

**Town of Duluth
Planning Commission
Meeting Minutes
January 22, 2015**

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

Present: Paul Voge, John Schifsky, Brigid Pajunen, Jo Thompson, Wayne Dahlberg, Jerry Hauge, Larry Zanko

Absent: No one

Also present: Sue Lawson, Planning Director; Don Sitter, Town Board liaison to the Commission

The agenda was approved as presented.

The November 2014 minutes were approved with two corrections, delete line 65 and correct spalling to spalling.

Pierson Variance Public Hearing

Sue outlined the process for the hearing. She then presented Dave Pierson's variance request. The property is adjacent to the former Nokomis restaurant property on North Shore Drive in zone district SMU-6. She showed the dimensional requirements from the Ordinance (Table 5.1, Article V Section 3) for SMU-6:

- Minimum Lot Area: 2.0 acre
- Minimum Lot Width: 200 ft
- Maximum Lot Coverage: 25%
- Lot width: 200 ft
- Minimum Road Setback: 68 ft
- Side Yard Setback, Accessory: 25 ft
- Rear Yard Setback, Accessory: 25 ft

He meets all of the requirements except for the lot width, but the lot is a non-conforming lot of record. The accessory structure side yard setback is 25 ft. In 2009 Dave requested, and was granted, a variance from this side yard setback to 20 ft for a garage that was to be built in conjunction with an addition to the house. Since then, Dave decided against the house addition and garage that the 2009 variance was granted for. In 2014 Dave came to the Commission to ask if he could, using the variance granted in 2009, build a detached garage where the house addition had been planned, but with a 15 ft setback from the side yard line. The Commission decided that if he wanted to place a detached garage in that location with the 20 ft setback as allowed by the existing variance, he could do that. If he wanted to place the garage there with the 15 ft setback, he would need to apply for a new variance.

Sue showed a map of the property with the existing house and the previously approved addition. The site plan shows the existing house and the proposed 40 ft by 36 ft garage which he would access from the east. There are existing structures on the Nokomis property that are near Dave's property line, but it is unclear in the current plans for that property if those buildings will remain there. The proposed garage is for vehicles and storage.

The criteria for granting a variance (Article X Section 3), pertinent to this proposal, are:

The Planning Commission shall always act with due consideration to promoting the public health, safety, and welfare, encouraging the most appropriate use of land and conserving property value, and shall permit no structure, building or use detrimental to a neighborhood.

1. Variances shall only be permitted
 - a. when they are in harmony with the general purposes and intent of the Ordinance, and
 - b. when the variances are consistent with the comprehensive plan.
2. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
3. "Practical difficulties," as used in connection with the granting of a variance, means that
 - a. the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 - b. the plight of the property owner is due to circumstances unique to the property not created by the property owner; and
 - c. 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.
7. The Planning Commission 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

Sue read Dave's response to the practical difficulties from his application:

- 1) The lot is a narrow, nonconforming lot, 105 ft in width. The request is reasonable considering the width of the lot.
- 2) Without the requested setback there would not be adequate area to maneuver vehicles in and out of the garage without encroaching on property and well to the east.
- 3) A 15 ft setback is the same as and in line with the existing house setback and it would be reasonable to keep the garage on the same line as the home.
- 4) A smaller garage is not reasonable as it would not fit the purpose and storage needs.
- 5) Allowing a departure from the current 20 ft variance to 15 ft is reasonable considering the adjoining property.

She then read Dave's response to the requirement that the proposal be consistent with the Comprehensive Plan:

- 1) The proposed garage is to provide storage for vehicles, boat, and lawnmowers currently parked in the driveway.
- 2) The intent is to be consistent with the Comprehensive Plan to keep property maintained and secure.
- 3) The 1440 sf garage is similar to neighbors to the east and west of property.

Regarding the requirement that the proposal fit the essential character of the neighborhood, Sue read from Dave's application:

Neighboring homes have garages of similar size and construction for storage and are on similar width lots.

Wayne asked about garages on adjacent properties.

Dave said that there's one to the west on the Nokomis property that is a pole building and another pole building next door to the east on the Sink property.

Brigid asked if the building would be heated.

Dave said probably not, but that it would be insulated. He doesn't know yet what type of structure it will be – pole building, stick built, etc.

John asked where the well is in relation to the proposed entrance to the garage.

Dave indicated on the map that it is about 5 ft from the east property line.

Paul asked if the west line had been surveyed and if there was anything on the line.

Dave said that Nokomis had it resurveyed and marked so they know where the line is. There is a line of trees that is actually on the Nokomis side. Both property lines have large spruces along them.

Wayne asked if the property lines shown on the maps are very accurate.

Sue said that the georeferencing could be off by five or ten feet. In addition, there was a surveying error made on properties along the shore that complicates things.

Brigid asked why he needed the extra 5 ft. Was it to line up with the house?

Dave said that he really needed the room in front of the garage to stay away from the power pole and the well while maneuvering. There is about 54 ft from the east property line to the front of the proposed garage. With the trailer, his boat is about 33 ft long.

Jo asked about the height variance on the previous variance.

Wayne said that that would have allowed the addition to be 9 ft higher than the existing structure. The Ordinance stipulates that an alteration to a nonconforming structure can only be 2 ft higher than the existing nonconforming structure.

Dave said that he would not anticipate needing a height variance for the garage.

Sue said that the owners of the Nokomis property asked her if the garage was going to be two stories because that might affect their sight lines, but voiced no other concerns.

Don Sitter asked how the driveway would be situated. He had trouble seeing what difference 5 ft would make.

Dave said that he would need the larger turning radius was needed to be able to maneuver in and out, especially with a trailer. There is a well and a power pole that also limit available space.

Jo asked about locating the garage further back and facing the road so that access is straight in and the maneuvering area would be to the side of the garage.

Dave said that there is a swale behind the house. In addition, he wanted to have the garage behind the existing house so it wasn't as visible from the road.

There was no public testimony.

Brigid made a motion to approve the variance because it would be in harmony with the purposes and intent of the Ordinance, because the request is consistent with the Comprehensive Plan, because the property owner proposes to use the property in a reasonable manner, because there are unique circumstances to the property not created by the landowner, and because the essential character of the locality will be maintained. John Schifsky seconded.

Jerry moved to make an amendment to the motion that the 2009 variance issued to Dave Pierson be voided. Wayne seconded and the amendment was unanimously approved.

It was decided that practical difficulties pertinent to the property were that the lot is a narrow, nonconforming lot, 105' in width. The request is reasonable considering the width of the lot. The existing well and power pole make it difficult to maneuver in and out of the garage without the variance. A 15 ft setback is the same and in line with the existing house and it would be reasonable to keep the garage on the same line as the home. A smaller garage is not reasonable as it would not fit the purpose and storage needs.

The variance would be consistent with the Comprehensive Plan because the property will be maintained and secure and the 1440 sq ft garage is similar to neighboring structures to the east and west of the property.

The variance would fit in with the essential character of the neighborhood because the neighboring homes have garages of similar size and construction for storage and are on similar width lots.

Jo moved that, as an amendment to the motion, a condition be placed on the variance to limit the height of the structure to 27 ft. John seconded. She said that the closer the structure is to the property line, the more visible it is and limiting the height would buffer the visibility. Wayne pointed out that the trees are already twice the size of the maximum structure height in the Ordinance. The motion failed.

Jo moved that, as an amendment to the motion, a condition be placed on the variance to require permanent and effective screening from the adjacent property to the west. John seconded.

John said that it is difficult to define "permanent and effective." Paul said that screening is discussed in Article III Section 5 of the Ordinance: "screening... consists of walls, fences, landforms or natural or planted landscape materials" and "screening must be on same parcel as the structure.. being screened." Sue said that since the garage would be 5 ft from the property line that only Lombardi poplar would work. It would not be a big enough space to grow trees in.

The motion failed.

The motion on the variance, as amended, passed unanimously.

A short recess was taken to put together the decision document. The decision document was reviewed and approved.

Director's report

Sue said that she met with the new owners of the Nokomis property. There will tentatively be a public hearing for their proposal, a planned unit development, in April. Before the hearing, they will need to provide a preliminary plat which will go out to other agencies for preliminary approval. They will also have to complete a Community Participation Report, and the Commission will decide the extent of the notification area for the report.

Concerns from the Audience

An individual in the audience wanted to know more about the proposed addition to the Town Hall. Sue said that the Town Board was dealing with that and the next meeting would be February 12 at 7 pm.

New Business

Area of Impact For DeLeo CUP Short-Term Rental

Sue said the request was from Sharon DeLeo for a high-frequency short-term rental which would be heard as a conditional or interim use permit. The property is located adjacent to the French River Fish Hatchery. She showed a map of the property. The rental space is a garage that Ms DeLeo converted to an assisted living facility. She now wants to turn it into a short-term rental. The hours of operation will be 10 AM until 10 PM. She intends to rent to families, especially those needing handicapped accessible facilities. The Ordinance requires a notification area of at least one-quarter mile. John moved that the notification area extend to the Ryan Road to the west, the Expressway to the north, and one-quarter mile to the east. Brigid seconded. The motion passed unanimously.

Recommendations for 2016 Budget

Sue presented the draft 2016 budget. She included the actual expenditures from 2011 through 2014. Although the Commission puts together their budget, it is submitted to the Board for the final decision. The biggest anticipated change for 2016 is the increased workload necessary to comply with the new stormwater regulations. Sue estimated that will be approximately \$3,000 in wages. There is a corresponding increase in PERA and withholdings. The budget is also based on estimated permit income, which is difficult to anticipate. There has been an upward trend in construction activity lately, so she expects that 2015 permit income will be close to the projected \$7,000. It is likely that permit fees will be increased to offset increased costs for stormwater monitoring, so she estimated \$9500 in permit receipts for 2016. Professional and legal services are also variable, depending on what happens during the year. They have been slightly less as of late, so she dropped that from \$1500 in 2015 to \$1000 for 2016. Sue reduced postage and office supplies slightly to reflect what has actually been spent over the past four years, and advertising by \$280 since we have been averaging two hearings a year. It was decided to increase service fees to \$200 to cover variances that were not previously recorded. Because the Planning office just purchased a new computer and printer, Sue reduced the equipment budget for 2016 to zero. She increased mileage slightly because more site visits will be needed for stormwater inspections. Phone, training, and planning projects/education were left the same. So the proposed budget for 2016 is \$29,905. After assumed receipts are subtracted, \$20,405 would be the levy request for 2016.

Everyone thought that the budget Sue presented, after adding \$200 to service fees, was good and was ready to submit to the Town Board.

Jo commented that the budget reflects the money spent by the Town on Planning and Zoning, but there is so much volunteer effort that the budget numbers don't show the true cost of the work done. Could we add this as in-kind support? Sue said that she has done that in the past and asked that Commission

members email the amount of time they spend on Planning and Zoning and projects. There is a lot going on now, especially with the stormwater regulations.

Paul asked if there is a plan to increase permit fees. Sue said that it would be an amendment to the Zoning Ordinance. The Town Board approves those. If the fees were raised, it would be at the same time as the changes to meet the stormwater/MS4 requirements so there would be only one hearing.

St. Louis County Proposed Zoning Ordinance Changes

Sue said she would be going to a meeting on February 4 to learn more about the proposed changes. Comments on it are due March 1. She hopes to have a summary for the February Commission meeting. Among the changes/additions proposed are a rewrite of Article V, Land Use Controls, to better identify what types of uses are allowed in zone districts and what type of permitting is necessary for those uses; addition of an interim use permit for borrow/gravel pits; a rewrite of Article VI, Performance and Administrative Standards; and addition of a section on closed landfills and dumpsites. Sue said that this last item could be of interest because the Town owns an old dump site. We will need to make sure that our Ordinance is at least as restrictive as the County's.

Old Business

Building Size vs. Parcel Size (SMU-6)

Sue said she had a conversation with Tim about the options for recording if the Ordinance were changed such that someone could use their larger acreage to build a larger accessory structure. We could record it with the County as a conditional use or we could create a special permit that would be in our records and not recorded with the County. Tim said that either solution would work. It would not be likely to come up often. But, if it is recorded on the deed, when someone is considering purchase of the property, they will know about the restriction. Sue said that we also need to develop a system to keep track of interim use permits and when they come up for review.

Jerry said it made more sense to him to put it on the deed. If someone were to use a larger chunk of land in the calculations to build a larger accessory structure, it should be recorded somewhere it would be found.

Paul suggested that any subdivision of land be required to be reviewed by the Town.

Wayne said that recording it with the County would be the fairest to all parties.

It was agreed that it would be best to record these with the County as CUPs.

There was a discussion about cloud storage. Jerry said that it could be an add-on to the contract with the firm managing the Town's website. They already have the servers and storage. The Town could contract with them to maintain it – do the software upgrades, make sure everything is updated to current software, handle security, etc. He said that in his experience, if no one is maintaining it, when you need something it won't work.

Township Brochure Update

John and Sue both provided comments to Brigid. Sue said that we should include the land ethic statement that the Commission talked about at a previous meeting. She also had a paragraph pertaining to the new stormwater regulations and construction activity that disturbs more than an acre of land. It was agreed to

Stormwater Zoning Ordinance Update

Sue said that she and Jo and Val were continuing to work on the stormwater requirements. Wayne asked if our responsibilities were only the Township roads. Jo said that monitoring construction sites was also the Town's responsibility.

There was nothing new to report on trails and no additional concerns from the audience.

The meeting adjourned at 9:40.