

**Town of Duluth  
Planning Commission  
Meeting Minutes  
October 23, 2025**

The meeting was called to order at 18:30 by Chair Justin Osadjan.

In attendance: Justin Osadjan, Ken Peterson, Tony Mancuso, Andrew Aho, Kit Grayson.

Absent: Dave Meyer, Nate Nesgoda.

Also attending: Liz Strohmayer, Planning Director; Beth Mullan, Secretary; and Laura Herzog, incoming secretary.

Agenda- Tony made a motion to approve the agenda as presented. Kit seconded the motion. It passed unanimously.

New Business- Corey Henderson Variance Public Hearing-

Corey Henderson was requesting the following variances for his property at 6246 Ryan Road

A variance from the rear yard setback to build a new garage, and variances from the rear yard setback, and side yard setback to relocate existing garage. The required setback for the zone district RR-1 is 50 ft from the rear yard, and 50 ft from the side yard. The requested variance is to place the new garage 35 ft from the rear yard, resulting in a 15 ft variance. As well as a requested variance to relocate existing garage 23 ft from the rear yard, and 22 ft from the side yard, resulting in a 27 ft rear yard, and 28 ft side yard variance.

Liz went over the hearing process and read the Town's communication agreement. She stated we will go through the request details, location, criteria, and all will get a chance to speak. Then there will be Q&A, public testimony, and final decision. If it is approved, specific requirements can be added if necessary. She then pulled up the map of the property and read the variance request aloud, along with the building requirements.

**Q&A-**

The Hendersons explained that their reason for asking for a variance is because where the property lines fall, and with the irregular shape of the lot there is no other way to locate it on the property. They want to move the current garage because they don't want to tear it down and waste the materials.

Justin asked if the new garage would be the same footprint. The Hendersons stated it will not be the same footprint, but it will be in the same spot with a larger footprint.

The Hendersons stated that if they went towards the slope then they have mature oak trees that would have to be cleared, and that is still also a sloped area.

Tony asked about the structure in the corner of the property that could be seen on the aerial site photo.

The Hendersons stated it was a temporary garage shelter and a parking pad.

Justin asked if the temporary garage shelter had been taken down. The Hendersons stated that it has been moved.

Liz stated if any structure is over 144 sq ft then it requires a permit.

Liz read aloud the following 5 variance criteria:

Variations shall only be permitted...

1. When they are in harmony with the general purposes and intent of the Ordinance.
2. When the variations are consistent with the comprehensive plan.
3. Practical difficulties - the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
4. Practical difficulties - The plight of the property owner is due to circumstances unique to the property not created by the property owner.
5. Practical difficulties - The variance, if granted, will not alter the essential character of the locality.

Tony asked the dimensions of the new garage. The Hendersons said it will be 38 ft by 48 ft, and 26 ft in height.

Justin asked if the height of the new garage would be higher than that of the existing garage. The Hendersons stated that it would be heightened by one row of block.

Andrew asked if the guest quarters would be used for a short-term rental. The Hendersons said no, it will be for family to stay when helping for care of the family. It will have plumbing and a bathroom, and the septic is compliant for these changes.

### **Public Testimony-**

Adam and Beth Hendrickson have property east and north of the property line adjacent to the property. They have no issue with the proposed plan. They stated that the property has been that shape for a long time, and they believe it was partly due to a utility easement. There's a natural cliff with a rockface there, so they believe there would never be a road or driveway there. The Hendricksons have known that property for many years, and they think there would not be an easy way for them to move any of those structures to the south. The septic was installed by the former owner with that angle to the property line. They think it is the only logical way to do the project. They also support them in their plan as a young growing family in the community, and to have the ability to use their unique property shape to meet their needs.

Donald Rigney is the adjoining property to the southwest. He stated he is in support of their project, and he thinks the variance request makes the most sense with the least amount of impact on septic and driveway.

### **Final Decision-**

Liz stated that splitting a motion can be helpful in addressing multiple criteria and that all criteria must be for the variance request to be approved. If any one of the criteria is not met, then the variance request is denied.

Ken moved to split the questions, and Tony seconded. It passed unanimously.

To uphold order of operations Justin rescinded the motion to split the questions, Ken seconded, and it passed unanimously.

Justin then moved to approve the variance as requested, Andrew seconded.

Justin then moved to split the questions to review the 5 variance criteria individually, Tony seconded, and it passed unanimously.

Ken moved that the proposal is in harmony with the general purposes and intent of the Ordinance because it allows the general use and storage of vehicles on an odd-shaped lot. Justin seconded. It passed unanimously.

Justin moved that it is consistent with the comprehensive plan because it preserves the rural nature of the township by limiting the use of new construction by using the existing garage and parking pad. Kit seconded. It passed unanimously.

Tony moved that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance because it is a limited and odd shaped parcel of land that doesn't afford the full setbacks and slope of the land limits where you can set structures. Also, there would be more damage to the property, flora, and trees, and the environment would be more impacted by not accepting this setback. He added that the neighbors and adjoining property owners agree. Justin seconded. It passed unanimously.

Justin moved that the plight of the property owner is due to circumstances unique to the property and was not created by the property owner, and because of this, the owners have limited options. Andrew seconded. It passed unanimously.

Ken moved that the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. It does not alter the essential character because it would be placing vehicles inside and out of sight. Tony seconded. It passed unanimously.

Following approval of the criteria, the main motion to approve the variance passed unanimously.

Old Business- Ordinance Updates Packet review- The Commission was provided with a list of proposed ordinance updates that they had approved over the last few months for recommending to the Board.

Justin read each page asking if there were any corrections or clarifications needed. Discussion and revisions were as follows:

**Page 2. Definition of Moderate Slopes-** Ken asked why we added a new definition for moderate slopes, and what impact to the ordinance that would create. Beth said that for a planned unit development or comprehensive review of a property, moderate slopes are supposed to be identified, but they are not defined anywhere in the ordinance.

**Page 3. Definition of Ordinary High-Water Level-** Ken said that he has been on sites where it can be difficult to define using the current definition. He suggested letting people know that the defined line of OHWL is determined by the DNR, and not by us.

All decided to add language stating, *“all ordinary high-water levels are determined by the DNR.”*

**Page 3. Definitions, Section VI- Protected Public Waters-** Ken would like it to state that public waters are defined by a Minnesota state statute. There was a question about 25-acre lakes and ponds. Beth said that the DNR language is under Minnesota state rules, and it states there that a lake, pond, etc., that is more than 25 acres in size in an unincorporated area is considered public water. So, after reading details from the Minnesota state rule the 25 acres made sense to everyone, and to leave Section VI as is.

Liz suggested that a definition of corner lot be added, because it can be unclear in certain circumstances. Ken stated that the City of Duluth says it is the front yard that determines the corner lot. Liz feels comfortable determining it with that guidance and decided there's enough language in the ordinance to support that as defining corner lot. No additional definition needed.

**Page 4. Section 9. Placement and Design of Roads and Driveways –** Ken asked about the need for driveway permits, and the possibility of setbacks to be changed to 5 ft. Liz said that driveway permits help people stay out of wetlands, and that having a setback seems appropriate to her. She said she has seen scenarios where not enough space was left between driveways and side yards, ending up with too many driveways too close to other driveways and property lines. Ken believes 5 ft gives room for the ditch and utilities to come through, along with run-off for snow and rain, and asked why the ordinance has different setback regulations for different zones. Liz stated that half the distance of side-yard regulation comes from some zones having much larger acreage requirements than others. It was decided to leave driveway setbacks and permits as is currently stated in the ordinance.

**Page 10. Article 9- Conditional Use, Section 6.** The Ordinance states- On-Going Review: Conditional/interim uses with conditions may be reviewed periodically by the Planning Commission. Where such a use does not continue in conformity with the conditions of the original approval, the permit shall be terminated, and such non-compliance shall constitute a violation of this Ordinance.

It is not in the list, but Ken thought that Item G of Section 6; On-Going Review, should be changed from “shall constitute a violation of this ordinance,” to “may constitute a violation of this ordinance”, so that it leaves some leeway to work with the property owner if needed. Ken would like to add wording describing that if the director sees an issue during on-going review, then it must be evaluated by the commission.

According to St. Louis County the definition of shall is to specify being mandatory, and not permissive.

Liz stated that we are required to give them a certain amount of time to comply. If compliance is not reached, then it could threaten the conditional use permit.

After looking further at St. Louis County's ordinance and its language regarding noncompliance with permit conditions, it was decided to leave the language as it is so that our ordinance remains in line with St. Louis County's.

**Page 12. Section 28. Public/Semi-Public Uses, Item A.** States where road access must lie and have direct access to a list of roads listed in 1-5. Ken would like to add North Shore Drive to that list. All agreed to add North Shore Drive to this Section as well as to Article IX Section 24, Commercial Uses.

New suggested Ordinance Review items, Matrix review and “selective cutting for a view” definition, will be added to the agenda for next meeting.

Ken stated that he believes that all Congdon land was intended to be able to view Lake Superior. Beth read from a 2001 document from the City of Duluth from when clearing took place when Doty was mayor of Duluth. It was stated in the document that their intent at that time was to stop the activity of cutting down trees. Liz stated that property in LSSLO needs a vegetation management plan to cut live trees on property.

Liz asked if the Commission would like to add a definition of Shore Impact Zone. All agreed.

Beth read language from NSMB 2016 plan: "The shore impact zone is defined as the area within 50 feet of the vegetation line." All agreed to add that as the definition of the shore impact zone to the ordinance.

Approve Minutes for September Planning and Zoning Commission Meeting.

Line 83 Justin's name was misspelled. Tony made a motion to approve the September meeting minutes with the correction of line 83. It was seconded by Kit. The motion passed unanimously.

#### Directors Report-

Liz explained that the Township won the lawsuit against the Zurchers. They have 30 days to comply, and they must stop running the short-term rental. Liz will continue to check that the rental listing does not remain open. She will come up with enforcement language if they do not comply within the time limit given. She stated attorney and administrative fees can also be added.

Justin asked if the commission wants to have a conversation about signing NDAs and added that the township may want to make a policy for it. He thinks that it might be more of a township board discussion. Liz said that if there is general quorum with interest then we could ask the board to discuss a policy of NDAs, and she will bring this discussion up to the town board.

Justin asked Beth if she recalls if there was a vote in the past to change the 4.5-acre minimum lot area requirement in zone RR-1. Beth said that it has not changed since planning and zoning has been established. Liz will ask Sue if she recalls the history of that.

With the November meeting date being Thanksgiving, and December being Christmas, all agree to have the next meeting on Dec. 4<sup>th</sup> at 18:30.

Concerns from the Audience- None.

Andrew made a motion to adjourn. Kit seconded the motion. It passed unanimously. Meeting adjourned at 20:55.