

**Town of Duluth
Planning Commission
Meeting Minutes
February 23, 2017**

The meeting was called to order at 7:02 pm by Vice Chair Jo Thompson.

Present: Jo Thompson, John Schifsky, Wayne Dahlberg, Jerry Hauge, and Liz Strohmayer.

Absent: Paul Voge and Larry Zanko.

Also present: Sue Lawson, Planning Director.

The agenda was approved as presented.

Public Hearing: Rezoning of the Clover Valley High School Property

Sue introduced the hearing and the process for the hearing. The Town of Duluth is proposing a zoning map amendment to rezone the property associated with the Clover Valley High School from LIU-3A to FAM-3. Based on the findings of the hearing, the Planning Commission will make a recommendation to the Town Board within 20 days of the hearing. The Town Board then makes the decision regarding the rezoning.

Sue showed maps of the site. There are three parcels involved, a 5 acre parcel where the school was located and an adjacent 5 acre parcel and an adjacent 15 acre parcel. The zone district surrounding these parcels is FAM-3.

She recounted a brief history of the property. The school closed in 1974. Subsequent to that, numerous attempts were made to develop the property, none with long term success. The building deteriorated over time to the point that it was hazardous to public health and safety and was removed. She said that based on the failure to find a long term industrial use for the property over almost 40 years, it seems that the uses in a LIU zone district are not suitable uses for this property.

The criteria for a zoning map decision (Article 11 Section 4.A) are:

1. The proposed zoning shall be consistent with the Comprehensive Plan.
2. A clear public need or benefit to be met by the requested zoning change shall exist, which is beyond any benefit or convenience to the landowner.
3. In the case of changing a zone district from a higher density or more intensive use to a less dense or less intense use, the proposed zoning shall allow the property owner(s) a reasonable use of their property under the terms of this Ordinance, as well as serve the public interest.
4. No application for change in the boundary line of zones or districts may be granted unless at least fifty percent (50%) of the owners of the lands proposed to be changed file a petition for the change.

Sue summarized the Comprehensive Land Use Plan policies as they apply to the property.

The CLUP directs the Town to limit or redirect development that puts at risk the carrying capacity of land or watersheds. Further, it directs that land should be developed with respect for the physical limitation of natural resources so that a quality environment can be enhanced and preserved. The Plan directs the Town to control the effects of development to minimize the risk of water contamination of Lake Superior and its tributaries. It also

directs that the Town identify and preserve all significant wetland areas vital to the protection of fisheries and wildlife, and to minimize flooding.

Stanley Creek, which is a trout stream, runs across the northern part of the property and a tributary to Stanley Creek flows through the property from the southwest corner to the northeast corner. There are significant wetlands associated with these streams. The DNR has an easement along the streams for fish habitat improvement. A petition to the St Louis County Planning Commission to rezone the property to commercial was denied because of the property's proximity to Stanley Creek. The property would be more appropriately zoned as FAM-3, which would not present the risks to the trout stream that a commercial or industrial use would.

In addition, the map in the CLUP shows the general desired zoning for the area as Upland Rural.

There is a clear public benefit to rezoning the district to FAM-3 as it will be returned to the tax rolls. In addition, the FAM-3 designation of the surrounding zone district is more compatible with the area than the LIU designation.

Fifty percent or more of the owners of the lands proposed for rezoning support the rezoning. The property is tax forfeit land that is owned and administered by the County. There is a letter from the County supporting it.

Public Testimony

No comments, beyond a letter in support from the St Louis County, were submitted prior to the hearing.

Darren Jablonsky of the St Louis County Planning Department spoke. He summarized the letter he submitted on behalf of the County. He said that the County supports the rezoning and that with the school removed, the original intent of the LIU zoning no longer exists. The County supports the upland rural classification and the adjacent FAM-3 zoning which reflects that classification. The proposed zoning for the site is consistent with the Town's CLUP and adjacent zoning. Homestead Road is a County highway and will support any development resulting from the rezoning. The public is served by getting the property back on the tax rolls. St Louis County wants to work with the community so that when the property is sold, it is consistent with the community's vision and CLUP.

Public testimony was closed.

Jo noted that the Commission needed to make a recommendation this evening, because the Commission has just 20 days from the public hearing to do so.

John Schifsky moved that the zoning of the three parcels associated with Clover Valley High School be changed from LIU-3 to FAM-3 in that the change would be consistent with the Comprehensive Plan and the upland rural zoning surrounding it. There is a public benefit to rezoning the property. Changing the zoning to FAM-3 will allow a reasonable use of the property. Over fifty percent of the owners of the land support the change in zoning. A representative of St Louis County is here to support the rezoning and, in addition, the County has submitted a letter in support of the rezoning.

Jo Thompson seconded the motion.

The motion passed unanimously.

A break was taken for the recommendation to the Board to be drafted and signed.

Public Hearing: Allen Variance

Sue introduced the process for the variance and the variance request. She showed a vicinity map with the property which is at 6210 Bergquist Rd. The property is in zone district MUNS-4. Tom and Robin Allen are requesting a variance from the required road setback of 100 ft to 50 ft to build a 24 ft by 40 ft garage. They meet the other dimensional requirements for MUNS-4. They state in the application that the structure will be screened by existing large trees and would fit the property much more aesthetically in this position and impervious surface area would be kept to a minimum.

She showed the site map with existing structures and placement of the proposed garage.

She read the criteria for granting a variance and the responses to them from the application:

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

Applicants' response: This variance will keep impervious surfaces to a minimum. It will make the proposed garage less noticeable and more a part of the existing home/garage/shed footprint. The only other suitable site to the south will be in the open and look out of place on the property and add substantially more impervious surface due to new driveway and entrance needed.

"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;*
- c) The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.*

Applicants' response: The way the property was built sets up the need to have this large garage positioned to the north of the existing house and garage. Essential character of the home site will remain intact with this variance. Positioning this garage addition to the south causes it to stick out on the property.

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

Applicants' response: Yes.

Tom said that they inherited the property from his mother-in-law who just passed away. It makes sense to him to have the garage tucked behind the trees. The house was built too close to the road to begin with, but there is nothing that can be done about that. The pine trees will shield the garage from the road. Having it there will be easier on the existing land. They would not have to bring in fill there. The way the land is set up, he feels like the proposed garage fits there. He does not want to put it in the front yard. It would be better tucked behind the trees than out in the open where neighbors would have to look at it every time they drive by. They are also putting a 12 by 25 ft addition on the back of the house.

Wayne asked if he had explored other areas to put the garage. The existing garage is 76 ft from the centerline which would be better than 50 ft. There is plenty of room to the side to do that.

Tom said that there is a well directly to the north of the proposed garage. If they placed it behind the well, further to the north, they would have to take out a lot of trees.

Liz asked about adding onto the existing garage.

Tom said that there is a water line directly behind the existing garage. There is also a line going from the well to the barn.

Wayne said that if they went to the north and behind the well, it would get into the treed area. It might not be the most convenient, but it would be in compliance. He said that the lot coverage is currently only 1% and there is room to do a lot of things without asking for such a large variance.

Jo said that she visited the site. The existing house and garage do not meet the road setback and it doesn't make sense to her to place the new garage further back than the house. Moving it back would get into wetlands.

John said that he visited the site, too, and north of the garage is swamp and alder brush all the way to the north property line.

Liz asked about putting the garage on the south side of house. It would not add that much to the driveway.

Jo asked what the distance is from the road to the mound.

Tom said that it could be put to the south of the house and in front of the mound, but it would essentially be in the front yard.

Wayne said it's hard to imagine that on 20 acres, the only place to build is right on top of the road.

There was no public testimony.

John Schifsky made a motion to deny the variance request because it is not in harmony with the general purpose and intent of the Ordinance and because the structure could be built elsewhere on the property where it would meet setbacks.

Liz seconded.

John said that when he was out at the site, he was conscious of the fact that the proposed location of the garage was way too close to the road, but he can understand why Tom wants to put it there. He said that he is glad he went because the aerial photograph doesn't really show what that edge of trees is like. It is wet all the way north and there is a really thick stand of pine trees. He also saw the well head. The building would have to be moved east to be moved north and it is wet there. John said that he also understands why Wayne thinks that there should be adequate room to build elsewhere and meet setbacks. One of the reasons for setbacks is to protect neighbors and there aren't many neighbors there. Another is to provide room for emergency access. Electricity is already in. All in all, John said that he thought it makes sense to put the building where Tom proposes.

Wayne said that he built a garage on his property in the middle of his shelter belt because he had no other place to put it. He didn't want to put it there, but he wanted to meet the setbacks. He said that we need to be careful about how we administer the Ordinance in terms of variance requests. Maybe the Commission should consider a compromise between 50 and 100 ft, but to be just 17 ft from the property line doesn't make sense to him. This level of variance is too much. He would like to see it not exceed the setback of the existing garage which is 75 or 76 ft. It may have to be at an angle to do so and not be parallel to the road.

John asked if the garage were shifted further east, would that require cutting the two big white pines there.

Tom said he would try to save the two trees.

John withdrew the motion to deny the variance.

Wayne Dahlberg moved that a variance be granted for the front corner of the garage to be set back 70 feet from the road instead of the requested 50 ft and the building be angled to the northeast to minimize the visual impact.

Jerry Hauge seconded.

The motion passed unanimously.

A break was taken for the findings and decision document to be prepared.

The January 26 minutes were approved with the following changes:

- Lines 205-206 – Remove last sentence in the paragraph because it isn't relevant.
- Lines 111-112 – A phrase is doubled in the sentence. Remove one.

Old Business

Sue said that the lights at the greenhouse on Clover Valley Road were monitored for a week and were always on before 6 am and always on after 6 pm. She met with the Town's attorney to discuss enforcement options. She wrote a letter to both the land owner and the greenhouse operator. She also wrote a letter to the neighbors to let them know what is being done. She met Mike Mageau at the greenhouse on Monday and looked at the light timers. The timers appeared to be set at appropriate times. They are on different circuits and it is possible the circuits malfunctioned. Mike apologized. Mike said that they are still looking at options for a new location for the greenhouse. They still plan on moving it in the spring.

SMU-8 Evaluation

Sue said she and John and Clint Little and Beth met to continue the evaluation of the SMU-8 zone district. They looked at 80 ft as a minimum lot width for the lower and central part of the district. Limiting factors to build out at this width are stream topography and combined lots. The lot widths are in a database. Firewise says that the minimum distance between woods and a wood structure should be 30 ft to keep radiant heat from combusting the wood structure. A 15 ft setback would make it 30 ft between houses. The setback for accessory structures is 10 ft which negates the desired 30 ft fire zone. The original thinking from John's and Wayne's evaluation was to leave the zoning of the upper part of that area as it is.

New Business

Sue said that there will be a public hearing next month for a CUP for a short-term rental on River Road off of Wildwood Road. It will be on the same easement as Stacey Seering. The Commission decided on the same notification area as was used for the Seering CUP.

Director's Report

Sue said that Wayne's first term on the Commission is up in March, but he has agreed to serve another term. Paul has served two terms so is done. There will be an advertisement in the newsletter for his position.

Jo and Val are planning the annual public education project for the Town's MS4.

Jo said that as part of the MS4 requirements, the Town has to have an outreach effort. Last year she and Val had a table out in the parking lot during Saturday recycling. They had a lot of attendees, more than if they had held a meeting. So they are planning on doing that again in May.

Sue said that the Annual Meeting will be on Tuesday, March 14, at 8 pm.

Sue asked if the Commission would like to change anything about the way they conduct public hearings.

Jo said that she still felt like it was awkward addressing criteria. It would be nice if that could be smoother. But, in general, the hearings go well.

John said that he was conscious of people waiting to talk. Would it be possible to bump audience input forward?

Jerry said that he found it helpful when the purpose of a setback is explained.

Concerns from the Audience

None.

Jo said that she is serving on an ad hoc group called the Arts and Heritage Group. There are many artists, musicians, and writers in the Township. On Saturday March 18 there will be an art celebration from 6:30 to 9. There will be musicians, quilts, fiber artists, potters, poets, and other artists.

Jerry said he would not be able to attend next month's meeting.

The meeting adjourned at 9:15.