

CORINNA TOWNSHIP
MINUTES
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION

March 3, 2011

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); Steve Huff; Larry Smith; Lee Parks; Barry Schultz (alternate)

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

Others in Attendance: Mark Lease; Richard Naaktgeboren

3. Additions or Deletions to the Agenda: None.
4. Public Hearings

- a. Variance to enlarge an existing cabin approximately 46 feet from Clearwater Lake (75 feet required) on an undersized lot. Home length will be increased by about 5 feet and roof to be replaced with a higher pitch. Home will also be raised approximately 1 ft to meet floodplain requirement with a new foundation
 - i. Applicant(s): Michael Lease
 - ii. Property Address: 11510 – 103rd St NW, South Haven
 - iii. Sec/Twp/Range: 7-121-27
 - iv. Parcel Number(s): 206000073401

Mark Lease addressed the Planning Commission.

Mark Lease: Mike Lease and I share a cabin on the old Bendix property. I spent a lot of time looking at the Variance requirements and Ben Oleson's staff report said there were three questions to answer. I took the liberty of putting these down on paper. Mark Lease passed out his response to the variance requirement findings. His brother Mike had surgery today and was not able to attend. Lease's written response is as follows

1. The Variance will not conflict with the Comprehensive Plan. True – We plan to have in place a soil and erosion plan, per the recommendations of the Wright Soil and Water Conservation District request. This will include a landscaping plan around the perimeter of the house and property as recommended and as may be requested by Township.
2. The property will not yield a reasonable return if used in compliance with the Ordinance.
 - a. True – If we were made to be in compliance with setback issues, we would need to cut down numerous mature oak trees. These trees have been valued at approximately \$20,000.00 per tree and would greatly compromise the aesthetic value of the property and neighborhood.

b. We would lose a holding tank septic system that was approved by Wright County and installed in 2010 to replace a 50 gallon barrel system which had been in place on the property for years.

3. The conditions causing hardship are unique and are not shared by neighboring property in the same zone.

a. True – This is a unique situation in so much that other property owners in this area do not have the same issues with numerous mature oak trees which would have to be removed to meet lake setback.

b. When we installed the 3,000 gallon septic system, we were left with the impression there would be no issues with renovating and adding a small addition as long as we would be in compliance with side yard setbacks. In good faith at that time, we brought the property into code by installing an approved septic system with the plan to renovate and add on.

c. Due to a well on the property and neighboring wells, there are little to no choices for placement of a septic system with drain field.

4. The granting of the Variance will not essentially alter the character of the neighborhood.

a. True – Actually, if Variance would not be granted, it would greatly alter the character of the neighborhood and property by the removal of several mature oak trees.

5. The granting of the Variance will not adversely affect the environmental quality of the area.

a. True – again, in this case granting of the Variance will only enhance the quality of the area with the improvement of the structure which was built in 1956 which is in need of repair or replacement.

1. What is the practical difficulty associated with maintaining the same footprint of the dwelling?

a. *Response:* The current dwelling does not have any space for a utility room. The current furnace and water heater which must be replaced are actually exposed and located in a hallway which leads from the door to the living room. (This is actually unsafe.) There really is not adequate room to locate these appliances elsewhere. We would like to install a new furnace, water heater and softener in the cabin.

b. We are requesting to expand 5 feet to the east which would provide us 125 square feet to accommodate for a utility room and allow us to expand the bathroom that is currently approximately 5'x6' in size. Additionally, the bedrooms are equally as small, currently about 9'x10' in size and closet space in the cabin is almost non-existent.

c. We currently have 45 feet of property from the eastern edge of the cabin to the east property line. Adding 5 feet to the east side of the cabin would give us 40 feet for a side yard setback.

d. When we purchased the property, the County instructed us that a holding tank was allowed and were anxious for us to replace the 50 gallon barrel that has been in place for years. We had discussions of remodeling and adding on with them, however, we

were never instructed that we would have to have a drain filed installed in order to do so.

e. There was no mention of a 50% rule. In fact, in 2009, the cabin structure value was \$57,000.00. In 2010 it dropped to \$30,000.00 and now in 2011 the Township/County Appraiser had dropped the value to \$20,000.00 making it virtually impossible to even remodel. This cabin has not deteriorated any more or less in the past five years. It has continued to be the same – in need of repair. It seems odd the value would drop by \$37,000.00 since we purchased the property – (within less than 2 years) which seems to block renovation on the existing footprint with the 50% rule. This in itself is a practical difficulty.

2. What would be the cost of relocating the holding tanks? *Response:* We spoke with Larry Krippner, the designer and installer, yesterday. We were told that moving these tanks are not an option as there are pins that would break off if they are pulled out of the ground. Cost to redo or take out and install new would be approximately \$5,000.00.
3. Why would a full sewer system with drain field be unsuitable for this lot, given that the ordinance requires a full system for expansions to existing dwellings when possible. *Response:* I think the key words here are “when possible”. In our case, due to soil borings, the foot print of the septic with drain filed would be 4.5 feet in height and a coverage area at that height by 5’x30’ and then soil fill grading out from there. There are a few factors at issue here. First is the limited ability to shift the septic on the property due to area wells and setback issues from the wells. Second is the fact that we would lose virtually all of our parking area in the back yard including access to the back yard, as the only feasible location would be to install it at the road side of the property. This would also consume most of the backyard due to the coverage and surface area, and would greatly diminish the value and esthetic value of the property.

In closing: We respectfully request the Board to grant our Variance to raise the cabin to meet flood plain elevation standards. Due to the hardships of the property and current confines of the structure, we ask to be allowed to expand the cabin length only 5 feet to allow for adequate living space in the dwelling. We would easily meet side yard setbacks with this addition.

This cabin will be used seasonally, and as such we just want to have adequate room to be comfortable. We do not feel an addition of only 125 square feet is being unreasonable, especially given the fact that the assessed tax value is over \$325,000.00 for this property. There are numerous new cabins and year-round homes in our area that have gone from 800 square feet to over 1,500 square feet in just the past few months. Other properties have more than doubled in size. We are only asking for 125 square feet of added living and utility space.

Lastly, it is our belief that a holding tank is actually much more environmentally safe and sound – provided it is used properly. We took extra measures to put in an oversized tank with alarms and all of the safety features necessary to accommodate this two bedroom cabin. We are under contract with a licensed septic pumping company to have regularly scheduled pumping service.

We have been on Clearwater Lake for almost seventeen years with a holding tank on our previous property and have never had a issue or problem with our system. We are a Clearwater Lake Association Member and are proud of our lake and will always make sure we only have the best intentions in mind to preserve the quality of the surrounding area and the lake itself.

Thank you for your thoughtful consideration of our request. Mark and Michael Lease.

Ben Oleson: Due to Ordinance requirements – the questions we are going though are different from in the past – due to Supreme Court decisions – we are now using the county standards. This is a different set of criteria. The statute allows Mark and his brother to replace what is there without a Variance. They want to increase the pitch of the roof. Arguably that would need a Variance. Now they want to go larger – that would require a Variance. In terms of holding tanks – you obviously talked to Wright County last year. Your system was inspected by Metro West. Wright County had no record. Metro West did the inspection on it. You can see from the design that this is not to scale. I asked Brian Vinkemeier if he knew how far the tanks were from the house. I am not sure if we can move the house back or not and still meet the required 10 ft setback.

Oleson: Can they move back? Trees and holding tanks went in last fall. Ordinance does allow for replacing the holding tanks. If you look at that section of the Ordinance – pages 4 and 5 – bottom of page 4 - holding tanks shall not be used for a new dwelling – letter b – holding tanks only used as a corrective action when system may not be installed.

Oleson: Can this move back? Barriers are the holding tanks and trees. Because not exact replacement – is it possible to put in a drain field? The designer said it would be a very tall mound, which will affect parking. They did not seriously get into this when talking to the county. Setbacks to the wells are 100 feet because it is a shallow well. There is no real driveway now. You just pull off into the grass. So –can they move the tanks back? What is the cost? Brian Vinkemeier looked and with snow cover, he could not tell. We can discuss this if you want specific information. My guess is that you could move 5 to 10 feet back.

Lease: I think the trees are at 15 feet.

Huff: Why do you want to move the cabin back?

Quiggle: It will be further from the lake.

Huff : What is the other issue?

Quiggle: New construction with a holding tank.

Huff: In looking at some of the stuff we have done, and looking at what they want to do - this is a nice lot, flat and level. The houses next door are terrible looking. They want to add 5 feet.

Oleson: Can they move back reasonably – if there are practical difficulties – do we allow for expansion or require them to use same footprint?

Lease: When Mike and I talked – if we don't get the 5 feet – then we are not going to move it up for flood – I don't think there are flood issues there yet.

Quiggle: Clearwater Lake flood is at an unnaturally high level. It is unrealistic.

Shay : To place as is without expanding – they do not have to rise above flood plain, right?

Rebuild exactly as is – rebuild on the slab without rising out of flood plain. They would not have to do this if they build again exactly as is.

Lease: We are hoping for a trade-off.

Shay: If on same footprint – they can stay on the slab without raising the house to alleviate the flood plainer issues.

Lease: County – 50 percent rule.

Shay: Stay on same footprint – changing the height - it is a catch 22 –I understand that they cannot even change the height.

Oleson: Early on, when I talked to Rhineberger – if they just rise to meet the floodplain – it is not a zoning issue - it is a building code issue. They can keep it in the flood plain if they stay within the 50 percent of value rule. Based on that – based on the building code - to leave where it is – leave where is and not raise up – cannot probably work unless you can convince the assessor to raise the value.

Lease: I have to talk to Ken Yager in order to raise the value.

Oleson: Can they do anything and maintain it at current flood plain? Yes – if you stay under the 50 percent rule. 50 percent over the lifetime. We cannot grant Variances to the building code. That is what forced you to think of raising the house.

Second issue – raising the roof vs. raising the foundation. Wright County says when raising the foundation – we do not usually consider that an expansion if it doesn't add living space. With roofs it is case by case. In my opinion – technically you could say anything that you'd do to raise – is an expansion. You could also state that going to a reasonable pitch to shed snow is not an expansion (although it doesn't state that now in the ordinance).

Huff: We do not have a building plan.

Oleson: We have elevations.

Huff: For expansion and raising it up.

Showed 6/12 pitch roof on new home - proposed elevations.

Quiggle: You have stated a real desire to preserve the oak trees. What has the arborist told you about the likely hood of you saving them with the construction so close to the tree?

Lease: Our builder said there would be no issue with the trees.

We have not asked an arborist.

Quiggle: Most roots are 18 inches and go about as far as the trees go.

Mike had talked to Craig Schultz – based on Barry’s response looks like they can do this without too much fill – certainly not a foot. We are at 996. You have to be at 996 – 7”. The Wright County Soil and Water addressed this. Too great a quantity will harm trees.

Quiggle: Anything over 3’ – oaks are very sensitive to compaction.

Lease: With that being said – do we really have to go back that 5 feet? Right now I think the trees are closer to ten feet from the cabin.

Quiggle: The trees are lined up in 2 rows. How can construction workers get in without compaction?

Quiggle: What is the practical difficulty to just leaving this without enlarging the footprint?

Oleson: If there is not a practical difficulty with moving this back –then they could potentially meet the 75 foot setback and not need Variances.

Quiggle: Why not put it on the other side of the trees?

Shay: Then you would be running into trees.

Quiggle: The whole back yard is pretty much open – trees are 2 parallel lines that stagger.

Oleson: Practical difficulty - how substantial - pretty minimal. Change in character of the neighborhood? Houses to west are all the same distance – roughly. House to east is 63 feet back but is taller. We did not think there was much change in character of neighborhood. Can’t replace as is – have to raise it up to meet floodplain. Another – just raise it up and talk about a roof variance. Neighbor roofs are 4/12 and 6/12. Next one is a two story.

Oleson: Is there another practical way to deal without Variance – roof pitch but keep same footprint – or move part of the way back. Is that feasible given the tanks and the trees?

Parks: If we raise it up and change the roof?

Ole: We call that an expansion and it needs a Variance.

Parks: Then we have the issue of the holding tanks.

Shultz: Any change you have to deal with holding tanks.

Quiggle: A nearly flat roof might be a practical difficulty as it does not shed snow in MN winter. Practical difficulties with roof pitch. Is existing footprint reasonable? There is an existing cap that has been used for years. My opinions are twofold – that I would be in favor of a height variance to raise for floodplain – for building code reasons. And for allowing a 4/12 footprint roof pitch. But not allowing the 5 foot expansion. One is the snow thing – one is the flood thing. Adding 5 feet toward the lake violates quite a few ordinances.

Parks: If you are going to grant the expansion – why not grant the 5 feet?

Oleson: In terms of expansion – sewers are designed according to the number of bedrooms.

Quiggle: We are acting in lieu of the county.

Oleson reviewed the letter received from Barry Rhineberger, Wright County Planning and Zoning. It stated that “there does not appear to be a justifiable hardship for granting expansion at the existing lake setback. It seems that the only hardship that exists is the location of the holding tanks, which were installed less than a year ago. This type of hardship seems to have been created by the applicant. Such expansion may have more justification if a significant improvement to the lake setback can be attained. If the lake setback cannot be improved,

replacement in accord with MN Statute 394/462 should be maintained. In addition, the Wright County Board of Adjustment has consistently ruled that lots serviced by holding tanks be limited to replacement only.”

Quiggle: How did the hardship of moving it back come about? Was it caused by property owner? Yes it was – you put in the septic without considering future plans. You did not look at this as a whole package.

Lease: With all due respect – because it was a conforming septic system. We intended to renovate and felt we could do that.

Quiggle: Did you look it up in the ordinance – what does having a holding tank mean – that is your responsibility. It doesn’t look like you looked into what did all of that mean.

Oleson: Should we go around the table?

Oleson: is there a practical difficulty as to why they cannot move back?

Larry Smith: Question to Lease: Have you considered relocating the house to get away from Variance issues?

Lease: We would still have drain field issues.

Huff: You can’t get away from the wells. The septic would have to go where the house is now because of the well.

Smith: What about a multi flow system?

Lease: We put in the tanks in good faith. Setbacks from the lake with septic system – is 50 feet.

Barry Schultz: I think to alleviate some of the problems – to me when you have 2 holding tanks on a lake property – it is better than having a drain field that puts it back into the ground. You could do a multi flow. Positives and negatives – positives outweigh the negatives.

Huff: I don’t see anything wrong with what he wants to do. If it is not illegal – I support him.

Hardship is the beautiful set of trees – would not move the house and knock down the trees. Practical difficulty.

Oleson: First question in my mind – is there a way to meet the setback? Are trees and tanks sufficient reason?

Huff: Not tanks – but it takes 50 years to grow trees like that or get them back.

Shay: If we are going to raise the foundation and allow the roof – then we are expanding – it allows him to get a utility room – as far as septic system – it would be nice to know how far they actually are – can it go back 5 more feet? If so, I do not have a problem . It is still back further than the houses going back to the west.

Parks: I would rather see the holding tanks on the back – rather than on the front side.

Quiggle: For me – for the moving back – I don’t think we have exactly the info we need. We don’t know how far the trees are from the house – how far the tanks are from the house. We do not have adequate information. It might be 5,8,3 feet. I don’t know whether the trees are savable. I would think the property owner would have consulted with an expert – what is necessary to save them. An arborist might tell you – here are the limits to how close you can get.

Schultz: What does the township gain by him making this a better place?

Quiggle: We are here to apply the ordinance. This is totally separate from the tax base.

Shay: In the point we are talking about – Mark goes back and gets exact information. Is it 10 plus or is it 15 feet? Or is it the trees?

Lease: The trees are before the holding tanks. We would like more in-depth measurements. Then there is a difficulty if we cannot go back any further without endangering the trees.

Huff: You have to decide – take out the trees or leave house where it is.

Oleson: Do people feel the tanks can move?

Yes.

Oleson: Then the issue is the trees.

Oleson: Wright County tends to get 60 to 65 feet. You have flexibility to say – there is not a practical difficulty – they can move back 60 to 65 feet. You have the flexibility to make those kinds of findings.

What are issues if this is tabled for more information?

Shay: Three trees could go and you could pick up 15 feet.

You are still eliminating 3 very nice trees. If we had more information we could possibly make different decision.

Oleson: We are trying to balance competing goals: Your goals are about preserving vegetation, preserving the lake, keeping things from the lake, we are trying to balance these things out with your decision.

Smith: Road restrictions have not gone on yet. May 15 is about the time their restrictions go off.

Huff: You should wait to pour the cement until after the restrictions lift.

Oleson: Elevations is pretty flat. The other thing we don't know for sure is how much fill would be required. If it gets to 50 cubic yards or more – then you need a CUP. The more you go back – the more fill you will need.

Quiggle: We will be addressing those issues whether CUP or not.

Oleson: We are all conflicted here.

Quiggle: We need more information on: distance to the trees, distance to the tanks, check with arborist, soil types, species, red oaks are very sensitive to root damage, change in grade and root damage. You may have lots of dead trees unless you have a plan to mitigate.

Oleson: More information on expansion of 5 feet? Arguably brings in the holding tanks system. Go to full system unless it is not feasible. Need report? Is it feasible? What would it take? Have to look at costs, too.

Quiggle: Some of those discussions should have been had 6 months ago before holding tanks were put in.

Oleson: Letter from a septic designer.

Lease: I appreciate the suggestions.

Oleson: We need three things: Distance to trees, tanks, talk to arborist and septic designer – feasible to put in a different type of system and can it go in with wells?

Shay: We mentioned storm water mitigation – looking at ideas for gutter pulling water away from lake.

Lease: Where do I go for that?

Oleson: Landscaper.

Quiggle: This will go back on the April agenda. Hope to get info 2 weeks before next meeting (April 7 meeting).

Lease: Thank you for your consideration.

5. Approve Previous Meeting Minutes with correction – Shay elected to Vice-Chair (rather than Chair).

a. Feb. 3, 2011

A motion was made by shay, seconded by Parks, to approve the corrected Feb. 3, 2011 Meeting Minutes. Motion carried unanimously.

6. Zoning Administrator's Report

a. Permits: We've got some pending – Camp Friendship is looking at adding onto a building, doing some sidewalks and paths from the lake to the main building that goes to beach that will require some input from Planning and Zoning. There may be a CUP for dirt work. They may need Variance for side yard setback – but sounded like they were going to try to avoid that . Another variance – Peter Schreiner is coming up next month. Steve Anderson may be next month – Variance to replace a home on Pleasant.

b. Correspondence: none.

Enforcement Actions: none.

7. New Business: None.

8. Old Business

a. Continued discussion of Conservation Overlay District concept
a. Proposed DNR regulations for "Conservation Subdivision"

9. Adjournment

A motion was made by Huff, seconded by Smith, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 8:43 p.m.

Minutes respectfully submitted by Mary Barkley Brown