

**Town of Duluth  
Planning Commission  
Meeting Minutes  
3/26/09**

Chair Dave Chura called the meeting to order at 7:10.

Roll call:

Present: Dave Chura, Yvonne Rutford, Mike Kahl, Barb Crow

Absent: Jan Green, Seth Levanen, Bill Lannon

Also present: Sue Lawson, Planning Director, John Kessler, Assistant Planning Director.

Sue Lawson introduced Barb Crow, who is replacing Dave Miller on the Commission. Barb has lived in the Township for 12 years and volunteers for the fire department.

The Agenda for the meeting was approved without changes.

The February 26 meeting minutes were approved with some spelling corrections.

**Planning Director Report**

Sue Lawson said that she had not heard anything new from Bob Ryan regarding the Stoney Point Development.

The master plan for the North Shore Community Center is done and funding is being pursued to implement it.

She and Dave Miller wrote an article for the newsletter about Planning and Zoning activities in 2008.

The piece of tax forfeit land next to the old Clover Valley High School that the County had put on its sale list has been withdrawn from the current sale. Sue said they wanted the County to reconsider selling it because the land is mostly wetlands and there would have to be a stream crossing to get to the back of the property where there is a small buildable spot.

Dave Mount said that the Town Board sent a letter to the County outlining options for the parcel. Besides selling it, the County could keep it or the Township could buy it. If it were to be sold, it should be sold with the understanding that development restrictions existed. In the current sale, the County had priced it and listed it as a buildable lot. The Board felt that it needed to be clear that there are development issues with the lot. The Board hopes to meet with the County Land Commissioner about the parcel.

Sue reported that the BOA upheld the Planning Commission's clarification of the 7 day rental period on the Worden property. Sue said that the BOA would be providing language for the 7 day rental period that we might choose to use in the future.

The Township Board has received summons on the Bieraugel variance and on the Worden 5232 property.

Dave Mount said that the Worden case would likely to go to summary judgment hearing – an expedited process where the issue is reviewed solely by what is on the record. This may happen in April. He said that the Town Board is scheduling a closed meeting with the attorney to discuss the Bieraugel case. The Planning Director and a representative of the Commission should also attend. It was decided that Mike Kahl would represent the Commission. The meeting was likely to be on April 14.

### **Chair Report**

Dave Chura said that based on what he heard people say at the Township's Annual Meeting in March, he sensed that there was an interest or expectation that Planning & Zoning fees should be covering more of their actual costs than they do. He said that there needed to be a balance between covering costs and providing a service.

Wendy Meierhoff said that she felt conversation at the Annual Meeting focused on higher fees for work-intensive things like variances and BOA hearings, not necessarily for permits.

### **New Business**

Dave Chura had previously asked Commission members for their ideas for a plan of work for 2009. These ideas and ideas that came up during the discussion include:

- Improve the P&Z portion of the website.

Improvements suggested for the website included keeping it more up-to-date and putting a P&Z FAQ on it.

- Provide a better understanding of the criteria for a variance.

This could be included as an FAQ on the website.

- Create an information sheet for residents to help them determine when a permit is needed or not needed.

John Kessler pointed out that last year he had written an article for the newsletter that dealt with when permits were needed or not needed. It was agreed that this article and the other articles John had written about Planning & Zoning issues were good and should be made available on the Township website.

- From the CLUP, Shoreline District: Identify specific density goals for each zone district, designate natural resource protection areas, set design standards and performance standards for commercial development (items 1,3 and 7 on pages 18 and 19).

Zoning density is done – it is in the ordinance. For design standards and performance standards for commercial development, Sue said that there is a list of things to look at for commercial development in the Ordinance, but it was never developed in more detail.

- From the CLUP, Upland/Rural District: Create home business standards (item 12, page 22).

It was decided that it would be difficult to set up parameters that would apply to everyone. There is enough guidance in the CLUP and Ordinance to deal with applications for home-based businesses on a case-by-case basis. Sue also said that the new Conditional Use Permit application includes questions that cover the items listed in the CLUP.

- From the CLUP, Ridge/Rural District: Identify specific density goals for each zoned district (item 2 on page 23).

This is done and in the Ordinance.

- Look at performance/design standards for commercial use areas.
- Use of technology for resident planning when applying for permits. Use of the Planning computer for Land Use Permits and other permitting.

Sue talked about having a website where we could post documents that could be accessed by Commission members, Board members and Township employees. It can be a problem getting all of the documents associated with a CUP or variance, etc. distributed and if something ends up going to the BOA or to court, it requires gathering all of the documents again. If they were available on a private website, it would solve a lot of paperwork problems. There was also a discussion about making it possible for people to apply for permits online. The Coastal Program is looking at getting mapping online and a case could be made to expand the internet project to include this. ARDC is doing a project making databases accessible for the North Shore. This would probably be similar to the project that John Geissler developed using Landview for the Township. It would probably not be feasible to use a mapping program like this for individual lot planning because the resolution and accuracy of lot lines is not adequate.

- Enforcement.

Sue said that the best thing we can do for enforcement is education. John said that no matter how much you educate, it will never cover everything. He said that new things continually come up.

- Update the formatting of the Ordinance such that changes could be made automatically throughout the document.

It was thought that grant money would not be available for this type of project and there is not extra money, so it might be considered as a long-term project. Yvonne Rutford noted that we got funding for a booklet project that she wrote to help people understand the Zoning Ordinance.

After discussion of each, it was decided to focus on the following three for 2009:

- Technology for us and the community – information dissemination and the P&Z website
- Commercial performance/design standards
- Education

There is funding for education. The booklets that Yvonne wrote for the Center for Rural Planning are still available and are good. They look at the bigger picture, and would be useful in helping people see the overall purpose of Planning and Zoning. We could have a P&Z informational meeting; would people come? Education would be applicable to everything on the list.

### **Old Business**

Updating the fee structure.

Sue provided a spreadsheet of the fees Planning & Zoning currently charges, changes to those fees that had been suggested at a previous meeting, and, for comparison purposes, fees that are charged by other entities such as Lakewood Township and St Louis and Lake Counties (see attached).

In general, Commission members wanted to set fees such that they would be reasonable at present time but also adequate a few years from now, so that they wouldn't have to be reviewed again soon. For some processes, it is important to charge enough to cover the actual costs. In addition, it was thought that some of the fees shown for comparison on the spreadsheet had not been raised recently. St Louis County reviews its fees yearly.

Currently there is no permit needed for a driveway without a building. Dave Chura said that people put driveways in to a piece of property sometimes long before they build, and then expect to build on or near where they put the driveway. Sometimes this location does not meet the requirements in the Ordinance and then the driveway has to be relocated or a variance has to be issued. If we required permits for driveways, this kind of situation could be avoided. A permit would require the landowner to put more thought into where he places a driveway and make him aware of the Ordinance earlier in the process.

Dave Mount said he thought that a driveway off of a county road requires a permit from county.

Sue said that the Town could specify some design elements for a driveway so that it wouldn't wash out the road. It would be good if we could work with people about where to put things on their site, but that costs money and time. Would the benefit be worth it? It would require a site evaluation.

There were questions about how to charge for a driveway versus a single family residence. If the driveway and home were planned and permitted at the same time, it would just be a single family

permit – like the fees are currently set up for a home versus a deck. If the deck is a part of the original home permit, there is no additional charge. If it is added on later, it is a new permit and charged accordingly. Yvonne was concerned about charging some people twice, once for the driveway and then later for the home, especially those who were building in stages due to financial reasons.

John Kessler said that in the last three years he can only recall two instances of a driveway that has gone in without a building on the site.

Mike Kahl pointed out that we cannot dictate where someone builds a driveway any more than we can dictate where they build their home. All we can do is make sure it meets the zoning requirements.

Don McTavish suggested that Planning & Zoning have a free first consultation with prospective builders on basic zoning issues that might affect their site.

### Single Family Dwelling

Although we are slightly below average compared to the others on the spreadsheet, the proposed increases seemed reasonable. By law mobile homes have to be treated the same as a single family dwelling, so there is no need to single out mobile homes. The mobile home category was deleted.

1800 ft<sup>2</sup> footprint or less – from \$200 to \$225

Greater than 1800 ft<sup>2</sup> footprint – from \$300 to \$350

### Accessory Structures

Accessory structure fees stayed as proposed except for deleting the sauna category. It was decided to include additions to accessory structures under this category with the same parameters. The heading for this category was changed to **Accessory Structures or Additions to an Accessory Structure**:

250 ft<sup>2</sup> or less -- same at \$75

251 – 1200 ft<sup>2</sup> -- from \$125 to \$150

Greater than 1200 ft<sup>2</sup> -- from \$200 to \$225

Additions – everything was removed from this category except for residential additions and decks.

Dwelling addition – same at \$150

Deck – same at \$75

Commercial – The Ordinance requires that commercial proposals be reviewed by the Commission, so they are costlier than other permits.

Primary Commercial Structure – from \$500 to \$550

Commercial Building Addition -- \$200

Commercial Building Accessory Structure -- \$225

Signs -- There were no changes, but it was thought that they needed to be looked at in the Ordinance.

Signs – same at \$100

Administrative Actions –

Administrative Appeal (BOA) -- Sue said that Ann Cox estimated that it cost a minimum of \$825 to conduct a BOA hearing. Legal fees can be quite extensive. It was discussed whether some of the fee should be returned to the applicant if the Commission's decision was overturned. There is also a complicating factor when the BOA amends the Commission's findings and there is neither a clear upholding nor overturning. In this case would the BOA have the authority to reduce the fee? The BOA's authority might need to be addressed in the Ordinance. The decision was to stay with what was proposed, \$1000 initial fee, \$500 to be refunded if decision is overturned.

After-the-Fact Permit Fee – John Kessler said that we mostly see garages built without permits. We pursued one person who built a garage without a permit and it cost the Township a lot of money. The current fee is 2 times the original permit. There was a discussion of making it commensurate with time elapsed. It was decided to change it from 2 times the original permit fee to 4 times the original permit fee.

Environmental Assessment Worksheet (EAW) – Sue read from the Ordinance page 78 Section 7C that additional information in the form of an EAW may be requested by the Planning Commission for a Conditional Use Permit. The applicant would pay for this. John Bowen said that when he was on the Commission, they asked for an EAW from an applicant for a CUP for a campground. It took a lot of time to review the EAW after it was submitted, including two special meetings. The county got involved, too. It was decided that additional information was needed and the decision on a possible fee for an EAW was postponed.

Permit Extension – It was decided to keep this the same at \$50.

Change in Use – It was decided that Conditional Use Permits covered this adequately and it was deleted.

Conditional Uses –

Conditional Use Permit – Adult/sexually oriented businesses – There was some concern about the higher fee for this, but it was thought that legal fees that would likely be higher, so it was justified. The fee was raised from \$1,000 to \$2,000 for an accessory business permit and from \$4,000 to \$5,000 for a primary business permit.

Conditional Use Permit – Commercial and home businesses – A commercial permit would be for a business in a residential area of a commercial nature. The primary difference between a commercial business and a home business in a residential area is the number of employees. A home business is in the residence and can have no more than 5 employees that are not residents of the home.

Commercial – from \$500 to \$550

Home Business – from \$250 to \$350

Conditional Use Permit – Public utility facility – same at \$1,000

Conditional Use Permit – Unless noted – from \$300 to \$350

Conditional Use Permit – Utility corridor – from \$4,000 to \$5,000

Conditional Use, Multiple was deleted.

Conditional Use, Rehearing was deleted. It was felt that it was covered by the wording in the Ordinance that if the application or Community Participation Report for the CUP is not complete, the permit is denied.

Home Occupation was deleted.

Planned Unit Development – A PUD tends to be more expensive than a subdivision, because the Township handles the whole thing. Because PUDs have the potential to be more conservation-friendly development, the Township should not make the fee prohibitive compared to the fee for a subdivision. Sue said she should do some research on the requirements we have in the Ordinance and what it would cost for PUDs before making any fee change recommendations. For instance, the Ordinance does not say anything about platting or legal review of ownership associations. She will call Wayne Dahlberg for input and will bring any additional information to the Town Board.

Subdivision – Planning and Zoning reviews and approves the preliminary plat before it goes to St Louis County and then approves the final plat when it comes back. The preliminary plat review requires a Community Participation Report, usually in the form of an open house. For a final plat review, there would be a public hearing, but no additional CPR. A subdivision is the fastest way a piece of land changes and usually involves a bigger piece of land. There are a lot of things to look at. It was decided to break up the subdivision process into approval of the preliminary plat and the approval of the final plat and delete the references to size or acreage.

Preliminary plat review -- \$1,000

Final plat review -- \$500

Variances –

Commercial – from \$500 to \$550

Residential – from \$300 to \$350

Rehearing was deleted.

Zoning Amendments -- Requesting a zoning map change would require a public hearing. There are three entities that can ask for a zoning map amendment, the landowner, the Commission, or the Town Board. It requires a hearing. There was a conversation about charging according to what is in the best interest of the Township, and how you would define what is in the best interest of the Township. Preserving the rural character of the Township is one of the tenets of the CLUP. It was argued that landowners who want to increase the required lot size for their property should not be charged the same as those who want to reduce required lot size and increase potential development density. It was decided to delete the no charge clause and charge \$500 for zoning map amendments.

Site Permits – There was a discussion of the differences between a parking lot and a driveway. The primary differences are impervious surface area and design requirements. A long driveway might equal the impervious surface area of a parking lot, but the water is dispersed from the impervious surface of a driveway all along the driveway as opposed to being concentrated and draining to one place as it would be on a parking lot. For onsite consultations, it was agreed that there was a cost associated, but it might be a worthwhile cost for the Township in terms of helping landowners. Soil disturbance language is in the Ordinance for steep slopes in general and for SENSO areas. The Ordinance requires a permit to alter the landform, depending on how many cubic yards are involved. Sue said that at some point we need to work on language and potentially fees addressing runoff issues associated with soil disturbance. Language would have to be added to the Ordinance requiring a permit for a driveway (on page 37 Section 1A, and in Section 8, page 43) and also language for standards for driveways if this fee is added. It was decided to delete everything under Site Permits except for the Driveway and Parking lot fees.

Driveway/Site entry added –\$100, to be refunded from the LUP fee if LUP is submitted within 12 months  
Parking lot of 1 acre or greater – same at \$400

The short-term rental issue was tabled for the next meeting.

### **Concerns from the audience**

John Bowen spoke regarding Jan Green’s comment from the February meeting on non-conforming lots of record. He said that on page 46 Section 4 of the Ordinance it says that the lot must be “in separate ownership from abutting lands at the time of the adoption of this Ordinance.” It has nothing to do with how many times it has been transferred. If it was a lot of record prior to the zoning, it is still a buildable lot if you meet the criteria. The North Shore Management Board made sure that the small lots on the shore were included as lots of record. If they were lots of record prior to 1991, then they remained lots of record. It is the land itself, not how many owners it has had, as long as the lot remains intact.

He also pointed out that the Planning & Zoning booklet written by Yvonne and sponsored by Center for Rural Planning was the best education tool the Township has and we should be utilizing it.

John Kessler said that the owners of the Lighthouse Restaurant would be at the meeting in April about seasonal signage.

Dave Chura said that in the future we could move up Concerns from the Audience when the meeting is running long.

The meeting adjourned at 10:45.