

**Town of Duluth
Planning Commission
Meeting Minutes
July 23, 2015**

The meeting was called to order at 7:00 by Chair, Paul Voge.

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

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

The agenda was approved with the addition of Approval of the July 9 Minutes.

Quenemoen-Schwartz Variance Hearing

Sue reviewed the hearing process and the variance request. Lynn Quenemoen and Wendy Schwartz applied for a variance from the side yard setback of 50 ft to 20 ft for a 24 ft by 28 ft garage on their property at 1988 Patterson Lane. This property is located in Zone District MUNS-4 SENSO. All of the dimensional requirements for the proposed structure for this zone district would be met except for the side yard setback.

Larry Zanko provided a site map showing the topography of the site at 2 ft intervals which Sue projected. The house is located on the side of the hill. There is a considerable drop-off from where the buildings and parking area are located. The area where the garage would be build is a flatter part of the property. Sue said that on Old North Shore Road, from Bergquist Road to where the bridge is out, approximately 1 ¼ miles, there are 17 culverts, which is an indication of how much water comes off the hill.

Sue read the responses to the criteria that must be met for a variance from the application.

Is the proposal in harmony with the general purposes and intent of the Ordinance and consistent with Comprehensive Plan?

1. Construction of a garage in the proposed location will mean minimum visibility of the structure from the road thus maintaining the rural setting.
2. We are at the end of a cul-de-sac and at a lower elevation than the adjacent property. The setback variance from this property (decreasing the 50' setback to 20') will not impact the view from the adjacent property nor impact it in any other way.
3. The owners of the adjacent property (Kim and Nancy Carlson) have expressed their consent and support the requested variance.
4. Placement would be next to an existing structure. This is preferable to spreading the structures out over a larger area. There would be minimal increase in impervious lot coverage – from 3% to 3.4% - well below the permitted 5%.

Practical difficulties/Essential character: 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:

Due to the topography (steep slope and/or difficult access) and location of the existing house and garage, the only practical location for a second large garage is on the west side of the existing structures either to

the north or south of the driveway. Building it to the south of the driveway would place it on a steeper slope and would require a much longer access road resulting in removal of a greater number of trees and the need for more fill and excavation than placement on the north side of the driveway. Placement on the south side would also cause more disruption if natural drainage and would be more visible from the road. The terrain on the north side of the driveway (proposed placement) has minimal slope. The proposed structure would be placed close to the existing driveway requiring a much shorter approach. Placement of the structure in the proposed location is reasonable even though the set back variance is required.

Is the proposed variance a use that is allowed under the Zoning Ordinance?

Yes. The proposed variance is for construction of an accessory structure that would be 672 sf. This is considerably less than the 1,000 sf limit in the Zoning Ordinance and therefore allowable under the Ordinance.

Lynn said that the current garage has only 16' 6" of parking because of the previous owner's shop and loft area and stairs. He said that a second garage is preferable to remodeling and knocking out a wall. The closest neighbor is close, but far above them in elevation. That neighbor has written a letter of support.

Public Testimony

A letter in support of the variance from the neighbors immediately to the north, Kim and Nancy Carlson, was provided and read aloud.

We are aware that our neighbors, Lynn Quenemoen and Wendy Schwartz have made a request for a setback variance. It is our understanding that the typical setback is 50 ft and the request for the proposed structure setback is 20 ft.

We have visually inspected the proposed site and we have no objection to granting the requested variance.

Don Sitter asked why they couldn't build slightly to the south on the property.

Lynn replied that it is difficult topography. It drops off about 6 ft behind the turn around/parking area. He also said that the transformer is situated there.

Jo asked if they could curve the driveway out a little and enter the garage from the other direction.

Lynn said that the utilities were located there and Wendy said that it drops off quickly there.

Sue noted that the bedrock on this site is only about 4 ft down.

Jo asked if Patterson Lane is a private road.

Sue said that the road serves 4 houses and is a private road. There is a road association, but no homeowner association.

John moved to grant the variance because the request is in harmony with the general purposes and intent of the Ordinance; it is consistent with the Comprehensive Plan; there are practical difficulties with the topography of the property; the plight of the property owner is due to circumstances unique to the property and not created by the owner; it is a reasonable and permitted use; and the variance will not alter the essential character of the locality. The construction of a garage in the proposed location will mean minimum visibility of the structure from the road, thus maintaining the rural setting. In addition, due to the topography (steep slope and/or difficult access) and

location of the existing house and garage, the only practical location for a second garage is on the west side of the existing structures either to the north or south of the driveway.

Jo seconded.

The motion passed unanimously.

This ended the public hearing. A short break was taken to put together the Findings of Fact.

Approval of Minutes

The June 25 minutes were approved with the following correction: Clarify that it is the MPCA that charges \$450 for the NPDES/SDS Construction Stormwater Permit.

The July 9 minutes were approved as presented.

Director's Report

Sue said that the Lewis Group Inc.'s Kivi Ranta planned unit development (PUD) hearing will likely be in August. She distributed a timeline for the process. There is a Draft Preliminary Plan that will be sent to pertinent agencies, DNR, Army Corps of Engineers, etc., which are listed in the Zoning Ordinance. These agencies will then have 30 days to respond with any comments. The complete Preliminary Concept Plan will be due on August 17. There will be an Open House for the project on August 10 that will be a part of the Community Participation Report. Notification for the open house and hearing will be mailed to the property owners in the area of notification on July 31. Sue said that PUDs are handled as a conditional use process and the criteria are the same as for a conditional use.

There is a small stream northwest of the restaurant building. The DNR designated this stream as a trout stream this spring so the setback from the stream is now 200 ft instead of 50 ft, which means they will need a variance from that setback.

Sue said that as a part of the process the Commission can impose conditions and/or require that additional materials be provided. Because the development will disturb more than an acre of land, they will need an MPCA permit.

The materials required for the Preliminary Concept Plan are the conditional use application, the variance application, the Community Participation Report, any responses from agencies, and a resource analysis.

Paul asked what kind of ownership will be involved.

Sue said that information would be provided in the final plan.

Brigid asked how big the proposed development is.

Sue said that there will be 8 units. The units are stepped up the hill and the garages are set behind the units. They plan ski trails for the open space. The Commission will be getting a lot of information for the hearing. The first thing that will be heard is the variance. If the variance is approved, the conditional use for the PUD will be heard. She suggested that Commission members review Article XII of the Zoning Ordinance. She said that if an agency provides suggestions on the project, the Commission does not necessarily have to follow them.

Sue said that she would try to get a copy of the draft Preliminary Concept Plan to the Commission before the open house.

Don Sitter asked if they want to build closer to the trout stream than the North Shore Management Board allows, do they need to get a variance from NSMB. Sue said that they did not. She said that the North Shore Management Plan has setbacks but the Town's are generally more stringent.

Old Business

Sue said that there were about 11 or 12 people at the Trails Planning Open House. The survey deadline was extended through to the 24th. At the time of the open house, there were 45 returned surveys; currently there are 81. The next Steering Committee meeting is July 30.

Don Sitter said that at the open house, James Gittemeir had a large map of the Township and had everyone place stickers where they would like to go and then, using magic markers, show routes they would like to take to those destinations. The main destinations were the Town Hall, North Shore Community School, the hiking trail at the Sucker River, McQuade Harbor, Stony Point, Knife River Church, App Road to the North Shore Trail and the Superior Hiking Trail. The obvious routes/roads were Homestead, part of Bergquist, Ryan, McQuade, Korkki, and Old North Shore Roads. He said it was an effective way to show where there was interest in trails.

Don McTavish said that one interesting reply from the survey was from a motorist who would like to see trails because he/she was worried about hitting people who were on the roads for recreation.

For the Ordinance update Sue said that the Town Board will be looking at it at the next meeting. She and Tim are putting together the enforcement part and it will go straight to the Board.

Jo asked if there have been a lot of building permits. Sue said that they have been steady. The Apostolic Church purchased the portable classrooms and applied for a permit to put them on their site. There was an application for a new home on Shilhon. Permits continue to come in.

Concerns from the Audience

None

Don McTavish said that there will be another survey going out to Township residents regarding the Community Center at NSCS and what kind of uses people might want see there.

The meeting adjourned at 8:15.