

**Town of Duluth
Planning Commission
Meeting Minutes
7/23/09**

The meeting was called to order at 7:00 p.m. by Commission Chair, Dave Chura.

Roll Call: Present: Dave Chura, Seth Levanen, Mike Kahl, Yvonne Rutford, Barb Crow

Absent: Jan Green, Bill Lannon

Also present: Sue Lawson, Planning Director and John Kessler, Assistant Planning Director.

The Agenda for the evening was approved without changes.

The minutes from the June 25 meeting were approved without changes.

New Business

None.

Planning Director Report

Sue Lawson reported that the Board of Supervisors voted to take no action on short-term rentals. This means that the moratorium on new short-term rentals that is currently in effect on will expire. Dave Chura asked Dave Mount to comment. Dave said that the Board was primarily concerned about “collateral damage.” He said that while there are short-term rentals that cause problems, there are also some that are not causing any problems. At the last meeting he had distributed a list of possible conditions to put on short-term rentals and he thought that perhaps this list might help sort out rentals that might be okay from those that might have a negative impact. Sue pointed out that there was nothing on the list that the Commission had not considered in the past. If, ultimately, this was the direction the Township decided on, it was thought that getting the final language concerning these conditions into the Ordinance would be important. That way the language and intent would be available for anyone to refer to. After discussing the issue at the last meeting, some Commission members had said that they still felt that short-term rentals were not an acceptable land use in the Township and some members felt that the additional conditions that Dave Mount had suggested might help regulate short-term rentals if the Town continued to allow them. Everyone agreed that there was not time for the Commission to hammer out a new recommendation.

Dave Chura asked if the Board had discussed the potential expenses involved in enforcing the proposed conditions. It seemed as though this would be a shift towards more enforcement.

Dave Mount said that he suggested that the wording of the conditions be set up such that all of the conditions must be met, and it is up to the applicant to show that they are met, before the permit is valid. This way the onus is on the applicant. He said that by banning short-term rentals outright, we are saying that under no circumstances is this a suitable use for the Township. The Board is not comfortable with that. Under the right circumstances, it can be done without significant negative impact. We cannot decide what we do or don’t do based on how difficult it is to enforce.

Sue said that her impression was that the Board believes there is a place for short-term rentals in the township. In this case, the Board is leaning towards property owner rights. It is important to continue to work with the Board and find a way to make it work.

Sue said that the Wordens have sold the 5232 property. There continue to be issues with the 5249 property. She said that we are getting more and more complaints and issues where people are considering things from the land use viewpoint when they are actually neighbor-to-neighbor issues. Included in these types of complaints are the dog issue on West Knife River Road, complaints about the Christmas tree farm, and some of the problems with the Wordens. She said that neighborhood mediation is something that has worked for other communities and is something that we could consider.

Sue said that we have been getting a number of Land Use Permit applications in and may be getting a variance application to be heard at the August meeting.

Sue has been using Westlaw to research case law on variances. Dave Chura also said that he had found a white paper on standards for granting variances. He would like to get a group together to look at case law to see what has been accepted by the courts for meeting standards of hardship. He would also like to get input from Tim Strom. He said he would put together a draft document and distribute it.

Old Business

Sue had put together a handout on what other communities have done in terms of regulating agricultural sales.

There was a discussion of limiting agricultural sales by lot size. 4.5 acres was the size discussed at the previous meeting. Some thought that this would be too limiting. There was also a discussion of what constituted agricultural sales. Hostas? Roses? Hay? Timber? It was agreed that there was a lot of detail that would need to be worked out.

Dave Chura said that we needed to determine the difference between agricultural sales and home-based businesses and make that delineation clear. For instance, it is easy to imagine a small agricultural sales endeavor that grows slowly until it is a business that should be regulated by the permit process. Where would the line be for this and who would determine when it was crossed?

Yvonne Rutford brought up the Conditional Use Permit that was granted for the Mohs in February for a home-based business. She asked how that business was different from, say, strawberries being sold for 30 days a year?

Sue said that the main difference is that that area of the Township is considered rural, and agricultural sales fit the rural character of the neighborhood as defined in the CLUP.

John Kessler brought up another issue – the need to require a survey for any property on the shore when a permit is applied for. He sees the need for this for almost every transaction along the shore. There has been a lot of contention over lot lines in that area.

Sue said that we can require surveys for variances but not for Land Use Permits.

Sue said she will put something together on agricultural sales for the Commission to look at.

The group that was going to look at wind generators had not yet had time to meet.

Chair report

Dave Chura indicated that what he had wanted to say about variances and conditions for granting variances had been covered in the previous discussion.

He also had a question about what ordinances the Township had adopted over time. There is list of these ordinances, with a brief description of each, in the informational materials in Commission members' notebooks. There was a discussion of getting copies of the actual ordinances from the Town Clerk, Ann Cox.

Concerns from the audience

Wayne Dahlberg said that he was going to prepare a variance request for Dave and Kathy Pierson that he hoped could be heard at the August meeting. The variance is for an existing structure next to Nokomis. The owners want to make it their year around home when they retire, but it is a nonconforming structure on a nonconforming lot (width) built prior to zoning. They are not building until next year but want to move ahead on the design process.

Dave Chura suggested that we schedule the hearing for later in the meeting so the Commission has a chance to discuss case law concerning variances and hardship first. It was decided to set the hearing time for 8:00 p.m.

Seth made a motion to adjourn the meeting, Yvonne seconded, the motion carried, and the meeting adjourned at 8:07.

Attachments:

From July meeting:

Handout on agricultural sales

For August meeting:

Pierson variance application

Hastings variance application

Case law handout

Previous Commission variance hearing decisions (Bieraugel and Stoney Point)