

**STAFF REPORT**

<b>Application:</b>	Requests related to the construction of an addition to an existing detached garage. Approvals required include a Variance to construct a 6' x 12' one-story addition to the west side of existing detached garage approx. 58 and 62 feet from the centerline of two township roads (min. 65 ft required) and attached to a building that is currently 25 feet from the centerline of a township road. Resulting building coverage to be approx. 15.9% (max. 15% allowed). Impervious coverage to be reduced to below 25% from current exceedance of that amount.
<b>Applicant and Property Owner:</b>	Warren and Sharyl Schultz
<b>Agenda Item:</b>	4(b)

**Background Information:**

- **Proposal:** The applicants are proposing to construct a 6' x 12' addition to the rear (west) side of the existing detached garage. The project would be located on the applicant's lot that sits across a road from their main lake home parcel. The intent of the addition is to increase storage as the upper floor of the existing detached garage was converted to a home office recently. The existing detached garage does not contain any bathrooms or sinks.
- **Location:**
  - Property address: Across from 7958 Irvine Ave NW , Annandale
  - Sec/Twp/Range: 27-121-27
  - Parcel number(s): 206077001150 and 206075000070
- **Zoning:** R1 - Urban/Rural Transition / S2 - Residential-Recreational Shorelands, Cedar Lake (General Development lake)
- **Lot size:** Approx. 6,166 sq ft (0.14 acres) according to original plat of the applicant's property.
  - Existing Impervious Coverage:
    - Buildings: About 900 sq ft (14.60%)
    - Total: About 1,350 sq ft (21.89%)
  - Proposed Impervious Coverage:
    - Buildings: About 972 sq ft (15.76%)
    - Total: About 1,422 sq ft (23.06%)
- **Septic System Status:** The property contains a drainfield which is connected with a septic tank located across the road at the lot with the applicant's home. The applicant states that the detached garage has no bathroom or sink facilities.

- **Natural Features:**

- Floodplain: The existing and proposed structures are not within an identified floodplain.
- Bluff/Steep Slopes: The lot does not contain a bluff.
- Wetlands: There are not wetlands that are likely to be impacted by the proposed improvement(s) to the property.
- Current Shoreline Conditions: N/A

- **Permit History:**

- 1985 - Septic system installed (drainfield on subject lot, tanks on lot across road)
- 1990 - Construct 24' x 36' detached garage.

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**Board of Adjustment Action:** The Board of Adjustment may approve the variance request, deny the request(s), or table the request(s) if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

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**Staff Comments:**

1. The Township has no record of permits being applied for or obtained for the remodel of the upper level of the detached garage. It may be that no permits were needed depending on the work that was done.

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**Staff Recommendation:** Based on the findings of fact and discussion listed below, Staff recommends denial of the proposed Variance unless they can prove with a survey of the lot that building coverage would remain under the maximum 15% allowed.

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**Applicable Statutes/Ordinances:** See Appendix A.

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**Findings of Fact:** The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

**1) Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control.**

The spirit and intent of the relevant ordinances are as follows:

The spirit and intent of the ordinance's limitation on lot coverage by buildings is to create uniformity in the percentage of a lot that is covered by buildings/roofed structures on a lot and to help ensure that, when added to necessary other impervious surfaces that typically come with development, the overall 25% maximum impervious coverage is not exceeded.

The spirit and intent of the ordinance's setback requirements between a building or

structure and a road is to help ensure adequate space for road maintenance activities (i.e. snowplowing, road grading, ditch spraying, etc...), to prevent damage to property and promote public safety should a vehicle drive off the road and to allow adequate space for parking of vehicles on driveways without endangering public safety.

In other zoning districts where development occurs more densely, the ordinance allows for setbacks from the right-of-way of a road as low as 20 feet. This is presumably to allow adequate space for a vehicle to park on the driveway without impinging on the road right-of-way.

#### Findings Supporting Approval

The proposed improvements would be in harmony with the general purpose and intent of the requirements because the proposed addition would not pose any significant additional risk to buildings or vehicles traveling on the road. Building coverage would only be increased slightly above the 15% limit (less than 1 percent over).

#### Findings Supporting Denial

The proposed improvements would not be in harmony with the general purpose and intent of the requirements because it would allow for building coverage greater than the maximum 15% allowed normally and would set a precedent that would make it difficult to deny other similar requests in the future from other property owners.

### **2) Variances shall only be permitted when they are consistent with the comprehensive plan.**

#### Findings Supporting Approval

The granting of the requested variance(s) is not inconsistent with the Comprehensive Plan because it would represent an anticipated use within the relevant zoning district(s).

#### Findings Supporting Denial

The granting of the requested variance(s) would be inconsistent with the Comprehensive Plan because it would result in inconsistent enforcement of the current restriction on building coverage on lots. This would be in conflict with the Comprehensive Plan's goal of consistent enforcement of regulations when a practical difficulty has not been shown.

### **3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.**

#### Findings Supporting Approval

The proposed use of the property is reasonable because it would only increase the size of the structure slightly to allow for tool and other miscellaneous storage and the existing garage is not overly large.

#### Findings Supporting Denial

The proposed use of the property is not reasonable because it would require exceeding the 15% building coverage rule and set a poor precedent and because the existing 24' x 36' garage, while not overly large, does allow adequate space for typical storage needs (esp. given that there is a second level to the garage).

**4) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

Findings Supporting Approval

The plight of the landowner is due to factors that they did not create because the need for the variance(s) is due largely to relatively small size of the lot (less than 6,200 sq ft).

Findings Supporting Denial

The plight of the landowner is due to factors that they created themselves because the need for additional storage is partially created by their conversion of the upper level of the garage to a home office.

**5) The variance, if granted, will not alter the essential character of the locality.**

Findings Supporting Approval

The essential character of the area would not be altered because both the current area and the proposed use are residential in character.

Findings Supporting Denial

The essential character of the area would be altered because the proposed structure would make the lot exceed the 15% building coverage limit, with most other parcels in the area meet.

**6) Economic considerations alone do not constitute practical difficulties.**

Findings Supporting Approval

Economic considerations are not the only reason the applicant cannot meet the requirements of the ordinance because there are non-economic factors involved, as mentioned above.

Findings Supporting Denial

None

**7) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.**

Findings Supporting Approval

The proposed use is identified as a permitted, conditional or interim use in the zoning district where the applicant's property is located.

Findings Supporting Denial

None

**8) The practical difficulty cannot be alleviated by a method other than a variance.**

Findings Supporting Approval

The applicant has limited space on the lot and any addition is likely to put the lot over the 15% building coverage limit.

Findings Supporting Denial

The applicant could create storage space in the upper level of the existing garage by reducing the size of the home office or possibly by removing the internal stairway to the upper level and

replacing it with an exterior stairway.

- 9) **The granting of the variance will not adversely affect the environmental quality of the area.**

Findings Supporting Approval

The proposed addition would have very little impact on environmental quality as the lot would appear to remain under the maximum 25% impervious coverage allowed.

Findings Supporting Denial

None

## Appendix A

### Applicable Statutes and Ordinances

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#### Minnesota Statutes

#### **462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.**

##### Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

#### **394.36 (2016) NONCONFORMITIES**

Subd. 5. Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

**Corinna Township/Wright County Regulations**

**502. APPEALS AND BOARD OF ADJUSTMENT**

**502.4 Findings**

(1) The Board of Adjustment must review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.

(a) The granting of the variance will be in harmony with the County Land Use Plan.

- (b) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
- (c) The plight of the owner is due to circumstances unique to the property not created by the owner.
- (d) The proposal does not alter the essential character of the locality.
- (e) The practical difficulty cannot be alleviated by a method other than a variance; and.
- (f) The granting of the variance will not adversely affect the environmental quality of the area.

The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

#### 403. LOT COVERAGE

Not more than fifteen (15) percent of a lot may be covered by buildings (including covered porches or other roofed structures) and not more than twenty-five (25) percent of lot may be covered by impervious surfaces, including all structures, decks and pavement areas except as provided in Section 608, 609, and 610.