

Planning and Zoning Meeting
June 26, 2008

Meeting was called to order at 7:03 p.m.

Members Present: Dave Miller, Janet Green, Dave Chura, Michael Kahl, Yvonne Rutford

Members Absent: Bill Lannon, Seth Levanen

Also Present: Director Sue Lawson, Assistant Director John Kessler

A quorum was present for this meeting.

Review Agenda:

- The Planning Director report will be moved below New Business between the Conditional Use Permit and Policy regarding Non Conforming Structures.

Additions to the Agenda:

- Sue Lawson: Policy discussion on SENSO area.
Community Participation report; specifically the Wordens.
- Dave Miller made a motion to approve the amended agenda, Yvonne Rutford seconded.
Motion passed.

Approve Minutes from the May meeting

- Janet Green made a motion to approve the minutes, Dave Miller seconded. Some very minor housekeeping and typographical errors were noted; motion passed.
- Noted during the Approval of Minutes: Audience member John Fischer noted a possible error on Page 2, paragraph 3 of the May minutes; "Janet Green inquired as to the ownership of the property to the North of Ms Ulanowski's". Ms. Ulanowski stated this property was owned by Mr. Fischer. Mr. John Fischer does not believe this property belongs to his Brother. So noted by the Planning Commission.

Chair Report:

- Dave Chura provided a copy of the "Town of Duluth Planning Commission Public Hearing Process". This process is intended to be used for future Public Hearings, Conditional Use Permits and Variance requests.

New Business

Conditional Use Permit Review: Worden Short Term Rental. A "sign in sheet" is provided if someone is interested in presenting testimony regarding the conditional permit review. A copy of the entire Worden Short Term Rental history was provided to each member of the Commission. As of this time the Conditional Use Permit has not been recorded with St. Louis County.

The following documents were noted and read in their entirety by Sue Lawson:

- The Conditional Use Permit Conditions set by the Planning Commission.
- A Letter dated May 19, 2008 sent by the Planning Director to the Wordens.
- A Letter dated June 16, 2008 sent by the Planning Director to the Wordens.

For clarification purposes, the Planning Director's view was that as of June 1, 2008 Worden's were in violation of the following conditions.

Condition 2:

The owners will establish a local contact person that is available to respond to any problems that may arise related to the rental of the property.

Condition 4:

The fire pit will be relocated to the northeast side of the lot. A fire ring will be constructed and campfires will be allowed only in the fire pit. The renters will be informed by the owners or their agent of any burning bans.

Condition 9:

Rental of the property will be for no less than seven days at a time. Your web site indicated that you rent for less than seven days at a time.

Since the Wordens had not met these conditions, Condition 11 came into play: "Conditional uses with conditions will be reviewed periodically by the planning Commission. Where such a use does not continue in conformity with the conditions of the original approval, the permit shall be terminated and such non-compliance shall constitute a violation of the Ordinance."

The Wordens subsequently complied with the Conditions: A paper received at the Town Hall on June 10th notifying the Town of the local contact people. As of the Planning Director's review on June 16th the web site specified a weekly rental period, and as of an inspection of the property on June 15th the fire pit had been moved. The conditions placed on the Worden Conditional Use Permit as off the letter of June 16th. The fence is to be in compliance by the middle of July. This concluded the Director's report.

Ms. Worden stated they have not had any renters during this time, since there were no renters she didn't think it was a very big deal. On the Web site she rents both long and short term, and had not done any rentals by the day. So she didn't feel she was in violation of anything.

The fire pit was not relocated due to the weather, Ms Worden felt it was not fair moving the pit closer to her other neighbor instead of leaving it centrally located on her property. She originally had it located evenly between the two neighbors now the conditions put on the permit asked her to put the pit closer to the other neighbor which didn't seem fair to her.

At this time Chair Dave Chura read the "Communication Agreement for Public Meetings" in its entirety.

Public Comment Period opened:

- Letters of communication from the Mittlefehldts.
- Ms Pamela Mittlefehldt 5247 Greenwood Road 525-3693: My intent is not to speak for or against, my concern is the conditional use permit and what it means. *To the Planning Commission*; what are you going to do to honor the work you put into it, for whatever reasons the conditions have not been met. 1. *Ms. Worden*, you changed the conditions. 2. The conditions are being met from the inside. 3. The Parties are not planning on meeting the conditions. I feel this is disrespectful to the neighbors and the Township. From this day forward how are the conditions going to be met.
- Bill Mittlefehldt 5247 Greenwood Road 525-3693: I appreciate the ground rules. I agree with Pamela, are the conditions you set a law or are they just rules. You may be aware there may be a boundary line dispute, we got interested because we gained 15 feet. We paid to have two stakes placed; the stakes were taken out and thrown away twice. It shows the level of disregard, there are two police reports regarding the survey markers. Are you going to honor the conditions you set or are you going to disregard them and throw them away.

The Commission asked Ms Worden why, once she was aware she was going to have difficulties making the conditions, why she did not contact us?

Ms. Worden stated that she did talk to John (*Kessler*) and later Sue (*Lawson*). It was all verbal, nothing was done in writing.

A conversation ensued on the weekly rental condition. Ms. Worden wanted the condition to be set up like the City of Duluth where if you have someone renting for 3 days, the next 4 days you would not be able to have a rental. One rental per week is permitted. One Commissioner responded that in order to set things up like the City of Duluth they would have to abandon the ordinance conditions. Ms. Worden thought it was one of the conditions put on her permit. Ms. Worden stated that she did turn down rentals because they wanted to rent for 5 days and she felt the conditions meant that she could rent for only 7 days.

The Commission asked Ms. Worden why she did not put herself down as the contact person? Ms Worden didn't do that because she wasn't there all winter and she wanted the neighbor on the other side as the contact person but he isn't here either. She didn't have any renters or requests for weeks. So she said she was going to have to get a different contact person but if she can't rent for less than 7 days they won't be able to rent.

Discussion ensued on the issue of the property line. The Commission explained that the property boundary issue is between the property owners and not an issue the Commission would deal with unless there was a problem with parking. Ms Worden said that there is parking - it is the back of the driveway which goes to the shed that is in question.

There was discussion amongst the Commission members regarding the options for dealing with the conditions not being met. One option would be to review the permit and find it to be in compliance with all conditions as originally approved. Second option would be to revoke, Third option would be to suspend the condition until it is clear there is legal access to the site. Ms. Worden stated that they are going to move the driveway and there is plenty of room and plenty of room for parking.

Dave Miller made a motion to close public testimony, Janet Green seconded. Motion approved

Dave Miller made a motion to revoke the permit due to non compliance of conditions. Yvonne Rufford seconded the motion.

Discussion ensued regarding the motion. The Commission discussed the conditions of the permit and if the Worden's were in violation of those conditions.

Janet Green stated that the only question is that they were not in complete compliance following the schedule that was laid out however they did come into compliance later. It seems to me they did not take the conditions seriously but it seems it is not enough to rescind the permit.

Yvonne stated that the Wordens had a great deal of flexibility but they did not meet the time frames for the conditions. She agreed with Dave Miller that they did not meet the conditions that were set.

Dave Miller said that a good faith effort was not put into complying with the conditions and they were not met.

Dave Chura emphasized that not just with this particular CUP the conditions are the requirements and we need to be fairly serious about the conditions or dates - those things need to be met. Dave Chura also had concerns with local contact, finding it difficult for Ms Worden to be the local contact and not in the area. Local contact means someone in the area.

The motion was voted upon as follows: Yea: Dave Miller; Michael Kahl and Yvonne Rufford. No: Dave Chura. Abstained: Janet Green. The motion carried, and the permit was revoked.

Planning Director Report:

- Planning Secretary: We have received one applicant for Planning Secretary; Beth Mullen. Janet Green made a motion that we hire Beth Mullen as our secretary for the Planning and

Zoning Commission, Michael Kahl seconded. Motion passed. Planning Secretary wage will be: \$150.00 per month salary which covers one meeting per month, Two (2) hours office time per week, anything over and above will be the standard township rate of \$10.00 per hour.

- Allen Nelson matter: Township Attorney Tim Strom will be taking legal action; Police Chief Shawn Padden will be issuing a citation within the week.
- There will be two public hearings in July: The Wordens second CUP request and a Variance request by the Schousboes.
- The Board of Adjustment has met and organized: Chair will be Paul Voge, Secretary will be Ann Cox. The Board will meet once Odyssey makes a written appeal.
- A letter was written to the County Land Use Commissioner requesting that he come talk to the Planning Commission about the Tax forfeit land next to the old Clover Valley School. The Commissioner was unable to attend this meeting put will try to make the July meeting. It was suggested by Dave Chura that it might be more appropriate to have the Town Board contact the Commissioner and have him attend a Town Board meeting instead. The property in question is riparian. This issue will be on the agenda for the July meeting.
- A Star Grant has been received for equipment.
- Policy regarding Non Conforming Structures: Janet Green made a motion that at this point in time we establish a policy on non conforming lots or structures so that we will entertain a variance when it removes one of the non conformities, Dave Miller seconded. Motion passed.

The Planning Commission requested the creation of a Policy book.

- A Community participation report has been provided for the next Worden CUP (Conditional Use Permit). The report was read in its entirety, compared to page 76 of the Zoning Ordinance and decided it meets all of the ordinance requirements. There is no date or signature on the report. Suggestion to create a template or guidance for participation reports within the next year.
- Review of SENSO Areas. Discussion regarding a Patterson Lane property. The Commission determined that a variance is not necessary if the owner has a Stormwater Plan that is created by a professional and meets the dimensional requirements set by the ordinance in the SESNO area.

Old Business

Pine Park Road – John Schifsky. Mr. Schifsky presented a plat of the Pine Park Division to the Planning Commission. Following a lengthy discussion it was decided to take the documents to our attorney, if there are no issues identified then it will be considered that the road meets the access requirements stated in our ordinance.,.

Concerns from the Audience

- Wendy Meierhoff: The Community Center will be holding an open house at the Community Center 7:00 p.m. July 22, 2008.

Close/Adjourn: Michael Kahl made a motion to adjourn the meeting, Janet Green seconded. Motion passed 9:08 p.m.

By Ann K. Cox
Clerk, Duluth Township