

**Town of Duluth
Planning Commission
Meeting Minutes
July 26, 2018**

The meeting was called to order at 6:30 pm by Chair Jo Thompson.

Present: Jo Thompson, Wayne Dahlberg, John Schifsky, Jerry Hauge, Larry Zanko, Liz Strohmayer and Dave Edblom.

Also present: Sue Lawson, Planning Director.

The agenda was approved as presented.

Public Hearing for Proposed Ordinance Changes

Sue had compiled the proposed Ordinance changes, including the changes recommended by the Commission at the June Planning Commission meeting. The hearing was advertised and the proposed changes were made available for public comment. No comments were received. For the Zoning Map proposed change of one parcel from LIU-3A to MUNS-4, correcting a previous oversight and returning that parcel to its intended zone, letters were sent to neighbors within one half mile of the proposed change. There were inquiries regarding the change, but no comments were received.

In response to a question from the audience Sue showed the map of the proposed zoning map change, showing the LIU-3A area and the surrounding properties. She showed the parcel that was requested to be removed from the LIU-3A zone district.

There were no comments from the audience.

John made a motion that the proposed changes be recommended to the Town Board. Larry seconded. The motion was approved unanimously.

The June meeting minutes were approved with one change. Liz asked that the portion of the sentence on line 202 saying that “the County is doing nothing” be removed.

New Business

None.

Director’s Report

Sue said that the Town received the STAR grant for updating the comprehensive plan. The start date for the grant is December 1.

Jo said that the annual Stormwater meeting will be on August 9 at 6:30, at the beginning of the Town Board meeting.

Old Business

None.

Johns Variance Hearing

Sue introduced the hearing and the process for the hearing.

The Johns are asking for a variance from the required setback from the Sucker River from 200 ft to 150 ft and a variance from the required 50% of required lot size for a non-conforming lot for construction of a 14 ft by 32 ft garage at their property at 6344 McQuade Rd. The minimum lot size for FAM-3 is 9 acres. 50% of that is 4.5 acres. The Johns' lot is 3 acres and is a non-conforming lot. The garage will take the place of a Start Logic structure that did not have a land use permit. The proposed structure meets all the other setbacks and requirements for the zone. Sue showed a map of the area and a site map.

Wayne asked when the lot was created. The Zoning Ordinance was enacted in 1976. Alex said that he had lived there for over 20 years. Les Grumdahl, the adjacent property owner to the north, said that he moved there in 1979 and the lot was in existence at that time. It had a mobile home and a garage on it at the time.

Jo said that the DNR has an easement along the river.

Alex said that the DNR bought 33 ft of river frontage when they originally bought the property. The DNR plans to plant trees on that land along the river.

Jo noted that Jamie Juenemann recently gave a presentation on improving the river and riparian area for fishing areas that the DNT buys.

Bruce Hauger, from the audience, asked if this variance would affect the Sucker River watershed.

Sue said that there are two primary tools for protection of watersheds in the Ordinance. The first is by requiring a 200 ft setback from rivers for building. The second is to limit the amount of impervious surface on a property to limit runoff. The DNR planting trees along the river there will protect the river as well.

Les asked what the side yard setback requirement is. Sue said that it is 75 ft and it is met for the new structure. There is a structure that is closer to the side yard, but the setback requirement before 2002 was 50 ft so it met the requirement existing at that time.

Public Testimony

No written comments were received prior to the meeting.

Les said that he just wanted to see what the proposed project was about. His main concern was that it did not encroach on his property.

End of Public Testimony

Wayne made a motion to approve the variances because of the practical difficulties of the lot. If you add up all of the required setbacks, there is no buildable area on the lot. The proposed location is appropriate. Jerry seconded.

Liz made a motion to split the motion and hear the criteria individually. Larry seconded. The motion passed unanimously.

John made a motion that the proposal is in harmony with the general purposes and intent of the Ordinance because the definition of FAM-3 is “This district is intended to recognize and promote the development of the Township’s forestry and agricultural industry, to maintain and promote the rural character of the Township, and to prevent urban and suburban encroachment on the area. A low level of development is important in this district since the uses encouraged in FAM-3 would be less compatible in a more urban setting.” and he believes that the proposal is a low level of development and meets the spirit of the description for FAM-3. Jerry seconded.

Jo said that achieving 50% of the 9-acre lot requirement is difficult in this case. It is an existing cluster of structures and is a reasonable use. With the DNR’s riparian plan, she believes the river will be adequately protected.

Larry said that as the property exists, there is only one logical location for the structure. There are already structures on the property.

The motion passed unanimously.

John made a motion that the proposal is consistent with the Comprehensive Plan because in the Community Vision it states that “The Town of Duluth is known as a well-managed rural community that is community oriented and in balance with its many natural amenities” with “well-designed developments.” The proposed structure meets the vision statement. The buildings are clustered so as to preserve the natural amenities. Larry seconded.

The motion passed unanimously.

Dave made a motion that the proposal uses the property in a reasonable manner not permitted by the Zoning Ordinance because the land use is not changed. Wayne seconded.

The motion passed unanimously.

Larry made a motion that the circumstances are unique to the property and are not created by the property owner because the property is unique and the dimensions of the property prevent the structure from being placed anywhere else on the lot. Dave seconded.

The motion passed unanimously.

Jerry made a motion that the variance will not alter the essential character of the locality because he is enclosing an existing garage pad with a permanent structure. Dave seconded.

Liz noted that the variance request is for the building as though it did not already exist.

Sue said that there is a temporary structure in place already. Many people think that a temporary structure doesn’t require a land use permit, but that is not correct. It is a common misconception. This variance application is to construct the building, but if the variance is not granted, they will need to remove the temporary structure in place now.

Jo thought that a two-stall garage was in character with the locality.

The motion passed unanimously.

John made a motion that a condition be imposed that the riparian area be maintained with unmown grass at least 10 ft from the river. This will help protect the river until the DNR enhancement is in place. Dave seconded.

Jo said that her biggest concern has been the riparian area. It is currently mowed down to the river. With the DNR planning to make improvements to protect the river, she feels this concern is alleviated.

Sue said that the Ordinance already says that the cultivated lawns and lawn fertilizer are not permitted in the filter strips along rivers, so setting a condition for that would be redundant.

John said that he thinks it should not be mown at all. It's a wide drainage area to the river and he would like to see taller grass and vegetation in that area until the DNR completes the improvements and until the trees that are planted by the DNR are big enough to protect the river.

Alex said that he mowed the area once in the spring when the grass was dead.

Jo said that mown grass areas have shallow root systems and are more vulnerable to erosion. Taller grasses have a deeper, more robust root system.

Liz said that the Ordinance indicates that the filter strip is the required setback from the river, which is 200 ft. That would extend past the house.

Sue said that it is understood that vegetation has to be maintained in a short manner around the house for fire protection. Firewise recommends a 30 ft mowed zone around the house.

Jo said that the State requires an average buffer of 50 ft from a stream.

Liz said that 50 ft would be reasonable, allowing room to have a lawn and also providing a buffer for the river.

Dave asked why 33 ft isn't good enough since that is what the DNR is doing.

Jerry said that the easement is 33 ft and the DNR has conditions on it. He thinks that John's motion is reasonable.

John said that he wants to leave room for a lawn. He saw no indication of erosion when he visited the site, but would like to provide a buffer. A 10 ft vegetative strip along the river would provide that buffer.

Wayne suggested it be a minimum of 10 ft and that it not be mowed where the DNR plants the trees.

Jo countered that the DNR is putting in a 30 ft buffer which will be much more protective than this 10 ft.

Dave said that this would be something to provide a buffer until the DNR enhancements are in place.

The motion passed with Jo opposing.

The main motion to approve the variances, including the condition as set above, was approved unanimously.

Concerns from the Audience

None.

The decision document and findings of fact were written and approved.

The meeting adjourned at 8:32.