

**Town of Duluth  
Planning Commission  
Meeting Minutes  
October 22, 2020**

The meeting was called to order at 6:30 pm by Liz Strohmayer. The meeting was held partially via Zoom.

In attendance: Liz Strohmayer, Jerry Hauge, Larry Zanko, Dave Edblom, Angela Wilson, Pam West, and Blane Tetreault.

Absent: No one.

Also attending: Sue Lawson, Planning Director and Mike Kahl, Town Board liaison to the Planning Commission.

Consideration of meeting dates for November and December was added to the agenda under Director’s Report. The agenda was approved with this change.

**Graden Public Hearing for Variances/Conditional Uses for Two STRs**

Scott Graden was present via Zoom. He was hoping to purchase two lots on North Shore Drive to build homes on each lot and then use them as short-term rentals. In addition to a conditional use permit for each STR, variances are needed for each lot because neither lot meets the 2-acre minimum lot size or the side yard setbacks required for a short-term rental.

Sue explained the process. Because the variances would be needed to proceed with the conditional use request, the variance part of the hearing would be held first. If the variances were granted, the hearing would proceed to the conditional use part of the hearing.

Sue showed the vicinity map. The properties are at 547x North Shore Drive, just down from the New Scenic Café. She showed site maps showing the location of the proposed homes on the lots. The variance requests are as follow:

	Furthest Side Yard Setback	Nearest Side Yard Setback	Lot size
Required	50 ft	50 ft	2 ac
Lot 1 (Wonderland Addition, Lots 17, 18)	35.5 ft	35 ft	.819 ac
Variance	14.5 ft	15 ft	1.181 ac
Lot 2 (Wonderland Addition, Lots 15,16)	35 ft	35 ft	.698 ac
Variance	15 ft	15 ft	1.302 ac

Scott spoke to the request. He wants to build a house on each of the two lots. The lots are not buildable without the variances. 50 ft side yard setbacks would leave a very narrow building envelope, precluding construction of a comfortable living space. He wants to have the flexibility to use the homes as short-term rentals.

Sue read the criteria for deciding variances and Scott’s responses to those criteria from his application.

**Is the proposed use in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Land Use Plan?**

*Applicant states:* a. The Structures are both in harmony as they are single family homes. The variance is reasonable as it allows for a continuum of the current land use on the North Shore Corridor. b. The houses are in alignment as they are simple Scandinavian design and small. They are designed to limit the impervious surface (vertical design).

**The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.**

*Applicant states:* These are houses used by single (small) families. The rental impact will be filtered or controlled through price point, size and values as a residential home would allow.

**The plight of the property owner is due to circumstances unique to the property not created by the property owner.**

*Applicant states:* The lot sizes were developed prior to the size ordinance created by Duluth Township. A variance is required to build and utilize the properties.

**The variance will not alter the essential character of the locality.**

*Applicant states:* The requested variance will not increase the traffic flow on North Shore Drive as it is inherently a tourist traffic path. No signage will be used. The practical difficulty is isolated to lot size and use.

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

*Applicant states:* Yes.

Sue presented the Community Participation Report. She read the list of neighbors and their responses. Out of 20 neighbors to be contacted, there was no response from 9, 9 were supportive of or had no problem with the use, and 2 were against it. Some had questions or concerns that Scott addressed.

Liz asked about a neighbor's concern regarding possible liability resulting from use of trails on her property.

Scott said that this neighbor was concerned with how would he keep renters from using trails on her property and if protection against liability could be extended to those trails. He said that if renters were to be allowed on those trails, it would have to be worked out with the property owner. He would use signage or would specify that the trails were private on the intake documents.

**Public Testimony**

Sue said that Deb Chesney was present at the Town Hall for the hearing. Sue read the email Deb had sent earlier:

In regards to proposed building variance for several lots on the North Shore to be utilized for high frequency rentals: As a taxpayer my husband I are expressing our concerns regarding Scott Graden's variance request. We moved out of the city many years ago to have a quieter peaceful life to raise our family. We are strongly opposed to further development of structures being built for rental/commercial use in our community. Our opposition is that we have already experienced higher traffic volumes and overflow parking on the lower side of the North Shore with expansions of the Scenic Café. This is a safety hazard for the residents who walk, ride their bikes or drive. In addition, there has been excessive noise from vehicles and motorcycles entering and leaving the restaurant establishment. Our concerns are

with further development, there will be greater volumes of traffic, noise and potential loss of our small family community to commercial development. Thank you.

Sue read an email from Lila and Todd White:

Dear Duluth Township Planning and Zoning Committee,

We would like to express a few thoughts in regard to the potential conditional use permit for high frequency rentals on the Wonderland 3<sup>rd</sup> Addition lots 15-18 properties. IF this were anyone other than Scott Graden applying for these variances, we would be strongly opposed to any high frequency vacation rentals.

As some of you may know our in-laws were in a similar situation, also on North Shore Drive, and we have spoken in person, at length during a previous Town Hall meeting, about our opposition to this type of rental property. We moved to the Duluth Township to get away from the saturated rental markets in Duluth. Our previous home, which we loved very much, was surrounded by a variety of rentals, primarily college rentals. Our experience is that landlords do not prioritize the concerns of residential neighbors over their concerns of profitability. It is also our experience that renters do not take care of property like homeowners do.

I do believe a rental property overseen by Scott would be different. He has assured us that he would be the point person if there are issues. It was also discussed that the price of these rentals might deter a customer base that would be less desirable. Scott also mentioned the possibility of him eventually moving into one of the houses, which we would heartily welcome. Two of our three children have worked for Scott. We know how thorough and top notch his business is, and we feel confident that this new venture would be run with the same high standards.

I have voiced a few concerns to Scott, in that if people are vacationing, they do not hold the same hours as someone who is working, as we both are. Being just one house over from the proposed East property, the noise could be an issue with the differing schedules of work and play. We are also concerned about the potential number of renters that would be allowed. With four bedrooms per house, I assume that we could have up to 16 people at any given time? The only other drawback is that a constantly revolving customer base does not allow for meaningful neighborly relationships. Finally, our biggest concern is what would happen if for some reason Scott decided to sell? Would the two houses remain high frequency rentals but potentially under the purview of someone with no ties to the area or community?

We feel so fortunate to live where we do. Everyone we have met from the Township have been wonderful people. We have amazing neighbors with strong community ties. While we are not thrilled regarding the possibility to have high frequency rentals so close, we are confident in the abilities of Scott Graden to work it out so that the integrity of this place can stay intact.

Sincerely,  
LilaAnn Coates White  
Todd White

Mary Hubbard was present at the Town Hall and spoke. She said that she and her husband have lived on their current property for 38 years and it is a nice neighborhood. The idea of a high-frequency short-term rental is an anathema to how they feel about their neighborhood. She believes it would fracture the sense of community. There would be up to 16 people coming and going at a time. This is not why they moved to the area. Short-term rentals do not blend into the neighborhood. There are already two commercial properties within two blocks that are more for the tourists than the community.

Beth read a letter from Mark and Carol Weitz:

October 16, 2020

Re: Scott Graden Application for a Conditional Use Permit

To the Commissioners of the Duluth Township Planning Commission:

We are writing in connection with Scott Graden's application for a Conditional Use Permit for two high frequency short-term rentals.

We urge the Planning Commission to reject this application. We own our home at 5491 North Shore Drive, just a few houses down from the proposed locations of Mr. Graden's Air BnB's. We recognize that they were not referred to that way, but that is indeed what high frequency short-term rentals are.

This is a neighborhood of private single-family homes. To allow Air BnBs in this stretch of North Shore Drive will unalterably change its character. More traffic, more transients, more garbage, more noise, more litter, more potential problems with renters who have no stake in the neighborhood. It is well established that there is a tendency, especially among younger Air BnB rentals, to drink and use drugs excessively and to party aggressively.

Furthermore, the North Shore Drive already has a large number of short-term rental units from Brighton Beach all the way to Two Harbors. We don't believe we need more.

Thank you for considering this.

Mark and Carol Weitz

Beth read an email from Claudia French and Jim Allen

To the Duluth Township Planning Committee:

We are writing in response to the Township's notification of a variance request related to two proposed short-term rental units in our neighborhood. We understood from the letter that Scott Graden would be contacting us to discuss his plans and get our input. However, we did not hear from him, so we do not have as much information as we would like, and will give some input via email. In short, we are concerned about the potential negative impact of many short-term residents on the neighborhood, given, we assume, that there will be no on-site management should issues such as noise arise. We would have liked to join this evening's township meeting online given the pandemic, but it appears that opportunity is not being offered to us. Please do let us know if there is a way to join the meeting.

Thank you,

Claudia French and Jim Allen

**Close of public testimony.**

Regarding a conditional use, Angela asked if Scott would consider an interim use.

Scott said that he would only consider it if it extended for the life of his ownership of the property. He said that he understands his neighbors' concerns. He believes that the conditional use should be considered based on the fact that he, too, is a part of the neighborhood, and he would be the person overseeing the properties.

Angela noted that the Whites had said that they wouldn't have a problem with the proposed use, but only if Scott were running it.

Scott said that John Lawler said same thing.

Larry asked about the road that shows on the map between the two properties. Is this an easement?

Scott said that he spoke with Andy Sternberg, the current owner of the properties. Andy said he asked St Louis County about it and they said it is actually a road right-of-way and that it would be a continuation of Bergquist if it ever went through. There is a creek and a railroad between the current end of Bergquist and North Shore Drive, so it is hard to imagine that it would be developed.

Liz said that there has been discussion at various meetings over time about Bergquist being extended. For emergency calls, the route to that area is currently up to Homestead Road and back down the Scenic Drive or down to Ryan Road and then back up. If the area were to get more populated there would be more likelihood that it would be pushed through.

Sue outlined the history of the stricter setbacks and lot size requirement for short-term rentals. She said that the Town had experienced problems with short-term rentals in the past and sought ways to mitigate potential problems. The Commission completed a large study of STRs in 2012. At that time, the Commission recommended banning STRs. The Board, instead, decided to require that setbacks for STRs be a minimum of 50 ft and that the minimum lot size for a STR be 2 acres. It was felt that these increased dimensional requirements would offer a larger buffer from neighboring properties.

Blane said that Scott's proposed buildings are 2200 sq ft each, which seemed reasonable to him for the respective properties. He would like to see quality building that could increase property values. In addition, it doesn't seem likely that the road would be developed in the near future, so the reserved area acts as kind of an increase in lot size. The variance request is large, but he would like to support it.

Liz said that there were quite a few comments from neighbors with concerns. The comments play into both the variance and the conditional use parts of the hearing. She values input from both sides, but does want to consider concerns from the near community.

Angela made a motion to deny the request for variances from the dimensional requirements for high frequency short-term rentals. The variance request is not in harmony with the general purposes and intent of the Ordinance because the request for variances from the required minimum lot size is significant: the lots are less than half the minimum required size. The variance requests are not consistent with the Comprehensive Land Use Plan because they are not in keeping with the reason for the dimensional requirements. Regarding practical difficulties, the variance requests are for short-term rentals, as opposed to single family residences, so the applicant would not be using the properties in a reasonable manner. The properties could reasonably be used for something other than short-term rentals. The variances would alter the character of the neighborhood based on comments from the community.

Dave seconded.

Discussion

Liz agreed with the motion except she thought that short-term rentals were a reasonable use of the property.

Dave felt that the variances for the lot sizes would just be too large. The required two-acre lot size is important for buffering short-term rental uses from the surrounding neighborhood and these lots are just too small. Even if the two lots were combined the lot would not be large enough.

Jerry agreed that the size of the lots was too small for this type of use.

Pam agreed with the motion. The lots are too far from the required two acres size. In addition, when she looks at the number of people with concerns about the proposal vs the number who support it, the numbers are almost equal and those neighbors' concerns should be taken into consideration.

Angela clarified that she thought that if someone wanted to put a residence on one of the lots, it would be a reasonable use. But because it is for short-term rentals, she does not feel that is a reasonable use.

The motion to deny the variances passed unanimously. As a result, the Commission did not proceed with the conditional use request part of the application.

The September 24 meeting minutes were approved as presented.

### **Director's Report**

Sue said that there were currently no requests for variances or conditional uses in the works. November and December Commission meeting dates fall on holidays, so if there is a need to meet those months, alternative dates need to be set.

The Commission agreed on November 19 and December 17 if meetings were needed.

Sue said that the Commission's work on updating the Ordinance is scheduled for January through June of next year. The meetings will be on the third Thursday of each month.

The driveway that was put onto Homestead Road near Homestead Drive will remain where it is.

Liz said that she has been asked about campaign signs. Several people have concerns about signs that are larger than are allowed.

Sue read from the Ordinance. "Political posters, erected or placed in accordance with all applicable State laws, may be allowed without obtaining a land use permit provided that they are removed within thirty (30) days following the election for which they were intended, and provided that such posters do not exceed thirty-two (32) square feet in area."

Sue said that 32 sq ft is the size of a sheet of plywood.

Liz did not know what size the signs were.

### **Old Business**

Mike said there was nothing to report from the Board of Supervisors. He commended the Commission on their handling of the hearing tonight.

The meeting ended at 8:07.