

**Town of Duluth  
Planning Commission  
Approved Meeting Minutes  
April 24, 2014**

The meeting was called to order at 7:05 by Chair Paul Voge.

Present: Paul Voge, John Schifsky, Jo Thompson, Wayne Dahlberg, Larry Zanko

Absent: Brigid Pajunen, Jerry Hauge

Also present: Sue Lawson, Planning Director and Don Sitter, Town Board Liaison

The agenda was approved as written.

The April 8 minutes were approved with a typographic correction.

**Director's Report**

Sue said that as a part of the Town's SWPPP permit requirements, Val Brady will give a presentation before the Town Board on May 8 at 6:30.

Sue said that we may have a variance hearing in May. She distributed a drawing of the property in question. The property is on Greenwood Road, close to Pine Tree Road. The owners want to move the garage. It is a nonconforming structure on a nonconforming lot. The owners want to move it because, as gravel is continually added to Greenwood Road, there is now a steep drop from the road to the garage. They would like to move the garage away from Greenwood Road to in back of where it sits now. The problem is that it is currently about one foot from the side lot line. In the Ordinance it says that if you move a structure that is nonconforming, you need to make it conforming. So Sue said that she has talked with the owners and they have looked at options. One of the options is to fill in under the garage and bring it up to the level of the road. This would not require a variance – just a permit for putting in a foundation and bringing fill in. They should be able to do this as a land use permit.

Paul asked what effect raising the garage might have on the neighbor's land.

Sue said that there is a swale between the two properties with trees and a lot of room for water.

Wayne said that if you were to put a frost footing under the structure, it would become a retaining wall.

Sue said that if they do apply for a variance, the required notification distance is 350 ft. Their lot is only 75 ft wide and the lot next to it is maybe 100 ft. The owner has already talked to his neighbors. The neighbor's house is lower, but is quite a bit farther from the property line and the entrance to the property is from Pine Tree Road.

Wayne moved that the notification area for a variance be 350 ft as stipulated by the Ordinance. Larry seconded and the motion was approved unanimously.

Sue said that she will take it back to the applicant and see what they want to do.

Don Sitter said that there was nothing new to report from the Town Board pertaining to Planning and Zoning.

**Structure Size vs Lot Size**

Sue said that the Town Board asked the Commission to look at this issue following a variance request from Seeds of Hope for a large accessory structure on their 37 acre parcel.

Paul asked about looking at performance standards to address this issue instead of a CUP process. He asked why these larger accessory buildings were not originally permitted in the Shoreland Overlay area (SLO).

Sue said that one of the original concerns that disallowing accessory structures over 2000 sq ft was meant to address was the possibility of an individual building a home and structures that encompassed most of the lot. If you are going to have a bigger building, you will need to have a bigger setback so that the intensity of use is not as great and so that there is a greater distance from neighboring homes. The hope is to maintain the predominant existing character of the neighborhood and not have homes built that are huge and tower over neighboring homes.

Wayne said that another factor was that the majority of the lots in these zone districts were less than an acre in size and they simply could not accommodate a structure that size and still meet zoning requirements. A 2000 sq ft pole building is typically 16 to 18 ft tall and creates daylight and shading issues. This restriction was carried on from the 1976 Zoning Ordinance.

Paul asked if there was concern at the time for soils and runoff or if the concern was primarily for aesthetics and neighbors.

Wayne said that stormwater did not become much of an issue until the Shoreland Management standards were adopted by the State around 1991. The Greenwood area was platted in the 1930s.

Sue asked why the Town made the minimum lot requirement one acre in this area. When most of the lots are less than one acre, why not make the Ordinance reflect reality? A lot of variance requests come from that area on Greenwood Road and along the North Shore.

Wayne said that a pole building was put in on Pine Park Road and there was negative reaction after the fact – it evolved into a business with trucks coming and going. It could have been one reason that some of the restrictions were put in place in those areas. He doesn't know for sure. It was back in 1976 and there were good people working on it with a lot of foresight.

Jo read from the Ordinance, Article VIII Section 9, concerning accessory structures:

Where performance standards are required for accessory structures (see Table 5.3 in Article 5, Section 4), and in the Sensitive Area Overlay, the following standards shall be met.

- A. Minimum Side Yard Setback.** For any increase in square footage above the allowable maximum size the minimum side yard setback will be determined as follows:
  - 1. Divide the square footage of the proposed structure by the allowable maximum.
  - 2. Multiply the side yard set back by this figure and round to the nearest whole number.
  
- B. Screening.** Permanent and effective screening from the lakeshore and adjacent properties shall be established and maintained (*see Article III, Section 5*).
  
- C. Solar Access.** Structure shall not be placed in a manner that obstructs solar access of adjacent properties, as far as practicable.

Sue said that the Shoreland Overlay area is the area from the Expressway to Lake Superior and also the area encompassing 300 ft on either side of a stream. So if you have property on a stream, you cannot build within 200

ft of the stream, but you can build in the area between 200 and 300 ft from the stream, if you meet the required performance standards for the SLO.

Wayne said that there are some provisions for minor construction within that 200 ft area --like water accessory structures and stairways.

Paul said that if the Commission were to allow larger accessory structures as a conditional use, what happens if a landowner does not comply with the conditions? Do we have them tear down the building? What options does the Town have? When a CUP is for a permanent structure, it is not like a business or use that can be discontinued.

Sue said that the Board has taken the position in terms of monitoring and enforcement, that the first route is education, the second is investigation into any complaints, and the third is active enforcement.

Wayne said that in terms of process for larger accessory structures, an over-the-counter permit with performance standards may be fine for a structure that is, say 1000 to 4000 sq ft, but for something like the Seeds of Hope arena – something that is 20,000 sq ft or so – he feels that you need to bring it before the public. So the question is, how do you set it up so that 90% of the time it's a streamlined process, but for those not within some determined parameters, it is a public process. He thinks that it is important to avoid an after-the-fact perception on the public's part of "How did they get permission to put that there?"

John noted that part of the reason the Commission is looking at this issue is because of the paradox that a 20,000 sq ft house would be allowed on the Seeds of Hope property, but that there is no allowance for building an accessory structure larger than 2000 sq ft. It forced the Town to look at how reasonable this is. He said that he likes the idea of some kind of formula. Can we tie the size of the accessory structure to the size of the lot?

Paul said that there are already performance standards that the size of the structure dictates setback requirements and standards addressing solar access and screening. Can we add performance standards addressing runoff and impervious surface?

Jo suggested that a building over a certain size require a stormwater management plan.

Paul said that there is already language in the performance standards for the SLO for excavations exceeding 1000 cu ft.

Jo said that a stormwater management plan may be needed.

Sue said that most builders manage excavations and disturbances as a matter of course – mostly through the use of silt fences.

Don Sitter asked how many large lots there are in this area. It has been a problem only once so far.

Wayne said that there are probably a couple dozen of them. Most of the lots that are larger are 5 or 10 acres, not 40 acres.

Don asked if we can't just say that anything over what is currently allowed requires a CUP. It would be the simplest solution. The downside is the \$350 application fee and not knowing what the rules are going in. The upside is getting neighbors involved

Wayne said that it is not a hardship for those who have small lots. But he sympathizes with the individual who has 4 or 5 acres and wants a 3000 sq ft structure and has to go through the CUP process. He thinks this is asking a lot.

Sue said that 5 acres with a 20,000 sq ft structure would be just 9.1% lot coverage and 25% lot coverage is allowed in this area. It is all based on 1 and 2 acre lot sizes. If you have 40 acres you could conceivably have 10 acres of impervious surface at 25%. She suggested that we run some numbers on some examples to try to an idea of what different scenarios would look like before the next meeting.

Paul said that the next zone district with larger minimum lot size is MUNS-4 and the maximum lot coverage for that zone is 7%.

Wayne said that if someone has a larger lot, we might consider reducing the maximum impervious surface accordingly. Apply guidelines that are parallel to larger acreage districts.

Sue said that one of the issues with large accessory structures is what they are being used for. A home-based business requires a CUP. Should the concern be as much about the 20,000 sq ft building as about what use it is being put to?

Don said that one approach is to figure out what the lot sizes are and do a stepped progression.

Wayne said that there are many different lot shapes that can make up a 2 acre parcel. The same size building would not work for every 2 acre parcel.

Paul said that what is in the Ordinance now is that the square footage of the proposed structure is divided by the allowable maximum and the side yard set back is multiplied by this figure.

Wayne said that a 5000 sq ft building is 2.5 times the maximum allowable accessory structure size. The side yard setback is 25 ft so a 5000 sq ft building would require a 60 ft setback according to this. He said that this is why we have to be careful with what we do with these performance standards.

Jo said that she can try putting together some numbers and scenarios for the next meeting.

### **Congdon Trust Lands**

John said that he has not heard anything more from Judy Gibbs. He has been very frustrated at the lack of progress on the project. At this point he would like to see if the Town can get some money to purchase trees and shrubs to plant where the County has stripped the vegetation in the course of replacing culverts.

Sue said that talking with the County and the Soil and Water Conservation District is probably the way to go. The Town should be able to get trees at low or no cost. She suggested a couple of people to talk to.

Sue said that the County does not own the land where they did the revetments -- most of it is probably Congdon trust land. When the County put larger culverts in on the Knife River, they had to talk to the landowners. Who did the County talk to when they put the culverts in on the Congdon land?

John said that he would still like to find out how Township residents would want to use or preserve the Congdon space.

### **Brochure**

Sue spoke for Brigid, who was not able to attend the meeting. She said that Brigid has not yet put the brochure pages in Dropbox. Brigid said that the brochure could use some editing. There is a lot of redundancy and getting rid of some of it could save copying costs.

John said that he has volunteered to work with Brigid on the editing.

Paul asked about getting money to print the brochure and Don Sitter said that once there is an estimate, bring it to the Board. There should be money available.

### **New Business**

Plan of work for 2014:

It was decided that the Commission should continue its work on trails, continue its work on building size vs lot size and work on Ordinance changes as required by the new stormwater requirements.

Officers for the coming year were moved by John to be the same as last year: Paul as Chair and Jo as Vice Chair. Larry seconded and the motion passed unanimously.

The meeting adjourned at 9:10.