driveway and that's a six-inch culvert.

J. Schafer: We also have, Arv's house sits, we've got our land and then we have somebody that's even higher up above us. There was no problem with them building up there, higher up and their slop of driveway. They put their septic in down below. There can't be any favoritism.

Quiggle: Is that it, Arv?

A. Klemz: Yes. Thank you.

Quiggle: Any other comments?

Oleson gave an overview and history of the project.

Oleson: It's going to involve quite a bit more fill than what was initially estimated. The calculations from the engineer were that it was going to be 1,500 cubic yards. That includes both what's being moved around and what's being brought in. 546 cubic yards will be cut-out and 971 cubic yards of fill. That's how we get to that number. He's got an erosion control plan on the last page. Basically where they put down a lot of erosion control blanket on the sides here (visual reference), they seeded and planted with various vegetation. We got a comment from Soil & Water District that it should be a certain mix that they have for woodland areas like that, that they recommend for it. They don't recommend sod because it doesn't have a deep enough root structure. They would rather see the planting of seeds. We're here to talk about whether this is something that can be done with a reasonable way to control the erosion whether it meets the criteria for a variance with the practical difficulties. The other aspect that we talked about at the last meeting was that the whole purpose up here is to get up and use the top of the hill; potentially build there someday or at least put an RV up there if nothing else. In terms of building a structure up there, the buildable area is small (visual reference) this triangular shape right here. You have a bluff setback of 30 feet. You've got anywhere from 10 to a 15 foot setback depending whether it's a house or detached accessory structure from the side property lines. In that sense to build anything of much size would include a variance at that time from the setback rules, unless they can somehow squeeze them in there. It's not a really big area up there. This is a separate platted lot from everything else so it was platted as its own lot way back in the 60's or 70's. It's a CUP & a variance. If one doesn't go then the whole project doesn't go.

Huff: You want to smooth out and end up with a smaller grade when you get done. Correct?

J. Schafer: Yes, so we can get up to the top, yes.

Huff: I'm a little concerned about that much dirt being held in place without rain and time and freezing and thawing to make that settle. Do you know what I'm saying?

G. Schafer: That's what I got an engineer for.

J.Schafer: Yes, exactly.

Huff: I understand that.

G. Schafer: I'm not an engineer.

Huff: I understand that.

G. Schafer: He says it's feasible.

Huff: I also know that it's dirt that's moved and it's...

Quiggle: The four inches of top soil on top.

Huff: I'm not worried about that. I'm worried about the 8 foot underneath it that's got nothing holding it. Is this going to be done in a four week time frame or is this something that you're going to layer and let accumulate or you have any thoughts?

G.Schafer: That really don't make no difference. I'm not a contractor. You know how it should be done that way.

Huff: Just being an old farm boy I know that disturbed dirt and it rains hard and it's very deep will move, but I know that if you give it some time to settle and then some more is added on top and that has time to settle things will work out that direction. That's the reason for my questioning.

G. Schafer: Okay, how long of time do you have to that?

Huff: I don't know.

J. Schafer: When Mares cut into the hill before, he put a pretty good cliff going up there. We went through every rainfall all summer long. We had a lot of heavy rains.

Huff: And all of that dirt is settled?

J. Schafer: Nothing moved.

G. Schafer: And we spin going up there with a pick-up and you can see that ain't cut-in hardly at all.

J. Schafer: Go out there and look at it. There's no wash-outs, nothing.

Quiggle: Actually, the road has quite a bit of erosion. I walked it yesterday and there are gullies where it's been cut by the rain.

J. Schafer: That's going up there with the four wheeler.

Quiggle: No, no, these you can see its water that has washed away dirt there in the road part, not on the bank, but on the road part.

Huff: Did you talk to your engineer?

J. Schafer: So it's on the road that you're talking about?

Quiggle: Where you can walk up.

J. Schafer: You mean our driveway or you talking on the road?

Quiggle: Going up there in the picture. (visual reference to the driveway)

J. Schafer: That was those trees and that that were taken out, though. They were just, you know, there was nothing done. That was just something just started we couldn't finish it so naturally there's going to be a little bit there, but it's not like the whole dang thing washed out. I mean a little common sense guys.

Quiggle: It's going to be the same thing with class 5.

Huff: What did the engineer tell you the process would be?

G. Schafer: I don't know if he said anything. It should be done in layers; I know he did mention that to me.

Huff: He had to tell you something. If he said he's just going to back dump trucks up and dump dirt and run it over with a CAT and pack her down and call it good?

G. Schafer: No, they're thinking of pulling dirt off.

Huff: Here we go...now this is what I want to know. What are you talking about?

G. Schafer: Bringing dirt down.

Huff: Off the top....okay....

G. Schafer: Yes.

Huff: And again, packing it down with a CAT?

G. Schafer: I imagine. This time of year is the best time. It sets over the winter, you know, with no use on it.

Huff: Okay and there is no stabilization within that disturbed dirt in any way shape or form beyond packing it, correct?

G. Schafer: Well, we'll seed it right away with rye and oats.

Huff: Not now you're not. You're already too late. There isn't any seeding that's going to take today. We're past that. Number one we don't have enough water and number two it's getting too cold it won't germinate. So you're telling me that you want to do it yet this fall?

G. Schafer: No it don't have to be.

Huff: Okay, because I'm like you July August September would be the time to do this kind of thing. This year would have been a great year because it was absolutely no rainfall at all. Other years we've got four to eight inches of rain and then the whole thing would have been down on that road regardless of how much seeding you had. Is this road going to be surfaced in any way? Just class 5?

G. Schafer: Yes, class 5 and probably granite chips on top.

Huff: I'd like to see some kind of stabilization of something because the dirt is just too deep.

G. Schafer: You see I inherited this problem. That was Corinna Township that did it, you know, so we'll get into that later down the road if it's going to be...because I'm not [inaudible].

Naaktgeboren: Dick Naaktgeboren, Corinna Township. You may have inherited it. We didn't build the road. That road was developed by a developer. That road was built by the developer in 1963. We've had this discussion Mr. Schafer already. Don't say that we built the road. The township never built the road.

G. Schafer: Well, I talked to Dick and he said that...

Naaktgeboren: This is Dick.

G. Schafer: Dick said....

Naaktgeboren: I know exactly what I said because I wrote it on email and I have the email. I said we did not build that road.

G. Schafer: Oh, I know you didn't build the road.

Naaktgeboren: You just said I did.

G. Schafer: That was used for low-land by Tim Pippo to build that up and it was used on other places.

Naaktgeboren: That road was built by three borrow pits. One is that bluff, one is on Sunset Point Road and one is up by Gowan up by highway 7. Those are the three places that built that road. That dirt was moved across the road to fill in lots and which lots I have no idea. The developer would know that. He ain't going to tell you nothing, he's dead. The road builder is dead, but don't tell this board that I told you that we built that road. You just said that.

G. Schafer: No, you didn't build the road, but you made a burrow in there.

Naaktgeboren: We never touched the hill, ever.

J. Schafer: Boy, that's a different tune going now.

G. Schafer: I think I need a lawyer.

J. Schafer: Yes.

Naaktgeboren: I said we never touched that hill. That road was built and the township took it over. It was by the developer. He owned the land. He did what he wanted with it and at that time I don't think there were bluff rules.

Quiggle: Thank you, Dick.

Shay: I am kind of in the same boat as Steve. Moving a lot of ground/earth bringing it in or cutting it down without some kind of an idea of how the project is actually going to go and kind of procedures are going to happen as far as, I agree it should be a layered project probably. Probably some kind of steps that we know is going to happen during construction and then after construction. That we're going to control that erosion coming off that hill. I think we need that kind of direction before we can really say yes this is going to work or not. I just feel this is a heck of a lot of fill going in and just dumping it up there without some kind of plan to keep it in place is going to create some problems.

Quiggle: On the variance I start with the first criteria of...is this a reasonable project? And I look at it and I say this is not a reasonable project. You have a very small amount of area that you can build up at the top so you'd be putting in a shed. The county policies are that no work will be done in a bluff. And they write those out and those are online. So moving 1,500 cubic yards of dirt when the limit is 50 in a bluff area seems unreasonable to me for the end result. What I could see...I could see fill coming in down at the bottom where it goes in and then I would think you would be able to build a shed down at the bottom instead of putting it all of the way up at the top.

J.Schafer: Why waste that up on top? Let's get it all down nice and even. We'll do it in layers like you said.

Quiggle: Because this is a bluff and bluffs are inherently unstable.

J.Schafer: Ok but we're trying to do it the right way.

Quiggle: But you're not allowed to...

J.Schafer: We are allowed to use access to that land to get up on top. You cannot stop...

G.Schafer: When you said 50 yards. Yes, that's without a permit. You can move 50 yards.

Quiggle: Now you're looking for 1,500 yards.

G.Schafer: And that's when I took that corner off of there. John Dearing, I think, he okayed me to take that off.

Quiggle: From what I understand he did not tell you that and he had no authority to tell you that. The county was the only authority at that time.

G.Schafer: He backed away and hid now. And at that last meeting I was at, I went over the minutes and you had said that (Sean) Riley told me to fill that back in. He never said that to me. He might have told you that, but he never told me that, once.

Quiggle: It's in a letter.

G.Schafer: He never told that to me. I never got no letter from him.

Quiggle: You either had to get a permit with a plan or you had to restore it.

G. Schafer: I talked to him quite a few times.

Quiggle: It was in a letter that's in the record.

J.Schafer: Oh, that wasn't sent.

G.Schafer: Not to me.

Quiggle: It's in writing. I just don't see this as a reasonable proposition.

J.Schafer: Who are you to say what we want to do with that land. You can't judge people.

Quiggle: You are asking for something that is in contradiction to the ordinance and so it has to meet the definitions of...

G. Schafer: How can you do that on Sugar Lake? That whole thing was dug up in one week and re-did.

(produced pictures of places on the lake)

G.Schafer: Here, look at the erosion on that.

J. Schafer: Right on the lake. Your approval.

Quiggle: Actually that did not need a variance. That met setbacks. (laughs from Schafers) It met the setbacks from the lake and it was...

G.Schafer: This one didn't need it neither? I watched this every day and at night I couldn't wait to see what they were doing.

Quiggle: That is nowhere near the height that yours is.

J.Schafer: Oh my gosh! It is too! Look at the side road coming down around there. Come on, get realistic. They got a driveway going right around with just straw over it down to the bottom.

Quiggle: That's not a driveway. That's erosion control fabric that's been seeded.

J.Schafer: Oh, they're driving down there though.

G. Schafer: That was all put in. The whole thing was put in.

Quiggle: I'm just one voice here.

J.Schafer: (speaking at same time as Quiggle) Favoritism [inaudible].

Quiggle: Those are my thoughts.

Huff: Back to practicalities, so far you had this engineer put a picture with an erosion blanket on it. Basically, that's all I got. If I was hiring this guy to do this project, I would like a little more information from your standpoint on what he is going to do. That would just be good business. Okay? Because right now he's going to something and he's going to put a blanket on it and that appears to be all you have.

J. Schafer: That's all Brian said I needed at soil & water. He wrote out a report on it. He said about the same thing.

Huff: His interest was in the very top soil and the erosion of that. My interest is in the driveway coming down and whether or not it's going to stay for six months. I'm back to from a practical standpoint it would seem prudent to have better information from your project manager or someone.

G.Schafer: You'll get it from a lawyer because I'm done with it. I'll just turn it over to somebody else. I'm getting no place here. It must be all favoritism. You must all know Arv real good. Ya know...

Huff: I'm saying that for me to support that I would need a little something other than a blanket because right now I got nothing.

G. Schafer: He's an engineer.

Huff: I understand, but is he a contractor?

G.Schafer: Now you gotta be a contractor too?

Huff: Again...

G.Schafer: I've got Ron (Mares) to do the work and he's been out there three times. He don't think nothing. I can't believe you wouldn't at least some of your own....

Huff: I also know that he would be more than happy to come and represent this project. At that point I could do some support. At this point I can't.

G.Schafer: I gave him the drawing. I never talked to him. I'm not coming back again. You know, I'll have somebody else handle it. I won't be me. I spent \$5,000 on that hill already. I ain't stopping now.

Huff: That would be my position.

Shay: Steve, what you were getting at would be then is we've got the design from the engineer as far as how the road would go in. We'd like to hear a little bit more about of how it's going to go in before we can precede.

Huff: I've got nothing here.

Shay: Tell us how it's going to go in layered. Are we going to do it all in one shot? Is this so many inches here and let it settle.

Quiggle: So a timeline?

Shay: A timeline and how it's going to happen.

Huff: At one point the new dirt is over 10 foot deep. That is hard to do. It would be different if it was 10 feet on a flat surface, but it's not.

G.Schafer: Now this drawing should be equal to a township road. That's how you would do it on a township road. It's supposed to be equal [inaudible] DOT, everything is put into that.

Huff: That being said. We have all the rest of the information that goes with that.

There was discussion about tabling the request until more information can be attained regarding the construction procedure, length of time and the contractor.

G.Schafer: Then what do you want? An aerial shot from Mars after that?

Schultz: That's a very big possibility, but I mean there's no reason...

G.Schafer: Yeah, that's about the next thing now that will be on the table here.

Schultz: We're not trying to be sarcastic here.

G.Schafer: Oh yes you are. You all are. I'm done with you.

Schultz motioned to deny the request.

J. Schafer: Can we hold this over until spring?

Huff: Not if this motion carries and if we're all sarcastic the motion may still gain some ground here. You're asking us to reconsider.

J.Schafer: Well if we paid that money down then that's just thrown away?

Huff: I understand. Again, I'm asking for some cooperation.

G. Schafer: Yeah, I thought, didn't you say that Ben? I get an engineer to draw it out?

Oleson: They tabled it last time so that you could get an engineer to draw up what the cut would be and what the slopes would be at the end, what the erosion control would be.

G.Schafer: Didn't he do that? Now you want to know if it's going to rain or when it's going to rain. I can't predict that, but common sense tells me you just do it.

Oleson: It's up to this board to decide what they want for information if they feel like they have enough.

G.Schafer: You're never guaranteed anything, but common sense tells us if something did happen we would correct it. I ain't going to leave it go.

Oleson: What I'm hearing is there's one of two options. One thought is it's not reasonable which suggests just an outright denial. If you're going to want more information and you think that they can provide enough information and enough thoughts about how this is going to be done safely then you'd approved it then it makes more sense to table it.

G.Schafer: You give me what you want then so I can go and have it done and have my contractor here, but I'm going to be gone for five months. Can this be pushed over until spring?

Oleson: Waiting until spring he's already signed the waiver of 120 days which can just be an indefinite waiver. I wouldn't say we should be waiving it for year, but [inaudible]

I think the biggest question is there are no guarantees, but if you got more information is there a chance that they would approve it. If you don't think there is any chance that they would approve it. If you don't think that there is any chance to approve it then there's no sense in making you go through that. If you can get something back from them that says here's how we're going to do the timing of it to make sure that it compacts good and is stable. If you think that's going to satisfy you...

Huff: I've done enough of this kind of work that I think if I'm talking to somebody that's going to do the work; he can explain what his plan is.

G.Schafer: You give me your name and what you want and I'll talk to the contractor.

Huff: The way it works is he gets to come to this meeting. We'll talk about it in front of a public hearing just like we are now.

J.Schafer: We kind of thought that Mares would have been here though because he comes to just about all of them.

Huff: He's not.

Quiggle seconded the earlier motion from Schultz to deny the request.

Huff: Personally, I think we give him one more shot and go next spring and talk about it then because you're going to be gone?

J.Schafer: Yes.

Huff: I do not like the idea of doing it yet this fall anyway because it's just too late and so if you can get your ducks in a row and have that gentleman show up next spring or February/March, whenever you get back, then I'd be perfectly willing to have a good discussion about how and why.

G.Schafer: She already said it's done.

Huff: No, no, no, she was the 2nd in the motion. We still have to vote on that. Right now you have one vote against that. She hasn't called the vote yet.

Shay: I'd be willing to give them another chance in the spring if we have all of our information.

The motion on the table did not carry. Quiggle voted for and Schultz, Shay & Huff voted against for a 1:3 vote.

Huff made a motion, seconded by Shay, to table the request until spring, as they go south for the winter, for additional information regarding the method and timing of driveway construction. Motion carried with a 3:1 vote. Shay, Schultz and Huff voted for; Quiggle voted against.

The applicant has previously signed a waiver of the "60-day rule" to allow enough time for the Township to act on the application.

c. Land Alteration/Conditional use permit for the movement of approximately 70 cubic yards of earth and materials to alter an existing bluff, install a patio, retaining walls and a beach area. Variance for the excavation and placement of fill within a bluff.

i. Applicant(s): Dale and Cynthia Westhoff

ii. Property Location: 8797 Griffith Ave NW, Maple Lake

- iii. Sec/Twp/Range: 24-121-27
- iv. Parcel Number(s): 206058001090

Quiggle read request aloud.

D. Westhoff: We are new home owners to the area. We want to develop our lakeshore so it is more useful and also to kind of prevent any further erosion of the bluff. There's quite a bit of that going on. Just below the steps there right along the shore just to the left of the stairway there is not much vegetation there and we're certainly looking to improve it as well as make it useful for us.

Lars: You guys were out there right?

Some board members nodded in agreement.

Lars: Basically, it is a bluff that's why we're here. As far as a variance it was really close to over the 50 yards as far as moving dirt. With us talking with Ben we decided we would go with the variance too because it's so close to the 50 yards of material that we're going to be moving, but basically as you see in plan there. We want to get rid of the wood stairway system for one and get a more stable system in. In the meantime get a small little beach down below with a retaining wall and then put a patio up above just to use the lake. We're really not impacting very much of total their total shoreline. We're talking a 30 foot width if that going down to the lake to redo the stairway system. The stairway system we're doing it's not wood. It's going to be stones set into the dirt. If it's done correctly it's going to last a far lot longer. I talked to Brian [Sanoski] about this. We had a good conversation. Wood, there's obviously there's always potential for erosion underneath, nothing can grow underneath it, visually from the lake they don't look good so that's what we're proposing (is) going with the stone steps. Then, the small area that we are impacting we're going to replant it with vegetation and go back in with it. Just so we can use this property a little bit more, an improvement basically.

Oleson: It's a Conditional Use just because it's over the 50 cubic yards and that included both actual dirt that's being moved around and then rock that's being brought in under the proposal.

Lars: As far as the dirt that's getting moved we're probably moving 30 to 40 yards. That was a conversation that's do we count the retaining wall material as yardage, I don't know? That's why we went for the...

Oleson: In my conversations with Wright County they said they include things like rock. They include that in the calculation and beyond that again it's a bluff so moving, excavating and filling in a bluff requires a variance. Again, it's a variance and a conditional use for this one. We did get some comments from soil & water.

Lars: That's one that Brian I know in the letter that as far as the hillside/the slope there that's a concern with a bluff is that if there's water leaching through it and stuff. He says records show that it's a very stable bluff as far as ground water and stuff.

Olson: There are no springs in it that he was aware of. We have that map in our comprehensive plan that talks about erodible soils. The general rule in the ordinance is that you stay out of a bluff. Minimize what you're doing in a bluff. That's the main question here is this reasonable or minimal change to the bluff or is it something more substantial.

Schultz: To me they've already got erosion so whatever they do has got to be a help. Now with the dock and stuff, do you pull that up along-side the steps now and do you plan on doing that later also?

C.Westhoff: Up on the hill, yes.

Lars: Like I said they just bought this. Is it going to be necessarily that same dock system? Because that will be the beach right to the left of the stair system. A small little beach we're planning on depending on the dock system...if they bought a new one, it could go on the beach or up on the slope because we're going to going in there with new vegetation and a lot better vegetation than what's there. So yes the docks will be stored on the beach or similar like that.

C.Westhoff: We're not pulling out the trees.

D.Westhoff: We'll just trim them up.

C.Westhoff: We'll just keep that all stable.

Shay: I had kind of the same feelings as what Barry just said, but looking at it there is a lot of erosion there right now and what we can do to make it better is probably something we need to look at. Once again it's in a bluff area. It's eroding if we could do this kind of excavation and the new stairs will eliminate some of that if not 99% of that we're farther ahead than where we're sitting at right now.

Huff: When?

Lars: Of course, they would like to get going soon here this fall. We just heard prior to this conservation that obviously the big concern is getting a root system growing. With the fabrics now days, we'd put a very good fabric down on top of this because we won't be putting any fill in there. Any fill that would be going back in would be compacted, but there is very little of that because we're basically building within, we're going to be carving out some of the areas. But the fabrics now days, if we did do it this fall.

Huff: Are you buying the plants?

Lars: Yes. Some of this would be a seed material.

Huff: Are they guaranteed next spring if they don't come back?

Lars: Yes, absolutely. But with the fabrics now days, too, they hold very well as long as they're installed correctly. That's the biggest thing with any project is they gotta to be installed correctly. This isn't our first hill. We've had a lot of experience with them as far as a contractor. We feel 100% confident. Obviously they don't want to see their whole property was in the lake. I don't. Nobody does. If the weather looks like its going rain for three weeks straight we're not going to start.

Quiggle: I have some issues. First of all carving in that beach cuts into the bluff so that the...Can you put that profile up? (visual overhead reference) you end up changing the slope to about a 45% slope because you cut in and suddenly have to go up faster. So I think that's a problem and the paver patio that's the 1/3 of the bluff, if you have stairs you're limited to a 32 square foot landing area as you come down the stairs and it seems to be a little odd to allow somebody to cut into a bluff to put in a 200 square feet of a paver patio where somebody else who has wooden stairs is only allowed to have 32 square feet. There seems to be a disconnect there.

Lars: That patio will be right at the very top.

Quiggle: It will be somewhat down from it.

Lars: Yes.

Quiggle: If it were right at the very top I wouldn't have the issue, but you're cutting into the bluff.

Lars: Yes, some of it will be. I mean, I guess, once we lower it that little bit of a pie shape will be in the bluff. Basically, where you see the lawn chair up there that's where we'll be cutting in.

Quiggle: No, that's the flat isn't it?

Lars: Yes, that's the flat there so our retaining wall, this lower retaining wall, will be...

Quiggle: You'll be cutting in below it?

Lars: Just below it to stabilize that so basically where that lawn chair is and the reason why we wanted to do that is to lower that in there for one so you can have a little better visual of the beach to watch kids playing versus putting it right up on top. Visually I think even from the lake, too, it's going to be more set down in there and the neighbors aren't going to see it as much.

Quiggle: I don't really have a problem with the stone stairway and let's try to deal with the erosion in the area. How many steps are going from the patio to the...?

Lars: This sketch is not 100%. It's off. We're probably talking about six steps coming into the patio.

Huff: So you're going to have about a three foot?

Lars: Exactly, about a three foot wall. We're going to drop that.

Huff: And that's going to be 10 feet back from the actual bluff.

Lars: Yes, there will be a pie of this basically that will be in the bluff. I mean this back here (visual reference) would be up on top of the hill. If that makes sense?

Huff: Yes, I understand.

Quiggle: Is that going to be pervious pavers?

Lars: We didn't plan on pervious because hard cover is not an issue. We can make them pervious, but ...

Quiggle: Well, but that means that the rain would soak in instead of running off to down the rest of the bluff.

Lars: Exactly. I mean we can easily do impervious. We've done lots of them. Both ways.

Quiggle: My issue with the patio is largely one of fairness to other people. It just seems backwards to cut into a bluff to give you a benefit that nobody else has if they have wooden stairways. It just doesn't sit right with me and the beach just...

Lars: Basically, going back to the beach I guess when we cut that in we won't be changing that slope of the hill that is already there.

Quiggle: You have to be. I was there. In order to cut-in for the beach...

Lars: We'll have a retaining wall and then that same slope will continue from the top of the retaining wall.

Schmitz: He's not going to change the slope.

Lars: Exactly. Basically that slope is a 2 to 1 or whatever it is, we're just going to cut-in, build the retaining wall and that same slope is going to take off again.

Schultz: So you're going to go back about as far as that dock on the side?

Lars: Not even...well, maybe eight feet at the most. Probably right about where his hand was (visual reference). Yes, right about in there somewhere. So that's where, Charlotte, we won't be digging that far back, because we would need a massive retaining wall then. It comes to a point where we just want to make this useable so they can use it. They pay a lot of money to be on the lake and we're just trying to make it a little bit useable. That's why...

Quiggle: I notice that the sand area is at about 1024 height and that's about where the water was last year. So do you have any concerns that the waves take that out when the water is high?

Lars: We would lose some sand. We had record water levels last year. Structurally it would hold. We're going to have fabric behind everything. When is the water going to be like that again? In another 100 years? I don't know. Or it could be tomorrow.

Quiggle: It could be five years. We have climate change. Heavy drought, heavy rain.

Lars: We're a good foot above the OHW. I can creep that up a little bit more. I don't know if that's necessary.

Quiggle: Yes, I just wanted to point it out.

Lars: We'd maybe lose a handful of sand, but I think all in all it would be just fine.

Shay: I'm listening to what you had to say as far as your biggest concern is probably the upper patio then?

Quiggle: I'm concerned with both.

Oleson: The stairs can be done with a variance or CUP's or anything. The stairs can be done and then there would be some associated grading around it. We're really not talking about the stairs as much as we are the three elements in my mind. One is the patio at the top, the there are these big boulders in between which are about the diameter...

Lars: Roughly 3 foot/30" inch or 3 1/2 foot. Outcroppings, yep.

Oleson: about 2/3 is covered and 1/3 is exposed...

Lars: Exactly.

Oleson: So that is in the middle area and there's the beach at the bottom. So basically, to do that you have to disturb the whole side.

Lars: Yes.

Oleson: Not where the trees are.

Oleson: So those are the three elements and then there's the stairs which doesn't need approval from this board. They can do that with regular permits, but those are the three things.

Shay: Do we have an erosion control plan during construction?

Lars: Yes, we'd have silt fences, we have erosion control blanket, obviously we will be putting that down every night unless we were going to have a rain problem and then we'd obviously divert the water during construction. We'd probably only have it torn up 3-4 days as far as the real steep part down below and then we'll be up top.

Quiggle: I know how long it took for a project in my neighborhood.

Lars: Yes, right next door to you, but this is a... That one probably took 2-3 weeks.

Quiggle: 3 weeks. 3-4 weeks yes.

Lars: It was a much larger scale. We're talking a lot smaller scale. A week at most so obviously we'd divert, earth damns and stuff like that. Like we talked, it's everybody's concern that this thing doesn't wash into the lake. I wouldn't be doing this as a contractor if it would. They wouldn't be spending all of the money if it was going to wash. We just want to try to make it a little bit more useable. We got lake property. The neighbor clear cut the whole thing. We just want to try to use it. Pay lake taxes, property taxes are expensive and try to get a little bit of use.

Schultz: What are Borgert?

Lars: Those are steps. Those are just a step. I don't have a picture, but basically a stone. It's a brand of a step.

Schultz: Do you have to do two steps and then set next step on top of that?

Lars: What we do is, they're 4 feet wide and 6 inches tall, we set one and we compact gravel, set the next one and same thing, compact, compact.

Schultz: They overlap?

Lars: Exactly. Yes. That way as long as they're installed correctly there's no way water can erode them underneath. You plant everything where wood stairways you always have that bit issue of how do you get stuff to grow underneath, but we aren't even talking about the step. The whole issue here is the beach, the patio, that.

Oleson: The way the rules are set up is that most people would agree that getting stairs down a bluff is reasonable intrusion into a bluff so that's allowed. The question is, is the rest of this project reasonable? Is there something unique about this property?

Quiggle: It seems as though if we say this is okay then we're really saying anything in a bluff is okay.

Oleson: Not anything.

Quiggle: Any sort of cutting in for landscaping purposes. I mean got a beach, got a patio...what else?

Oleson: There is existing erosion. Everybody agrees on that so the question is how are we going to address that? Does it require something like this or does it require something less than this?

Schultz: I sort of like the idea of the patio because that gives it a layer for the water not to just wash straight down the hill and if it's pervious it's going to soak some of that in.

Lars: Yes, it would soak it all in; whatever landed on the patio would be going down in. We can easily do that. That's not a problem.

Oleson: There was a suggestion from Brian about having the water go towards the back. Sloped towards the back and then just going into the ground or would it be going into a drain tile?

Lars: No we'd have it go right into the ground. I think would be by far the best way. Anytime you put it in a drain tile, yeah you can daylight it right to the lake, but it's not getting filtered. It's not getting cleaned. You're better off just to let it go through the ground and let the ground do its water. What it can't take will just run over the top.

Oleson: Some situations like this they do put a drain tile in rather than introducing water and possible eroding.

Lars: This bluff, we don't have no major ground water from the whole house is kind of set back in. We don't have any of that water runoff coming right towards this area. It's going to be very stable when we're done. It's going to look nice. It's not going to affect the neighbors. The neighbors clear cut right down to weeds. That doesn't look very good, but it is what it is.

Quiggle inquired of further discussion from the board.

Huff: I'm on Ben's page. The boulders are for show and tell.

Lars: Well, I think they're...

Huff: 1/3 or 2/3 and if it rains hard they're going to wash around them boulders.

Lars: The whole theory behind them is that if it rains hard and you got water, it's going to hit that boulder and divert it versus just keep running and creating a river so we've had projects engineered before where we went through these meetings and everything and the whole board came out three years later and they work great. It was over in Meeker County, but they are for show and tell, but they are structural, too. The biggest thing with anything is as long as they're installed correctly.

Quiggle: They function sort of as check-damns?

Lars: Exactly, they kind of break-up the water flow. I don't see a lot of surface water up above coming down this thing. We might not put as many as this plan shows

depending on where they decide to put the dock and the lift, because those will be in the way. We might put more plants and less boulders on that steep hill there. Because you're talking the boulder outcroppings?

Huff: I just know when you have that kind of thing water does work its way around it.

Lars: Yes.

Huff: And it diverted it and any time water's got a chance to do something by god it's going to.

Lars: It wrecks everything, right. That's why it has to be properly installed. Properly planted.

Huff: I don't know you from squat and that just doesn't always carry.

Lars: You're right. You probably don't. We've been doing it 12 years. We can look at projects if we need to go that route.

Quiggle: I will say even though I'm not in favor of doing stuff in a bluff, Lars does a very good job.

Huff: So you're thinking of going as it is? You don't want to cut that patio down just a little bit? Because I'm kind of on the page that somebody is going to look at that and say well why can't we do that, too? I'm okay with the beach. I can live with the boulders, but I'm not sure about that patio. I'd rather see another landing, couple of landings.

Lars: Like in the steps?

Huff: Yes.

Lars: If room allows it, if you look at that print there (visual reference) we have a couple landings there.

Huff: Grandma has this same bluff so I know what you're talking about. It's nice to have a little landing about halfway down or 1/3 because it's a long ways up and down that puppy when you're carrying a gas can or something else, kids whatever.

Lars: I think regardless, we're still going to try to create a landing halfway down. As far as the patio there...

Huff: Would there be any chance we could talk you into two landings, 1/3 and 1/3 and giving up on the patio?

D.Westhoff: I think we could.

C.Westhoff: We're willing to work with anything. We just want to make it look nice and we want it more useable for us to get down there and the kids. That's all we care about. Being able to see down there a little bit, but we don't want to pull out all of the trees and all of that stuff.

Shay: Moving that patio back a little bit is what you're saying?

Huff: No. I'm saying skipping it. I'm making a landing partway down the bluff and I'm making another landing split so you got three sections.

Quiggle: And no greater than 32 square feet like somebody else would be allowed.

Huff: Yes.

Oleson: Are you talking about stone just like the stairs.

Huff: I don't care. Yes.

Oleson: There will probably have to be some retaining walls, I assume?

Lars: Yes.

C.Westhoff: (visual reference) We have one retaining wall where the beach is and then that next retaining wall is like a landing. You got a bottom there; you got like a 2nd level there until you're going up to that 3rd level.

Huff: I don't think that top one would be there at all.

Lars: What you're saying is we can do a landing there, but if we do the two landings we probably wouldn't do those previous so environmentally wise even if we kept that patio we could still do that previous and it's still serve a better purpose.

Huff: I'm not buying that.

Some further discussion took place regarding landing placement and the patio at the top of the bluff.

A motion was made by Huff, seconded by Shay, to approve the Land Alteration/Conditional Use permit for the movement of more than 50 cubic yards (approximately 70 cubic yards) of earth and materials (including rocks outcroppings) to alter an existing bluff, retaining walls and a beach area as shown on the submitted plan and the variance for the excavation and placement of fill within a bluff, but to deny the request to install a patio cut into the top of the bluff. The following conditions to apply: 1) That the stairway be allowed to have up to two (2) thirty-two (32) square foot landings, which may include the associated grading and retaining walls as necessary. These are to provide sitting and resting areas. 2) The applicant shall implement the temporary and permanent storm-water management plans as identified in the application - or as otherwise recommended by Wright County SWCD. 3) All erosion control measures - temporary and permanent - shall be fully implemented until such time as the site has been stabilized, as determined by the Zoning Administrator in consultation with SWCD staff. 4) The applicant's contractor doing the work shall be adequately bonded in the case of failure of the slope during or after the work is completed. Motion carried with a 3:1 vote. Shay, Schultz and Huff voted for; Quiggle voted against.

- d. Variance to attach 3.5 acres of land classified as farmland of statewide importance from Parcel 206000093100 to Parcel 206000093104 resulting in a 6 acre parcel (max. 2.5 acres allowed).
 - i. Applicant(s): Cynthia Janke/Bruce Ahsenmacher
 - ii. Property Location: 10154 State Highway 24 NW
 - iii. Sec/Twp/Range: 9-121-27
 - iv. Parcel Number(s): 206000096100 and 206000093104

Quiggle read request aloud.

Janke: Originally a full approximately 6 acres were for sale when I started looking at it. Due to building site and you're 2.5 acres it was split into 2.5 which I bought which is outlined in the blue (visual reference) and the remaining stayed with the rest of the 30 plus acres with the Ahsenmacher family. Recently they have wanted to sell the whole property again and Bruce and I had been talking and we got our heads together and we thought we'd request a variance to add the 3.4 acres to my property. The request comes from the fact I like the area; there are pheasants that nest in that area. It has not been farmed since I bought the 2.5 which from 2006 so that chunk of 3.4 acres has been just basically natural grasses and whatever. I enjoy the wildlife that enjoys it. It affords me a little bit of breathing room in the area. I've always wanted a little bit more so when the opportunity arose I requested the variance.

Quiggle inquired of audience comments.

S.O'Konek: We live right next door.

J.O'Konek: We think that'd be awesome if they could do that. We're all for it.

Naaktgeboren: I have a question, a few years ago there were a lot of noxious weeds in there and I think we had to write somebody about that and I don't want to go through that again.

Janke: The last couple of years I've been paying somebody to mow it at least once or twice a year. I don't like the weeds myself. They come into my adjoining property. The last couple years I've had someone come in and just knock it down, not short or anything. We've marked a few trees with some markers and things and not having disturbed any of that type of thing with Ahsenmacher's approval. He doesn't live in the area so it just became easier for me to help him out a little and I enjoy the weeds not being there. There were some pretty big thistles in there. There was some communication about three years ago or so.

Oleson: This is just south of the bar and grill on the highway. The reason that this was only allowed for 2.5 acres back in 2006 when the house was built was because it's on farmland of statewide importance. The county's ordinance only allows for a 2.5 acre maximum lots in that situation. Presumably the idea is to help preserve farmland. Looking back at the aerial photos it looks like this was all farmed until the house was built and then like she said it stopped being farmed. The rest of it has been farmed so the question comes down to are we really preserving anything if we limit this to 2.5 acres? Is this going to actually improve the situation because of the weeds situation? Better off because it not being farmed? Obviously it's got an odd shape which makes it hard to farm anyway.

Janke: A lot of the local farmers are now going to irrigation around there and I know they wouldn't irrigate that. How would you? It wouldn't be worth irrigating that little area. My take on it is I can help maintain something a little bit better than it has been by making sure there are no noxious weeds that type of thing. I do not plan on any major changing of the land or anything. I may till a little more and make some garden, but that's about the extent of my goal.

Shay: I think we gain on this. It's sitting for 6 years now with nothing happening to it and like I say if there have been problems with weed control because the owner is out of the area and that sort of thing and we combine this all into one 6 acre lot we may eventually like you say get more tillage out of it, but as technically agricultural the garden goes in and that sort of thing I think we're definitely not losing anything. We're probably gaining. I'd be in favor of it.

Huff: Sure.

Schultz: I'm with it.

A motion was made by Shay, seconded by Schultz, for approval of the requested variance as presented (with the boundaries approximately as noted in the aerial photo prepared by Staff for the public hearing) and the findings outlined in the staff report. Motion carried unanimously.

e. Variance to construct a 10' x 25' water oriented accessory structure approximately 5 feet from a side lot line (min. 10 ft required). Proposed shed will replace an existing 7' x 12' shed.

i. Applicant(s): Victoria Morgan

ii. Property Location: 9888 - 91st Street NW

- iii. Sec/Twp/Range: 16-121-27
- iv. Parcel Number(s): 206063001050

Quiggle read request aloud.

V. Morgan: We bought the property in '96. It has this shed on it. We brought this gazebo in which I will be happy to inform you or show has been gone. Somebody actually paid me money to haul up the hill and out of there. The shed is 7'X12'. We have grandchildren. We moved here from Ohio. We had no concept of how much water accessory things one acquires. You can't get into the shed now with the floats and the tubes and the motors. It's amazing and we basically just want to build it bigger, a little bit bigger, so that we can have some space to store this stuff and use it. We have a tram. The tram is where it is and to build it just the 10'x 25' structure it will come right up against the tram and that 10 foot puts us very close to Dean Flygare's parent's property. Not close actually, we got about 5 feet of slop and the line moves it's not...(visual reference) you see the tram there, you have the one with the red flag is the property line as we think, you know, brining it in from a pin in the lake. The shed comes back 12'-13', right there, and we're going to take that shed out. The 5 foot variance gives us the opportunity to put the shed close to tram and have a dismount station still from the tram.

Quiggle: Is the side near the property line going to be at the same place where the shed is now?

V.Morgan: Pretty much.

Quiggle: So you're going sort of close to the middle of the lot. You're not going any closer to the property line?

V. Morgan: Yes, pretty much where it is.

Quiggle asked for audience questions or comments.

D.Flygare: I came to say that we don't have a problem. We support what they are doing. The new structure will be actually sit-up higher so what they are cutting into the hill is really very minor. Most of it is being built back further so it's not really, it might just be a couple feet closer to the lake so it doesn't obstruct the view. It's non-controversial.

Oleson: I noted is that if they moved closer to the lake, they still meet 10 foot setback to avoid digging into that hill, but it's a fairly small amount of digging that is going on. Other than that, he doesn't seem to have a problem with the 5' setback from the line; I recommend that it could be approved. I did note that the 7'X12' shed should be removed before they build this new one. It seems reasonable to allow some time for them to get it out on the ice if that's necessary. We noted no living space down in there. That's a separate issue. We had the one comment there about the flood plain level. It looks like it's out of the floodplain elevation, but just to take a flood elevation shot to make sure that it is. The topography map that we got from Soil & Water indicates that it's probably high enough but those maps can be off a little bit so just to make sure that we meet the flood plain regulations in this structure. If it were in the flood plain, it can still be built there, it would just have to raised up on fill or some other method.

Quiggle: How was it last year with the water?

V.Morgan: The water never got past the edge of the lake. Dean had more water than we did.

Quiggle: If you were okay last year.

Huff: I'm in support of this.

Schultz: I don't have a problem with it.

Shay: I have no problem either. At first I kind of had Ben's thoughts as far as can we go closer to the lake and get the 10 foot setback, but I would prefer to stay farther back from the as we can where they're raising it up and we're not messing with the floodplain and that sort of thing. I'm fine with that.

Quiggle: Exactly my thoughts. Even if they could get the property line, its better that it's further away from the lake. I think this is a good plan.

A motion was made by Huff, seconded by Shay, to approve the request with the following conditions: 1) The applicant shall provide sufficient evidence indicating that the shed is either not within a floodplain or will meet the required elevation requirements if it is. 2) The applicant must remove the existing 7'x12' shed during the winter of 2012/2013 when it can be moved on the ice. 3) The new structure may not be used as heated living space or for sleeping quarter at any time. 4) Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences 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. Motion carried unanimously.

- f. Variance to build a new home within 500 ft of an existing feedlot registered for between 10 and 499 animal units.
 - i. Applicant(s): Leo Zahler
 - ii. Property Location: Lot 17, Block One of "Clearview Acres" (Klever Ave NW)
 - iii. Sec/Twp/Range: 17-121-27
 - iv. Parcel Number(s): 206030001170

Quiggle read the request aloud and explained the decision will only be a recommendation to the county due to the feedlot ordinance.

Bruggeman: I'm Steve Bruggeman with Oak Realty here on behalf of Leo Zahler, the owner of the property and we're asking for two things today, one is this is an existing lot in Clearview Acres and its within the 500 feet of a feedlot so we're asking for a variance that can build a home within that 500 feet and it is my understanding that most variances of this request have a three year limit on them and we'd like to extend that for whenever the home is built, no expiration date.

Some discussion took place regarding the expiration date of this possible variance request within the feedlot ordinance and further clarification of the request was given by Oleson.

Bruggeman: Leo bought the property about two years ago and then put it for sale and the new buyer is sitting right here.

Schnell: I'm planning on buying it, but I have this dilemma of they're selling it as a buildable residential lot and that's what I'm paying for and buying it as, but I don't know if it is or not unless I get a variance. Ten years from now if I go to sell it I'm in the same bind to sell it to the next guy. There's no guarantee that a house can be built on it unless the variance is approved.

Quiggle: So you're not necessarily intending on building a house.

Schnell: Not right away. I don't know. I might use it for recreational use for five years or so and then depending on if we decide to build something then or just keep using it as recreational until we sell it. I want to make sure that the next person is able to build a house on it and there is no guarantee unless a variance is granted.

Quiggle asked for any questions or comments of those present.

D. Ransom: I'm David Ransom, the feedlot operator. Some issues I would have is that the MNDOT went through in 2006 they took a substantial portion of the lot. It is an undersized lot now. My concern would be if you're stating it was an existing parcel before the feedlot ordinance [inaudible] redone in 2006 when MNDOT appraised it because the Ransom barn, they had to move the highway way over onto this lot. They did take more easement on this lot than on most of the highway construction. I believe it gets to be an undersized lot. Another issue would be as precedence of how much they would allow for a setback. Right now it's 500 feet and how much of a percentage you're asking or they would be asking for. And then I guess you have this reflectivity [sic] always with the state feed lot laws. So in doing this in perpetuity I guess I would have an issue with that. For instance I can't do something in perpetuity. I can't say I want to build one foot away or whatever and just have that lot be [inaudible]. I would have an issue with that. The state legislature gives that whatever you give to a home owner you must give to a feed lot operator. Like I said I have issues with that.

S. Ransom: As your discussion goes, I'm Sandy Ransom, my husband and I own the farmland. It's been in the Ransom family since before the Civil War and we have always maintained a feedlot there on the whole property. There has never been when we were without cattle on that property. We have concerns from a feedlot issue. There are almost 100 dairy farms left in Wright County. I don't know how many feedlots there are for horses, pigs or so on there are, but when you touch one then you're touching all of them. Just as you're very careful on your lake shore with setbacks and so on, we jealously guard our setbacks, all of us feedlot operators. It is very hard to get a permit and we're held to very strict standards. I do believe that lot was made smaller with MNDOT so if it was a lot before it wasn't developed yet and obviously it had to be of the right size because it was part of the development. I don't believe it was an out lot. It could be it was. What that was is the golf course addition below that and the road going down to the golf course went right through that property. So that was always an undesirable lot. That's why I think you probably haven't seen anything done on that lot. And there isn't much that's made that lot any more desirable than it was before. Now it's smaller size and it still is within 500 feet of the feedlot.

Oleson showed pictures of the property on the overhead.

Oleson: (using visual references) You can see that this was part of a larger plat that was done in the 1970's. There are homes which are also within the 500 foot setback. There are at least four homes, all within that setback distance. Some were built on already in the 70's and some weren't. It becomes a question of it was platted as a residential lot as near as I can tell. It was there when it was platted, the feedlot was there, but there were no setback rules for the feedlots or for houses to feedlots. Some homes were built so it's kind of a question of do you want to maintain setbacks for all new structures even though some are already within that setback or is it too far the other way now? Feedlot setbacks get sticky because trying to protect businesses and property rights.

Some discussion took place regarding where the other required setbacks would restrict any structures built on the property to be placed. Oleson stated taking other setbacks into consideration would put a house approximately 225 feet from the feedlot.

Schultz: Does the feedlot start at the edge of the property?

Oleson: It's the closest point where there are animals which is basically that shed.

D.Ransom: The edge of the foundation (of the shed) is at the edge of the highway (right-of-way).

Schultz: So on the back side of your farm you couldn't build either within 500 feet from the edge of the pasture then?

D.Ransom: You would need variances.

Oleson: As an example, this person (visual reference) had to get a variance on this lot to build because it was within 500 feet. At the time you had animals over here? (visual reference) Is that right?

D.Ransom indicated yes.

S.Ransom: We have many feedlots.

D.Ransom: That I believe was for 330 feet. This would exceed that by another 100 feet.

S.Ransom: And has it been established that the lot is of standard size today? Have you established that?

Oleson: From the perspective of what has been requested today it doesn't really matter.

S. Ransom: It does to build a house, doesn't it?

Oleson: As long as they can meet their setbacks with a house and they can get a sewer system on there then it can be built on without a variance because there are obviously lots of undersized lots within the township and in the county and having worked with the County understanding their interpretation of things, just the fact that it's not up to today's standards doesn't mean that it can't be built on. There are provisions in the state law that allow for those kinds of lots to be built on, at least in shore land areas if they're undersized as long as they can get a certain kind of sewer on there and meet their setbacks and meet their impervious. Just the fact that's its undersized doesn't mean that it can't be built on.

S. Ransom: So those laws have changed of lately then?

Oleson: Only because...(interrupts)

S.Ransom: For in the lakeshore? For instance, Kathy Ransom's house is right next door to that and down on Clearwater Lake they have a lot which is non-buildable because of the high water, but there is a home on either side of their lot. So you're telling me that that law as it was does not exist today? That we would be able to build on that lot that they'd have a house on either side of them on Clearwater Lake that would be in a high water mark so that would be giving them the green light that they now could put a home down there if they like.

Oleson: Well, I don't know without looking at the lot. It's not a free for all, the state statute. There are some restrictions or condition they have to meet before they can build on a lot like that. Basically what it is saying is that just because the lot is too small based on today's standards it doesn't mean that you can't build on it. The state law is saying that if you can get a standard sewer system on there and a house that meets setbacks and some other basic rules then you can build without variances, but if it's in the lake like if it's below the high water mark...I'd have to look at the exact situation. That law that I'm referring to is pretty recent. I think it's been within the last five years. I can show it to you if you want.

Oleson: Again (to the planning commission) this is just a recommendation to the county.

Huff: What possible negative effect could this have on the feedlot?

Oleson: Typically, it comes down to the more people you put around it the more people there are likely to complain about the odors and the smells and the noises and whatever else.

Huff: There are no legal ramifications? There's always a pain in the butt neighbor, but there is no legal ramifications?

Oleson: There have been lawsuits over this. This isn't this one, but when you get really large feedlots some people start to say it's a health issue. I think it becomes a question of scale.

S.Ransom: People ended up in court because....

Huff: Yes, I know we have town people move in next to a cow and then they think "good god that thing stinks!" I understand that completely.

S.Ransom: they might get flies in the buildings to then they were many lawsuits against farms and so on.

Huff: But on the same token those have all been upheld because you were grandfathered in.

S.Ransom: Not really. They can still file nuisance suits and that's where the setbacks come in because then you have more [inaudible].

Huff: You and I also know that there are some feedlots that are not as well kept as others which cause some of these problems.

S.Ransom: That's true, but that's how come the feedlot ordinances came into effect when I was on the county board and why they are just as relevant today to protect the farms that we have left and it's a big industry in Wright County.

Huff: I just can't see where it's actually going to hurt them.

Oleson: It's referenced on page 4 of this report. What it boils down to is this going to create significant conflict that is going to harm feedlot operators? Balancing against the general rule of this land was platted for residential purposes. If we don't allow, or the county doesn't allow, the variance then you can't really put anything there except for maybe an RV.

Quiggle: Does that become a taking?

Oleson: That would be the argument, I suppose.

S.Ransom: I talked to the county administrator of planning and zoning years ago on this lot and he said as long as they have use for the property say for a mobile home, etc. or camper on it then it isn't considered a taking, at that time unless the laws have changed again.

Oleson: My thought is that laws haven't changed, but you don't know until a court decides, but yes, in my experience that's always been the debate what is reasonable use of a property? What's leaving somebody some use? Is being able to put a tent on it? [inaudible] use out of the lot? That's always been the question.

Quiggle: But here you already have 4 to 5 homes that are within the setback. It seems to me that you would taking away one property owner's right to build a building or build a home.

S.Ransom: This was years ago and one of the houses down below, the white house down over by (visual reference)...They used to own the property. So here is my house and this is the property for sale and this is the house that is down, the white house right

here, and they just told us...they always asked us if we wanted to buy it and we didn't want to buy it, but anyway they always said that was non-buildable, this is what they told us, but we could always just put a shed up. This is what the owner told us.

Naaktgeboren pointed out there was a variance request 4 to 5 years ago for an addition to the property S. Ransom spoke of.

Quiggle: We're making a recommendation to the County's BOA.

Schultz: I understand what the Ransoms are saying. The line has been set and we should try to keep that line as well as we can, but it was at one time a buildable lot.

Quiggle: Conforming lot.

S.Ransom: I really honestly don't know, but that must be back in the records somewhere.

Quiggle: We're making a recommendation to the county, that's it.

S.Ransom: It could be if you don't understand the feedlot regulations and what it curtails at this board maybe you should pass it on to the county board without a recommendation.

There was some agreement amongst the planning commission members.

Shay: I'm partly sitting on the fence. It is platted as a residential lot. There are how many other lots around it that have got houses already on it, the road/highway breaking it up. I understand the plight of the farmer. I come from that way, too, but it's like with the exception of a potential for a nuisance complaint which can happen anyway. If you can't build on it you can put your tent down there and still complain. I basically have no problem with it being a buildable lot, but like I said I understand both sides of it, too.

Schultz: I guess one way to look at is what came first? Was it a buildable lot first? And then the feedlot ruling came in?

Huff: The feedlot was there before they changed the rules.

Some further discussion took place about which was in place first and whether to make a recommendation to the county.

A motion was made by Huff, seconded by Schultz, to not take any formal action or provide any formal recommendation to Wright County with the reasoning for not providing a recommendation being that several issues were brought up at the meeting that relate to specific feedlot regulations at the state level and given that Corinna Township does not enforce a feedlot ordinance and the Corinna BOA does not feel strongly either way whether a house or a feedlot should take precedence in this situation. Motion carried unanimously.

- g. Variance to expand an existing dwelling approximately 85 feet and construct a new garage approximately 115 feet from the centerline of a state highway (130 feet required).
 - i. Applicant(s): Mike Dougherty
 - ii. Property Location: 8228 State Highway 24 NW, Annandale
 - iii. Sec/Twp/Range: 20-121-27
 - iv. Parcel Number(s): 206000202102

Quiggle read request aloud. Applicant was not present. It was decided to hold the public hearing in applicant's absence.

Oleson: He wants to convert the attached garage that he has now into living space, add a new attached garage on the backside and have a little entry way off the side of the old garage. All of those will be at least partially within the 130 foot setback of the road.

Huff: But none of them will be farther than what is already there?

Oleson showed on the overhead pictures how what the plan entails.

Quiggle: So it's going away from the road?

Oleson: There is no requirement in the ordinance for somebody to be present for us to act on their variance request.

Quiggle: Does anybody feel like they need to hear from the applicant before we discuss it?

Nobody indicated they felt the applicant needed to be present.

Some discussion took place regarding the measurements and location of buildings on the property and in the area.

A motion was made by Quiggle, seconded by Huff, to approve the variance request with the following conditions: 1) Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences 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. Motion carried unanimously.

5. Approve Previous Meeting Minutes
 - a. September 11, 2012

A motion was made by Huff, seconded by Shay, to approve the minutes as written. Motion carried unanimously.

6. Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Enforcement Actions

7. Other Business
 - a. Discuss end-of-year ordinance updates/clarifications.

8. Adjournment

A motion was made by Schultz, seconded by Huff, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:19 PM

Minutes respectfully submitted by Jennifer Kemp