

**Town of Duluth
Planning Commission
Meeting Minutes
March 22, 2018**

The meeting was called to order at 7:04 pm by Chair Jo Thompson.

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

Absent: Jerry Hauge.

Also present: Sue Lawson, Planning Director and Rolf Carlson, Town Board liaison to the Planning Commission.

Jo suggested adding to the agenda an overview of the short-term rental decision the Town Board made prior to the public hearing. The agenda was approved with that addition.

Sue read the text of the new short-term rental language as approved by the Board as an amendment to the Ordinance (see attached).

Sharon DeLeo - Interim Use Extension Hearing

Sue introduced the hearing. She read the Town's communication agreement and outlined the process for the hearing. Sharon DeLeo has an interim use for a short-term rental at her property at 5359 North Shore Drive. The rental is in a separate building behind her primary residence. The interim use permit was originally granted on February 26, 2015 for a three year period. A variance from the 50 ft side yard setback was granted at the same time. Sue read the conditions that the Commission set for the rental at that time:

- 1) The owners shall obtain any and all licenses, permits, or other governmental approvals required by any governmental agency, board, department, or other governmental entity with jurisdiction.
- 2) Thirty (30) days prior to rental of the property in any calendar year and anytime the contact information changes, the property owner shall provide to the Township Planning Director the name and phone number of a contact person with the capability and authority to address complaints or concerns regarding the property. This phone number shall also be provided to all other property owners within five hundred (500) feet of the lot boundary. The contact person must be available at all times during rental periods, and able to be at the property within thirty (30) minutes.
- 3) A log shall be kept of the renter, date of arrival, date of departure, and number of guests for all rentals. A copy of the log shall be provided to Planning Director upon request.
- 4) Off street parking shall be provided.
- 5) No temporary sleeping facilities may be used on the property during rentals (i.e. recreational camping vehicles, tents, etc.).
- 6) The rental frequency will be one night or longer and there will be no more than one party per rental period.
- 7) Adequate visual screening must be maintained between rental property and adjoining property to the east.
- 8) Quiet will be maintained from 10 P.M. to 8 A.M.
- 9) Use will commence on May 1, 2015 and expire April 30, 2018.

Sue showed the record of rentals that Sharon provided. The unit was rented approximately 18 weekends per year, primarily in summer and early fall.

Sharon said that she turns away a lot of people on busy Duluth weekends. She could have more rental units and fill them easily. Renters have been very respectable and**.

John said that at the original hearing she had said that because the rental was especially built to be handicapped accessible, she would work to attract people with limited mobility. Has that turned out to be a feature that attracts renters?

Sharon said the facilities are still amenable to handicapped use and that renters have taken advantage of that.

John asked, when considering how long to extend the permit for, what the cost is for Sharon to return each time she wants to extend the permit.

Sue said that the cost is what it takes to advertise the hearing. There is also the additional time and the preparation of a new Community Participation Report. Sharon had asked to make the permit a conditional use so that it could continue with the property, but with the new language in the Ordinance, that is not possible. So Sharon asked that the permit be extended for as long as she owns the property.

Sharon said that she had hoped to use the rental as a selling point when she sold the property.

Sue outlined what was required by the Ordinance for an extension of an interim use.

Public Testimony

No one had signed up to speak.

One email in support had been received prior to the hearing. This was from Jared Peterson and Beth read it into the record:

Dear Ms. Mullan-

I am writing in response to your letter about Sharon DeLeo attempting to renew her Interim Use Permit at 5359 North Shore Drive. I own property North of her on North Shore Drive.

I have met Ms. DeLeo in the past but she has not asked me to write this email. I have never heard one complaint about her renting a portion of her property as a short term rental. I see her rental property as a positive for those residing in the township. If friends visit and need a place to stay this is a nice option. Higher property taxes, sewer fees, and other increasing expenses make it more difficult for people to own property in Duluth Township. Sharon should be allowed to rent a portion of her property to offset some of those expenses. People staying at Sharon's property would be more likely to eat at a restaurant or spend other money in the township too. My request is that her permit be renewed. Thank you.

End of Public Testimony

Sue said that she checked with the Township police and there have been no complaints associated with the rental. Nor has she received any complaints associated with it.

John Schifsky moved to approve the extension of Sharon DeLeo's interim use permit to coincide with her ownership of the property as the short-term rental has demonstrated compatibility with the neighborhood, there

have been no issues reported with the rental and there have been no additional costs for the Township. Dave Edblom seconded. The motion passed unanimously.

The Commission took a break until 8:00 to write the decision.

Tom and Ginny Desutter Bed and Breakfast CUP Hearing

Sue read the definition of Bed and Breakfast from the Ordinance: A building designed as a single-family dwelling containing from one (1) to six (6) dwelling units providing lodging accommodations by prior arrangement, for compensation, with restrictions on the time involved. The primary residence in the building must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests. It must have an approved sewage disposal system.

Sue read the DeSutters' description of the proposed B&B from their application:

Mission Statement: Provide short-term rental lodging, with minimal impact on surrounding neighborhood, expanding the economic impact to the North Shore Community.

Living at 5627 North Shore Drive for more than 35 years, and raising our family here, has instilled an appreciation for the North Shore and our community of friends and neighbors. Our home has four bedrooms, three full baths and a completely finished basement. With plenty of space for the two of us, sharing that space seems a logical and practical way to enhance our retirement income, and share the beauty of the North Shore we have grown to love and appreciate.

The goal is the establishment of a short-term rental via AirBnB. Our fully furnished basement, including a separate bedroom, bathroom and living area, will serve as the rental space. Implementation of the BnB would require no construction, and no change to the footprint of our home. We are simply utilizing our completely finished walkout basement as the rental space. Our intent is to utilize the space as the BnB approximately 100 nights a year.

Our present 2.3 acres fall with the zoning guidelines established by the Duluth Township. Not only are we within the acreage requirement, but our 2.3 acres also provides for plenty of parking space. Potential clients at the BnB would most likely mean one additional vehicle parked on our secluded property. Our property, at 5627 North Shore Drive is actually bordered on three sides by a natural landscape barrier of primarily native pine. This natural barrier is seen as a factor in minimizing the impact of our BnB on our neighborhood. Please see attached aerial photos of our property, the dimensions, and the borders, including the wooded areas.

Sue went through the questions regarding the use from the application and the DeSutters' answers. The hours of operation would be check-in after 3 pm and check-out before 11 am. There would be 1 to 5 visitors to the site per day for approximately 100 days of the year, with no employees or additional deliveries. Additional traffic generated by the use would be the 1-5 visitors per day. The total number of vehicles coming to the AirBnB would be an average of 1 with a maximum of 2 vehicles while the BnB was in operation.

Regarding signs, Tom asked if suspending a small sign from their mailbox, only when the BnB was open, would be okay. John looked it up and the Ordinance allows home-based businesses and bed and breakfasts one on-site sign not to exceed 20 sq ft or 8 ft tall and not to be lit. Tom said that he would have the sign on the mailbox then when they are operating.

Activities at the BnB will not generate dust, smoke, smells, pollution, etc. Noise from the operation will not be heard on adjacent properties. There are no proposed structures. There will be no outdoor work or storage areas.

There are no wetlands that will be affected. Wastewater is handled by DNSSD. Water will be supplied by the existing well. The only waste will be household garbage and that will be stored in the garage and removed by a vendor.

Sue summarized the Community Participation Report and had the Commission refer to a copy of the report for details. There were 16 property owners within the one-quarter mile notification area. There were a few that they were not able to contact. Otherwise the only concern was whether or not Tom and Ginny would be present during rental periods.

Tom said that he assured that individual that they would only rent when they were there.

Tom said that for the Community Participation Report, there were a few people who didn't respond at all. He was especially concerned to make sure that the people who live next to him were okay with his proposal. All of those who actually live by him did respond. He knocked on a few doors, too. He said that everyone was very supportive.

Dave asked what exactly an AirBnB was.

Tom said that it is essentially a software system through which people can go online and book rentals. Guests and hosts are rated. If a renter's ratings are not good, they can decline the request to renter. Most AirBnBs do not provide breakfast. They don't plan on providing breakfast either. Rentals are booked and paid through the AirBnB software. AirBnB provides insurance, too.

Mary said that they have stayed at many AirBnBs across the country and Canada and those experiences have been very positive. Their rental situation is pretty private. They have stayed in some where you share a bathroom with the owner. Mary said that on AirBnB, a renter cannot be turned down based on race, religion, etc.

Public Testimony

No one had signed up to speak.

One email in support had been received by the Township prior to the hearing. This was from Mary Ann Sironen and Beth read it into the record:

Hello Fellow Townsfolk,

Tom and Ginny are my neighbors to the west and I'm fully supportive of their request for a Bed and Breakfast. I'm familiar with their home and the changes they made are lovely... would be happy to stay there myself! They're surrounded by trees and green space that set them apart nicely. The public activity at Bluebird Landing is something we see on a regular basis so a couple more people in the neighborhood aren't going to cause any difficulty that I could imagine.

Best regards, Mary Ann Sironen

End of Public Testimony

Sue read the criteria for making a decision from the Application and the DeSutters' response to those criteria.

1. The proposed use is consistent with the Comprehensive Plan and within the spirit and intent of this Ordinance. *Applicant states:* Chapter Two of the Duluth Township Comprehensive Plan recognizes township issues and concerns including protecting natural resources, maintaining our rural character and balancing individual property rights with the needs of the community. Establishing our BnB will have minimal impact on the Township's natural resources. Indeed, potential guests could enjoy a walk on the shore, or

spending time at the Bluebird Landing beach. This activity is viewed as minimally affecting the natural resources of the neighborhood. Given our naturally protected site, guests will have little impact on the character of the neighborhood.

Chapter Three of the Plan, Section C, Economic Sector – “There is a large home/business occupation sector, which continues the community tradition of self-reliance and self-sufficiency.” The establishment of our BnB seems totally in line with the language above and with our personal goals and the traditions of the Township.

Finally, in Chapter Four Section A 2021 Community Vision, paragraph 1 – “„Duluth Township has several hundred home-based occupations/businesses...” Currently Duluth Township is comprised of several home-based businesses, and the establishment of our BnB would be consistent with history and heritage of the Duluth Township.

2. The use is compatible with the existing neighborhood.

Applicant states: Yes. The neighborhood consists of both single-family housing and short-term rentals. The neighborhood currently contains two AirBnBs, one on the shore near French River, and the second on Stoney Point. There is also a short-term rental (Vacation Rental by Owner – VRBO) on Homestead Road between Scenic Highway 61 and the Expressway Hwy 61. The VRBO is located near our property.

3. The use will not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district.

Applicant states: No. Since the existence of an additional AirBnB has such a small impact on the neighborhood, any potential development or improvement could indeed exist without interference. The existence of another AirBnB will not impede other potential development of the surrounding area; it may however enhance the potential for further development by positively affecting tourism.

4. The location and character of the proposed use is considered to be consistent with a desirable pattern of development for the area.

Applicant states: Yes. The physical character of the property involved will not change, once the AirBnB launches. Since there already exists short-term rentals in the neighborhood, a consistent and desirable pattern of development appears to be realized.

5. The proposed use will comply with the wetlands requirements in Article III, Section 6 of this Ordinance.

Applicant states: No wetlands exist on the property.

6. The total amount of impervious surfaces will not exceed that allowed in the zoning district where the conditional/interim use would occur.

Applicant states: No.

7. The topography, vegetation and soil conditions are adequate to accommodate the proposed use.

Applicant states: The geography of our property, including topography, vegetation and soil condition are adequate for current habitation. The increase in number of people spending a night at our BnB is viewed as having little or no impact on the condition of our current topography, vegetation or soil condition.

8. The proposed use will not impact public waters during or after construction or impact wetlands without appropriate mitigation measures.

Applicant states: No.

9. Adequate utilities (water supply, wastewater treatment), access, drainage, stormwater retention, and supporting facilities have been provided or are being provided backed by appropriate financial assurance.

Applicant states: Our current water supply, our well, will serve as the primary water source for BnB guests. Bottled drinking water, primarily for coffee, will also be provided for our guests. Since we are

connected to the North Shore Sanitary District sewer system, sewage generated by BnB guests will be processed through that system.

10. The proposed use will not create potential health and safety, environmental, lighting, noise, signing, or visual problems.

Applicant states: No. Health and safety issues have been addressed. In particular, an additional handrail was installed to the basement. Little or no impact to the environment or lighting is expected. Potential noise issues will be mitigated by the establishment of a 10 pm through 8 am quiet time. Additionally, since we will be occupying the BnB while guests are on premise, any potential issues will be resolved expeditiously. No signs or visual stimuli are currently planned for use at the BnB.

11. The location of the site is appropriate with respect to existing or future access roads.

Applicant states: Current access to our property is via a driveway from Scenic Hwy 61, and viewed as adequate for BnB guests. We know of no plan for future access roads, and any effect of a future access road.

12. The demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities, which would be affected by the proposed use, and the adequacy of existing services to meet the increased demand can be met.

Applicant states: The potential exists for a slight increase in some public services. Additional people spending time at our AirBnB may require additional police and fire protection. Our view is since we will occupy the premises while hosting guests, any incidents could be quickly resolved without outside assistance from police or fire. The BnB living quarters are equipped with both carbon monoxide and fire alarms as well as a fire extinguisher. Solid waste and recycling disposal is currently accomplished utilizing the services of North Shore Sanitary. We intend to continue that service after the launch of the BnB. Schools will be unaffected. The impact on public road maintenance will be minimal if any. We expect our guests would have travelled to the North Shore even without our existence. We are simply trying to serve visitors who already planned driving on the Scenic or the Expressway of Hwy 61. There will be an increase in water consumption, both from our well and water purchased for consumption. The same is true for sewer system usage. An increased number of people staying at our residence will have an impact on the volume of sewer services. Over the years, we have often served as hosts to visiting family and friends. The increase in number of individuals staying at the house and utilizing the sewer system has never posed a volume issue for the sewer system. The same is true of our well. We expect both system to continue to function effectively.

Tom said he tried to be as thorough and truthful as possible in answering these. The fact that they are so secluded is going to minimize the impact. Except for a couple of cars and people walking along the shore and at Bluebird Landing, the impact will be almost nonexistent.

John Schifsky moved to hear the request of Tom and Mary DeSutter for a bed and breakfast at 5627 North Shore Drive as an interim use because there is a potential for heightened concern for public health and safety and the Commission would like to monitor the impact of the use on the community during that interim time. Larry Zanko seconded.

The motion passed unanimously.

Wayne Dahlberg made a motion to approve the interim use. Liz Strohmayer seconded.

Larry Zanko made a motion to split the motion. Dave Edblom seconded.

The motion passed unanimously.

Liz Strohmayer made a motion that the proposed use is consistent with the Comprehensive Plan and within the spirit and intent of the Ordinance because it retains the rural character of the Township while also promoting home-based businesses. Jo Thompson seconded.

Jo noted that in Section 3.C of the CLUP it says that the Township's economy is a mixture of things, including tourism.

The motion passed unanimously.

Larry Zanko made a motion that the interim use would be compatible with the existing neighborhood because the neighborhood already consists of single family homes and there are some short-term rentals in the area. Dave Edblom seconded.

The motion passed unanimously.

Liz Strohmayer made a motion that the use will not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district because there will be minimal development associated with the bed and breakfast so there will be minimal impact. John Schifsky seconded.

Wayne said that in this case, it is using an existing residence and the proposed use fits with the existing pattern of development in the area.

The motion passed unanimously.

Wayne Dahlberg made a motion that the location and character of the proposed use is consistent with a desirable pattern of development for the area because it utilizes an existing residential structure. Dave Edblom seconded.

The motion passed unanimously.

John Schifsky made a motion that the proposed use will comply with the wetlands requirements in Article III, Section 6 of this Ordinance because there are no wetlands on the property and the use will not change that. Liz Strohmayer seconded.

The motion passed unanimously.

Dave Edblom made a motion that the total amount of impervious surfaces will not exceed that allowed in the zoning district where the use will occur because they are not adding any impervious surface and nothing they are doing will change that. Liz Strohmayer seconded.

The motion passed unanimously.

Liz Strohmayer made a motion that the topography, vegetation and soil conditions are adequate to accommodate the proposed use because there will not be any physical changes to the property and impact will be minimal. Larry Zanko seconded.

The motion passed unanimously.

John Schifsky moved that the proposed use will not impact public waters during or after construction or impact wetlands because there is no construction involved and there will be no additional stormwater impact besides that from existing impervious surface. Wayne Dahlberg seconded.

The motion passed unanimously.

Larry Zanko made a motion that there are adequate utilities and the facilities are sufficient for accommodation of guests at the bed and breakfast. Dave Edblom seconded.

John asked if they had contacted DNSSD about the change in use. They had not, but it was noted that it would not be a concern for the Town.

The motion passed unanimously.

Liz Strohmayer made a motion that the proposed use will not create health and safety, environmental, lighting, noise, signing, or visual problems due to existing natural screening on the property and because it is being heard as an interim use to monitor any impact. Dave Edblom seconded.
The motion passed unanimously.

Dave Edblom made a motion that the location of the site is appropriate with respect to existing or future access roads because the amount of traffic added by the use will be minimal. Liz Strohmayer seconded.

The motion passed unanimously.

Liz Strohmayer made a motion that any impact on public services will be minimal and because it is an interim use, it will be revisited. Larry Zanko seconded.

The motion passed unanimously.

John Schifsky moved that the owners shall obtain any and all licenses, permits, or other governmental approvals required by any governmental agency, board, department, or other governmental entity with jurisdiction as a condition of the interim use. Liz Strohmayer seconded.

The motion passed unanimously.

John Schifsky made a motion that the owners maintain a record of the rentals for the period of the interim use. Liz Strohmayer seconded.

Larry asked how many nights a year they were planning on renting.

Tom said that they picked 100 arbitrarily. They assume that it will be busy in the summer and slower in the winter. They also usually like to take some vacation themselves in late winter.

The motion passed unanimously.

Jo Thompson made a motion that parking be entirely on-site. John Schifsky seconded.
The motion passed unanimously.

Wayne Dahlberg made a motion that the interim use be for a period of three years, commencing on May 1, 2018. Dave Edblom seconded. The motion passed unanimously.

The main motion to approve the interim use for the bed and breakfast, including the conditions as set above, was approved unanimously.

Director's Report

Sue said that permit applications have been coming in. There have been applications for three houses.

Penny Morton is the new Town Board Supervisor. Fifty-seven people voted in the election. Supervisors have not made their work assignments yet, so she didn't know if Rolf would continue as the Board liaison to the Commission.

The Board is still working on the language for greenhouses for the Ordinance.

Sue said that at the annual meeting there was a concern about Township roads. Roads account for about one quarter of the Township's budget. A Township citizen asked for an analysis of maintenance cost per resident on the road for each Town road. Sue said that she made the comment at the time that while it is important to keep track of costs, the cost of a road per resident is not typically how it is measured. Often times it is measured by cost per mile by use class. In addition, to the cost per mile there are additional considerations that one should look at, such as the non-priced benefits to the community.

New Business

There is an application for a bed and breakfast from Daniel and Sylva Ring to be heard at the April meeting. The Commission agreed on a one-quarter mile notification area.

Concerns from the Audience

Jo brought up the possibility of starting Planning Commission meetings at 6:30 instead of at 7:00. She said that they tend to go so late that maybe if they started earlier, they could end a little earlier. Everyone agreed that it would be worth a try. Jo said that it should be announced in the Town newsletter before beginning.

Dave made a motion that starting at the May meeting, the Commission will move its official starting time to 6:30 pm. Larry seconded.

The motion passed unanimously.

The decision and findings document for both the DeLeo hearing and the DeSutter hearing were read and approved.

The meeting adjourned at 10.

Attachments:

Change to short-term rental language