

**Town of Duluth
Planning Commission
Meeting Minutes
October 27, 2016**

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

Present: Paul Voge, Jo Thompson, Wayne Dahlberg, Jerry Hauge, Larry Zanko and Liz Strohmeyer.

Absent: John Schifsky.

Also present: Sue Lawson, Planning Director.

The agenda was amended to move the approval of the September minutes to after New Business and was approved as amended.

New Business

Slette Variance Hearing

Patti and Loren Slette were present for the hearing.

Sue reviewed the variance hearing process and introduced the variance request. The Slettes want to build a garage addition and are requesting a variance from the allowable expansion of an existing nonconforming structure that does not meet setbacks and a variance from the height for an addition to a nonconforming structure that does not meet setbacks. Their property is on the corner of the Ryan Road and North Shore Drive. Because it is a corner lot, one of the side yard setbacks is actually a road setback. The road setback for zone district SMU-8 is 85 ft. The existing garage is 59 ft from Ryan Road. If an addition is made to a nonconforming structure that does not meet the required setbacks, it can only be enlarged by 25%. The Slettes' proposed addition increases the size of the existing structure by 72%. In addition, the height of the existing structure is 15.5 ft and the height of the proposed structure is 18.5 ft. The addition will come off the back of the existing garage and will be the same width as the existing garage but will be 3 ft higher.

Sue read the criteria for approval of a variance and the responses from the Slettes' application.

Criteria: "Is the proposal in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Plan?" Response: "The purpose of adding on to the garage is the need for additional storage and to eliminate the need for a larger structure in the back yard that would not be aesthetically pleasing."

Criteria: "'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." Response: "a. If we add onto the garage we can get by with an addition that is 28 ft x 26 ft. We can use part of the old garage to back our Lake Superior boat into and keep the addition a little smaller. b. If we have to build a new structure in the back yard we will need it to be about 32 ft x 36 ft. We feel that is using up too much of the back yard and

would rather not have two garages. c. If we do build a garage in the back yard it will be directly in front of the French River Lutheran Church and their view of the lake. We would like to avoid this if possible.”

The proposed use is a use that is allowed under the Ordinance.

Loren showed the Commission photos of his site.

Sue said that, generally speaking, the intent of road setbacks is to allow room for infrastructure such as power and internet and for privacy.

Jo asked when the existing garage was built.

Loren said that they bought the property in 1984 and built the garage in the late 80s or early 90s. There were cabins on the site when they bought it. They had a permit for the garage.

Patti said that the area behind garage is unusable for anything else and is the best spot for the addition.

Loren said the addition would come off of the old garage and end up just short of the driveway. He needs a 12 ft door and the existing walls are 10 ft, so the addition would need to be 3 ft higher than the existing structure. If these variances were not approved, their only alternative would be a separate 32 ft by 36 ft garage further in on the property. It would take up the back yard, and would block the view of the lake from the church.

Larry calculated that an addition onto the existing garage would save 424 sq ft as compared to building a separate 32 ft by 36 ft garage.

Wayne said that a separate building would also require additional driveway.

There was no public comment.

Larry made a motion to approve the variances as applied for in that they are in harmony with the general purposes and intent of the Ordinance and are consistent with the Comprehensive Plan because they are adding onto an existing structure, thereby minimizing the needed square footage compared to what would be needed if a separate structure were to be built. The property owner is using the property in a reasonable manner in adding onto an existing structure. The plight of the property owner is due to circumstances unique to the property due to the existing road setback, and the geometry of the site. It does not alter the essential character of the neighborhood in that it is an addition to an existing structure and it preserves the view of the lake for the neighboring church.

Wayne seconded.

The motion was approved unanimously.

Stacey Seering STR Interim Use Amendment Request

Stacey Seering was present to request an amendment to his short-term rental interim use at 5092 River Road. He said that they have had a spectacular year of renting. They reached the 140 nights allowed by their permit and have had to turn down 21 nights so far for the remainder of the year. They are losing money and would like to get that self-imposed number changed to 175 to 200 nights per year or eliminated completely. They run the same rates year around. They don't necessarily want more winter bookings, but when spring is early and fall is late, it would be nice to be able to offer the rental more.

Sue read from Article IX Section 8.E of the Ordinance regarding amendments to interim use permits:

Holders of an interim use permit may propose amendments to the permit at any time, following the procedures for a new conditional use permit set forth in this Ordinance. No significant changes in the circumstances or the scope of the interim use shall be undertaken without approval by the Planning Commission. The Planning Commission shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, and operational modifications resulting in increased external activities and traffic. The Planning Commission may approve significant changes and modifications to interim use permits, and may revise or apply additional conditions. The user agrees to any conditions that the Planning Commission deems appropriate for permission of the use.

Paul said that nothing is changing except for the additional nights.

Wayne said that it is an operational modification.

Stacey said that there might be some years that they don't use the extra nights, but they would like to have them available. They reached the limit this year and hated turning people away.

Paul asked if it would require a new interim use permit application and process.

Wayne said that the Commission first has to determine whether the request would be considered a significant change under the Ordinance. How many extra days would be considered a significant change?

Liz said that she thought additional nights would increase external activities and traffic and so would be a significant change.

One hundred and forty days is 38% of the year, 175 days would be about 48% of the year, and 182 days would be half the year. 200 days would be a 43% increase over their current allotment.

Stacey said that 175 days would probably be sufficient.

Paul noted that the Commission renewed the interim use in January 2016 to continue for as long as the Seerings own the property plus an additional 6 months after potential sale of the property.

Wayne moved that the Commission treat the increase from 140 rental days to 175 as a significant enough change to require a new application, the conditional use process, and a public hearing.

Liz seconded.

Wayne said that he felt that the increase in days was an operational modification that should be considered a significant change.

Liz said that River Road is a private dead end road. Additional nights would result in an increase of traffic. Tension already exists on the road over the rental. A potential increase of traffic by 25% is a significant increase.

Wayne said that from what he remembers of the January 2016 hearing, most neighbors supported the Seerings' request, but there was one neighbor who did not.

Stacey said that that issue has since been resolved in the courts.

The motion passed unanimously.

Sue summarized: The hearing would be only for the increase in rental days. The same neighbors would be notified as were notified for the last hearing. Would the Commission want to require another community participation report?

Liz made a motion to waive the requirement for an updated community participation report. The hearing will be solely on the request of the applicant to amend the maximum number of rental days from 140 days per calendar year to 175 days. The notification area will be the same as it was for the last hearing on the short-term rental.

Jerry seconded.

Liz said that given the number of days that they have had to turn down renters, they would have almost reached 175 days for this year already. Is it likely that they would want more days in the future?

Stacey said that 175 days is fine; they don't want to disturb things too much. He said that January would work for the hearing date.

Jo said that if the community participation report is not required and it is an abbreviated hearing on just the number of days, the required fee did not seem fair to her.

Paul said that the Commission doesn't have the authority to change the fee.

Sue said that the costs for the hearing are the same, with advertising and mailing and time.

The motion passed unanimously.

Approval of the September Minutes

The September minutes were approved with the following changes:

Line 201: Insert “businesses” after “There are some”

Line 269-270: Delete reference to Tofte

Lines 288-290: “The County wants...” to “The County generally wants...” and delete last sentence of paragraph.

Line 304: Change “incorporated” to “addressed”

Old Business

Sue said that Carla Blumberg and Barb Neubert are not going to move forward with the PUD they had discussed with the Commission in September. Carla had hoped to talk tonight to the Commission about the reasons they decided against it and talk more about what their vision was for senior housing in the Township, but she was unable to make the meeting. Sue said that Carla told her that they determined that twenty acres was not large enough to accommodate a conventional system for everything they wanted to do. They also did not feel confident that they could get the zoning changed to commercial for the site. Sue told them that the Commission would be open any time for further discussion about senior housing.

Director’s Report

Sue said that there will be another SMU-6 variance hearing in November. It’s for a side yard setback at 5744 North Shore Drive. The usual meeting date for November falls on Thanksgiving, so the Commission decided to meet on Tuesday, the 22nd of November. The Commission would decide at that meeting if a December meeting would be needed.

Sue said that she will write up a document for the potential rezoning of the old Clover Valley High School site.

For the hearing for the SMU-8 rezoning, Sue suggested having an open house in the spring.

Jo said that it would be a good idea to put effort into contacting people in that area besides notifying just through the website and the usual advertising.

Sue reported that the Town Board settled the issue of whether or not all of Beck Road was a Town road. It was determined that the Town had maintained the entire road for the last six years and it was a road used by the public, so it was agreed it was a Town Road.

The Board is also looking at projects that meet the requirements for community center spending at North Shore Community School. There is about \$280,000 left in the Community Center fund.

In addition, Janet Johansen is resigning as the Town’s treasurer. The Board has advertised for the position and will meet next week to decide on a replacement.

The holiday potluck will be immediately following the December 8 Town Board meeting. The Board meets earlier than usual and tries to finish quickly so the potluck can begin at 7 or so.

The meeting adjourned at 8:40.