

**Town of Duluth  
Planning Commission  
Meeting Minutes  
March 26, 2015**

The meeting was called to order at 7:00 by Vice Chair Jo Thompson.

Present: John Schifsky, Brigid Pajunen, Jo Thompson, Jerry Hauge, Larry Zanko

Absent: Paul Voge, Wayne Dahlberg

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

The agenda was approved as presented.

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**Town Hall Variance Public Hearing**

Sue outlined the process for the hearing. She then presented the Town's variance request. The Town Hall is located in zone district MUNS-4, Sensitive Area Overlay (SENSO). It is a non-conforming structure because of the setback from the road. It is also a nonconforming lot because it is 3 acres and 4.5 acres is the minimum lot size for this zone. The first request is for a variance from the requirement that an addition to a nonconforming structure not exceed 75% of the original ground floor area of the structure. The proposed addition is 2,747 sf and the original structure is 2,807 sf. Therefore, the Town is requesting a variance from the allowed maximum increase of a structure size of 75% to 88.9%. This is a 14% increase over the maximum allowed increase.

The second request is for a variance from the impervious surface requirement. The maximum impervious surface in MUNS-4 is 5%. The existing impervious surface area is 34.2%. The request is to increase this to 40.1%. This increase would be a 5.9% increase from the current impervious surface area.

She showed a site map showing the proposed addition and added parking area.

Sue then outlined the criteria for granting a variance (Article X Section 3).

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

Regarding the first criteria, that the proposal be in harmony with the general purposes and intent of the Ordinance, Sue read from the application:

The purpose of lot coverage restrictions is that the restrictions (1) put some constraint on how developed properties should be and (2) help to manage the amount of impervious surfaces which, in turn, helps manage storm water run-off.

The Town hall is in a SENSO area and is less than 9 acres. Subsequently, the lot area coverage is 5%. The Ordinance requires that special attention be given to these parcels. The site does have an unnamed water course east of the Town Hall. The Ordinance allows for the mitigation of impacts on this unnamed watercourse through stormwater management plans. Developing a stormwater management plan for this site would comply with the general purposes and intent of the Ordinance.

Although the general lot coverage limitation for MUNS-4 SENSO area is 5% there are many other zoning districts in the Township which allow 25%-50% lot coverage. The impervious surfaces resulting from the construction of the addition would be 40.1%. A town hall by its very nature typically must have a large building and parking area, which is not always well-suited with the "typical" lot coverage restrictions that apply to other kinds of uses.

Allowing some reasonable additional amount of lot coverage would not change the neighborhood's character, and the Ordinance recognizes increased lot coverage as being appropriate in other zoning districts. In fact, the proposed addition is east of the Town Hall and vegetation on the north side limits the view from the Shilhon Road. Viewers from the Homestead Road would only see about half of the new addition and the view would never directly allow the viewer to see the entire width of the addition. Hence, there would be very little difference in the current view that exists.

These factors considered together indicate that a lot coverage variance would be in harmony with the general purposes and intent of the zoning ordinance.

Regarding the second criteria, that the proposal be consistent with the comprehensive plan, Sue read from the application:

The vision of the Comprehensive Plan states that "Community life and participation in civic affairs is active and healthy (Pg. 13)." The proposed addition to the Town Hall will provide the additional community space and offices needed now and into the future for the growing population in Duluth Township.

The vision also states that: "High speed internet capability is now available for Township businesses and residents. (pg. 12)." The addition to the Town Hall will provide a Wi-Fi hot spot and a community room with expanded hours that will be available for residents to use. Currently, residents now sit outside the Town Hall in their vehicles to access the Wi-Fi.

The Comprehensive Plan's General Land Use policies (pg. 14) states: "Maintain the rural character of Duluth Township." One of the design requirements for the addition was that it fit with the character of a rural town hall. A number of design elements achieve this, such as the new entry into the addition with its porch repeating the iconic porch entries of the existing Town Hall. The size of structure appears to be subordinate to the Town Hall through its placement and lowered roof lines. Siding and fenestration are also complementary to the existing Town Hall.

The policies also state: "The Township will, with full community input, undertake the development of a community center (pg. 14)." Granting this variance will help to fulfill that direction.

Regarding practical difficulties, Sue read from the application:

Using the property as a town hall is a reasonable use and has been since 1929. Clearly, at that time there was not a zoning ordinance. Granting of this variance will assure that the Town Hall continues to serve the needs of its residents.

Town halls and community centers need larger and more extensive facilities than most other types of uses. Thus, an increase from the allowable 75% expansion to of an existing structure to 88.9% is reasonable.

The property is unique because it is the only civic gathering space (Town Hall) in the Township. As a town hall, it needs a large meeting hall, additional office space, and larger parking area which are more extensive than what is necessary for other properties within the Township. The property owner did not "create" that "plight" -- instead, the need for larger facilities and structures (including parking areas) is inherent to the use.

Regarding essential character, Sue read from the application:

The Comprehensive Plan's General Land Use policies (pg. 14) state: "Maintain the rural character of Duluth Township." One of the design requirements for the addition was that it fit with the character of a rural town hall. A number of design elements achieve this, such as the new entry into the addition with its porch repeating the iconic porch entries of the existing Town Hall. The size of the structure appears to be subordinate to the Town Hall through its placement and lowered roof lines. Siding and fenestration are also complementary to the existing Town Hall.

The use of the Town Hall will continue as it always has. There will be continued use as a civic center and will not alter the essential character of the area.

Sue said that the proposed use is allowed under the current Zoning Ordinance. The Town Hall has been in use since 1929.

Don Sitter said that the Town Hall building has not been improved in 30 years. The process towards adding to the Hall started 5 years ago with a needs assessment study. The interior of the building was remodeled to add bathrooms and take out the old stage area in 1983 or 1984. The fire hall was added at a later date.

John asked if an effort was made by the Town to purchase additional land to offset the increase in impervious surface area.

Don said that the Board approached the owner of the land surrounding the hall, but the owner had already put the land into his will for his heirs. The Town offered to pay for the land and for any attorney fees to change the will, but the owner declined.

Larry asked what was planned to mitigate runoff.

Don said that at the previous Town Board meeting, the Board approved an expense to hire a professional to do a full stormwater management plan.

Sue said that a stormwater management plan is required for any project that exceeds the impervious surface area limits in SENSO.

John asked about the natural drainage that runs behind the Hall.

Sue said that there is an unnamed watercourse behind the Hall. The setback requirement is 50 ft for an unnamed watercourse and the proposed addition meets this setback.

Don said that he did some work to direct drainage away from building a few years ago but it did not affect the overall water flow on the site. The Building Committee has talked about putting in a demonstration rain garden as a part of the stormwater mitigation plan.

Jo asked if there was any public testimony. No one had signed up to provide comments and no other comments had been received by mail or email prior to the meeting.

Bruce Duncan said that the application covered any questions he had. He was concerned that allowing this nonconformity might open a Pandora's Box.

Sue said that every variance is unique and granting one does not set a precedent for another. She said that the addition conforms to all of the dimensional requirements except impervious surface area, which would be increased by 5.9% over the current impervious surface area.

Brigid asked if there are any variances on record for the building or parking lot.

Sue said that the building and parking area predate the Ordinance.

John made a motion to approve the variance because it is in harmony with the general purpose and intent of the Ordinance, it is consistent with the Comprehensive Land Use Plan, it is a reasonable use, and it maintains the rural character of the Township, as discussed in the application.

Brigid seconded.

Jo suggested taking the reasoning from the application because it is well-explained and demonstrated.

Jo said that the Commission should establish a date for the stormwater best management practices (BMP) to be in place. Although the construction start date is not yet set, the building will probably be completed in the fall. Another factor, though, is that there may be some funding through the Coastal Program or other programs available later in the year, so instead of requiring the BMPs to be in place by fall, maybe set a date for some time in 2016 to allow time to take advantage of that funding if it's available.

Sue suggested requiring that the temporary construction erosion control BMPs be kept in place until final post-construction stormwater controls are in place.

Larry said that this leeway allowing time to obtain additional funding might allow the Town to enhance the base management plan.

Jo said that she would not want to say specifically that the Town enhance what is already required, but that opportunity would exist.

Jo made a motion for an amendment to the main motion that post-construction stormwater management BMPs will be in place by the end of summer 2016. Until the post-construction stormwater management BMPs are fully in place, all construction erosion control measures will be maintained.

John seconded.

Brigid wondered if this amendment was necessary.

John said that he would expect the Town to embrace the best stormwater management as specified in the amendment. Because this project is in the public eye he believes it is good to demonstrate that the Town is committed to mitigating stormwater to the best extent possible.

The amendment to the motion was approved unanimously.

Jerry said that he would like the site be a model for stormwater management practices. He said that it is public property and is 3 acres with 40% impervious surface area. It should be a model.

Sue suggested saying that, to the extent possible, the Town will make the site a model for stormwater management practices. She said that it could also be added to the letter of transmittal.

It was agreed to add to the letter of transmittal that the Commission strongly recommend that the Town make the site a model for stormwater management.

The motion, as amended, passed unanimously.

The meeting was recessed while the Findings of Fact document was drafted.

The Findings of Fact (see attached) were approved unanimously.

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### **Approval of Minutes**

The minutes from the February meeting were approved as written.

### **Director's Report**

Sue said that the Metropolitan Interstate Council approved taking on the Township's bikeway planning work. So we are on their schedule. The next step is for Sue to meet with them.

Sue said that at the April meeting there will be a conditional use application for a subordinate residential dwelling. A garage will be remodeled to accommodate the use. St Louis County has approved the ISTS for the added use. The Commission needs to set the area of notification. The site is on Clover Valley Drive east of Homestead Road. She showed a map showing the minimum one-quarter mile notification. A community participation report will be required as a part of the application.

The Commission agreed that the notification area should be one-quarter mile.

Sue said that she has not heard any more on the Nokomis site project.

Sue said that she and Dave Edblom attended a stormwater training seminar in Duluth. Following this it was decided that it would make more sense to put the new stormwater regulations in a separate ordinance from the Zoning Ordinance. This will be ready for review in May or June. There will still be some changes in the Zoning Ordinance referring to the stormwater ordinance. The Town Board approves ordinance changes that are recommended to them by the Commission. The Commission holds the public hearing and the Board comes to the hearing.

Jo said that there will be a stormwater education meeting at 6:30 prior to the May 14 Board meeting. She encouraged anyone who is interested to attend. The State requires that MS4s provide education on stormwater.

**New Business**

None

**Concerns from the Audience**

None

The meeting adjourned at 8:32.