

**Town of Duluth
Planning Commission
Meeting Minutes
July 28, 2016**

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

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

Also present, Sue Lawson, Planning Director

The agenda was approved with the addition of Terry Michaelson, who would like to address Commission regarding Homestead Drive following the public hearing.

Yankowiak Variance Public Hearing

John Yankowiak was present for the variance hearing.

Sue introduced the variance and the process involved. She showed the vicinity map. John's property is on Greenwood Road in zone district SMU-8. The lot is a nonconforming lot of record. It is 90 ft wide and .63 acres. All other dimensional requirements for SMU-8 are met. John's intention is to build a garage in the approximate location that the old garage was. He would like to build it at 4 ft from the property line, instead of the required 10 ft for side yard setback. The garage that was previously situated there was not parallel to the property line. At its closest it was 6 ft 2 in from the line and at its furthest it was 10 ft 7 in from the line.

Sue read John's request for the variance from his application:

Reduce setback on west property line to 4 ft for new 24 by 30 ft garage. Original garage had a 5 ft 8 in overhead door so no vehicle was parked inside with the east side of door behind the wellhead. Pushing the garage back would be difficult with sloping grade and gas tank.

The site map shows the location of the original garage, the location of the proposed garage, the location of the well head directly in front of and slightly to the east of the proposed garage, and the location of the propane tank directly behind the proposed garage.

Sue read the criteria for approving a variance and the responses from John's application.

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

The existing garage had a 5 ft 8 in overhead door so no vehicle was parked inside with the east side of door behind the wellhead. Pushing garage back would be difficult with sloping grade and gas tank.

A: There is a safety issue with current garage – potential damage to vehicles with obstructions (well head), propane tank and trees. The variance would allow vehicle to be parked in the garage instead of driveway.

B. It will retain the character of the community

Practical Difficulties, Essential Character: "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 and not created by the property owner;

A. Yes. Would like to be able to build a two stall garage with the access/garage door in line with the driveway.

B. Found the agreed upon property line to be incorrect after paying for a survey. The house and garage do not sit parallel with the property lines and would push the garage behind the house and well head.

C. Will have wood siding, shakes on gables, matching shingles, fascia, colors, etc.

Proposed Use of Variance: Is the proposed variance a use that is allowed under the Zoning Ordinance?

Yes.

John said that he used the old garage as more of a storage building than a garage. He has been there for 7 years and would like to be able to park in the garage. The old slab has heaved and is unusable. The new garage, at 24 by 30 ft, would be bigger than the original garage. With the garage parallel to the property line, the angle of the entrance would be away from the well head, making it easier to access the garage.

John Schifsky said that looking at the aerial photograph with property lines imposed on it, it looks like the property line runs right through the garage.

John said that he called the County and they said that the property line could be as much as 30 ft off. When he had it surveyed he found that he lost about 5 ft from what he thought he had. If he had that 5 ft, he could have made it work.

John Schifsky said that it is not expensive to move a propane tank. Could he push the garage back and move it over?

John said that he has a nice apple tree there, the propane tank is there, and it slopes steeply immediately afterward. He would need to cut a number of trees in order to do that. The lots in that area are long and narrow and are hard to work with. Placing the garage there did not make sense to him and he wanted to build approximately where the original garage was.

Wayne said that he was not sure that the location of the well head was an issue. If the garage were pushed back a little, they could easily get by the well head and have some maneuvering room. In the proposed location for the garage, you would have to either back in or back out directly onto the street. It would be safer further back.

John said that pushing it back puts it into the wooded area and it would take a lot of fill. It would be awkward behind the house. The driveway is currently a mess with gravel and broken asphalt. His intention is to clean up the driveway and have it run parallel to the newly surveyed property line. It would be well clear of the well head. It would be a little away from the house. It seemed more practical. He showed some pictures of the site to the Commission.

Sue said that if it were a 3 ft drop it would be roughly 80 to 100 yards of fill.

John suggested that he could make it 22 ft wide, which would be similar to the old garage.

Public Comment

Jo read an email submitted by Earle and Carol Surine:

We are definitely in favor of granting the variance. We know how muddled the property lines are in the Greenwood Beach area, and we are all good neighbors. Grant the variance to let the garage be built, and put the variance in writing for the future.

John noted that the Surines live across the street from him. The only other person potentially affected is his neighbor, Skip. Other neighbors said they had no problem with the proposed garage.

William Cook (Skip) spoke. He is the adjoining neighbor and has lots 7 and 8. He said that he has three surveys on that property line and they are all different. He showed the Commission a large scale map from when the sewer was put in. There are three markers on the lower part of his property that are different, and three on the upper part. In addition, he said that there is not much of a slope on the property; the only slope would be from bringing in material to make a higher plateau. He said that he is not comfortable with anything less than the 10 ft setback.

Wayne said that when he was Planning Director, the company that created the sewer maps said that the sewer maps are not accurate and there is a large margin of error.

Sue said that if there is a registered survey, the registered survey stands. If another registered surveyor were to survey the property and come up with something different, there is a process the County uses to resolve discrepancies. But in lieu of that, the current registered survey stands.

John said that his survey is registered. The County said that they would change the map.

Close of Public Comment

Wayne made a motion to deny the variance request because there is room to accommodate that size of a garage back behind the house and further to the east. Having to bring in fill is not a reason for a variance.

John Schifsky seconded.

Jerry said that he has to agree because of the property line issue. If the garage is 10 ft from the property line it is cushioned.

John Schifsky agreed. The amount of fill may be consequential, but he doesn't think that it is unreasonable to move it further back and in.

Sue said that of the three surveys, John's is the one that is registered and has to be taken as the correct survey.

John said that the corrected survey shifted everyone down. The further back he puts the garage, the more it dwarfs the house. Would it be possible to consider a lesser variance, perhaps 4 ft, so the garage would be 6 ft from the line? He could shrink his garage a little. If he were to push it back, he would only have a view of his garage from his house and deck.

Wayne said that a lesser variance would not change his mind.

John Schifsky agreed. It should be set back 10 ft. There is space and it is also new construction.

Jo said that she was struggling. The original garage was already at the 6 ft variance. One of the intents of setbacks is to not crowd. She felt that it still met the intent of the Ordinance at 4 ft. Moving the garage behind the house and bringing in sediment and cutting trees would have a greater environmental impact.

Jerry said that he wouldn't have a problem with the 6 ft set back, since that is where the original garage was.

The motion passed 3 to 0. Those in favor: John Schifsky, Wayne Dahlberg, Jerry Hauge. Abstaining: Jo Thompson.

Close of Public Hearing

Terry Michaelson spoke next. He is a 40 year resident of the Township and lives at 1594 Homestead Dr. He said that he is also speaking for the McDonald family next door to him.

He said that approximately 3 years ago, the Town approved a conditional permit for Josh Hendrickson on Deerview Trail for the purpose of operating a business, Dryco, from his home. Terry said that he knows that Josh is in the process of moving the business, but he wanted to let the Commission know what has transpired since the permit was issued and how their decision has affected the residents on Homestead Drive. When he got the letter that was sent out notifying neighbors of the hearing, he thought it really couldn't hurt anything and wouldn't be a big deal. Josh is a very nice individual. In the original discussion about the permit, the Commission was concerned about the effect of noise and dust on residents living close to the road. The situation has turned out to be exactly what the Commission was originally concerned about. There has been a significant increase in traffic, dust, and noise. There is a constant flow of employees in in the morning and out in the evening. They go back and forth all day long and into the night, sometimes until 10:00. He believes the process didn't take into consideration the people who would be affected the most. Homestead Drive is one of maybe five private drives in the Township, but it is unique in how busy it is and how close the homes are to the road.

Terry said even outside of Josh's business, Homestead Drive is becoming overutilized. Future decisions will be far reaching. He was there at the beginning when the road was not there. It was never intended for the amount of traffic that it has now. Speeding, careless driving, and young drivers are a big problem on the road. There are constant delivery vehicles on the road. He has a complaint in with Federal Express to have their drivers slow down. The school buses go at dangerous speeds on the road as well. There are a ton of visitors back there as well as businesses and business people. There is a noise problem from 6 am to 1 am. He granted the original easement and the intent of that easement has been far exceeded. Residents at the end of the road, himself included, have joined to pay for dust reduction on that part of the road. He has recently put signs out to slow down. He is sending a letter to his neighbors thanking them for their consideration reminding them that the road is private property and should be respected as such and asking them to tell their visitors, young people and delivery people and bus drivers. He would like to think that community spirit and neighborhood relations will help solve the problem. For the first time in the 40 years he has lived in Duluth Township, he can say that life is not that good in the Township. He recognizes that growth and change are not bad things, but they aren't always what they should be. He thanked the Commission.

Sue said that Josh's interim use permit expires on October 1st. As Terry said, Josh is in the process trying to relocate his business.

Terry said the problems are a result of the decision to grant the interim use permit. It is a safety issue. He said he called the Township police four times today. Someone is going to get seriously injured or killed. He has been told that the police cannot police a private road, but according to his research, when a road becomes used by the general public, it is no longer a private road.

Sue said that he would need to talk to the Town Board about his general concerns over the road. But the Commission appreciates getting the feedback about what has happened since issuing the interim use permit. If Josh doesn't find a new location for the business and wants to extend the permit, there will be another hearing.

Jerry said that the Commission issues an interim use permit based on what the applicant says they will be doing. If, in Josh's case, there is three times as much traffic as he said there would be and he is operating outside the agreed upon hours, is there anything that can be done?

Sue said that if they are listed as conditions on the permit, something could be done.

Jo said it was good to get a perspective on the history on the road. She agreed that there do seem to be a lot of young drivers driving fast in the Township.

Jerry said that he has noticed the increased traffic from Dryco and he lives on Homestead Road, so he can imagine how it has impacted Terry.

Everyone thanked Terry for coming.

The June 23 minutes were approved without change.

Director's Report

The Board has approved a new member for the Commission, Liz Strohmayer. She lives off of Wildwood Road and is a member of the Fire Department. Land Use Permit applications continue to come in, including three new houses. The stormwater garden has been planted and is holding up well. The trails plan was adopted by the Board.

New Business

Sue said that St Louis County is opening bids to demolish the old Clover Valley High School. It is currently zoned LIU-3. The Commission might want to consider recommending rezoning it to FAM-3 to match the surrounding zoning before the County is ready to sell it. There have been several businesses in that structure that have tried to make use of it as an LIU that have not been successful. The Commission is allowed by the Ordinance to initiate a zoning map amendment. The Commission could consider having a public hearing on it in October.

Old Business

Regarding the SMU-8 zoning, Sue said that there is clearly a problem on Greenwood Road. The setback for a garage in the City of Duluth is 3 ft. The Greenwood Road area is not that different from living in town. The lots are small and it is often difficult for people to meet the setbacks as they are now.

Wayne agreed that setbacks and minimum lot sizes and widths should be addressed to be more consistent with the actual situation in that area.

Sue said that she would talk to Clint Little to see if he could provide data on lot sizes and widths for that area.

Jo asked if there is anything that can be done regarding the old incorrect survey. Shouldn't the County resurvey the area?

Wayne said that there is a mass shift of the property lines. The result will be that not all garages and homes are on the lot they are supposed to be on. Spruce Court is in the same situation as Greenwood Road. All the County can do is deal with them one case at a time.

Concerns from the Audience

None.

The meeting adjourned at 8:50.