

**Town of Duluth
Planning Commission
Meeting Minutes
October 26, 2023**

The meeting was called to order at 6:30 pm by Chair Angela Wilson.

In attendance: Angela Wilson, Blane Tetreault, Dave Meyer, Tony Mancuso, and Nathan Nesgoda.

Absent: Pam West and Justin Osadjan,

Also attending: Liz Strohmayr, Planning Director and ArMand Nelson, Town Board liaison to the Planning Commission.

The agenda was approved as presented.

Hoffman HFSTR IUP Extension Hearing

Liz presented the hearing request. Nathan and Angela Hoffman have applied for an extension of the Interim Use Permit for their high frequency short-term rental at their property at 1690 Aho Road. Angela Hoffman was present for the hearing. The interim use was originally granted in October 2021 and an extension was granted for another year effective December 1, 2022. The permit allows them to rent the home for 120 nights per year and requires that dogs be leashed outside. The property is in FFL-1 and all dimensional requirements are met except for setback from the road, which is 75 ft.

Liz showed the site and vicinity aerial maps.

She read the criteria for approval of an extension of an Interim Use Permit:

- 1) Demonstrated compatibility with the neighborhood.
- 2) Any detrimental effects documented during the period of the interim use.
- 3) Any increased costs to the Town as a result of the interim use.

Angela Hoffman said that they accidentally went over their allowed rental nights by four nights because they got a report from the rental management company that didn't include the month of December and didn't catch the omission at first. They would be willing to reduce the number of rental nights this year to make up for that. The rental company, Heirloom, goes by the calendar year in their reports.

Angela Wilson asked if their original intention was for this property to be a vacation rental property or if they planned on moving into the home at some point.

Angela Hoffman said that they still have kids in school but hope to move here in the future. They are currently renting the home to help pay costs.

Public Testimony

There were no submitted comments and no one was present to speak to the request.

Nate said that he spoke with Bruce Aho, their immediate neighbor, and he said he is totally fine with the rental and has no complaints at all.

Liz said that there have been no complaints to the Town. She presented the termination and expiration terms for interim uses from the Ordinance.

Termination. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

1. The date stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. If the Town's zoning regulations change and render the use non-conforming, the Town will consider not renewing or extending the permit.
4. The redevelopment of the use and property upon which it is located to a permitted or conditional use.

Expiration. Interim use permits which have been issued under the provisions of this Ordinance shall expire without further action by the Planning Commission. The permit holder may apply to the Planning Commission for an extension no later than sixty (60) days prior to the expiration of the permit. The approval of a request for extension will require a public hearing. Approval for an extension of the permit will be based on an evaluation of the interim use in terms of demonstrated compatibility with the neighborhood, any detrimental effects documented during the period of the interim use, and any increased costs to the Town as a result of the interim use.

The Commission felt that there were no issues in renewing the use for another year. They preferred to not renew for longer than a year so that in the event of any issues, they could be dealt with promptly. It made sense to stretch the renewal period to 13 months so that the Hoffmans would be on the same calendar schedule as the rental management company. They agreed to add 10 rental nights to the renewal period to allow for renting the additional month at the same rate.

Tony Mancuso moved that the interim use be extended for 13 months commencing December 1, 2023, for 130 total rental days as there have been no events that infringe on the criteria for extension of an interim use. Dave Meyer seconded and the motion passed unanimously.

Because the next hearing was advertised to begin at 7:00, the Commission continued with the agenda until that time.

Old Business

None.

The minutes were approved as presented.

Director's Report

Liz wasn't at the last Board meeting. ArMand said that there was nothing related to Planning to report from the Board meeting. Beth asked him for an update on Stony Point. ArMand said Sue Lawson had given a presentation on what the Town knows about ownership of the land there. The information she received when she was Planning Director was that the property below the road on Stony Point is Congdon trust land. St Louis County says that both the County and the City of Duluth are responsible for the property. ArMand said that the County's GIS website shows no ownership information for Stony Point on the lake side of the road. He said the Town has had requests to put public facilities in down there, but the Town isn't responsible for the property. The Town Board is hoping to meet with the mayor of Duluth, the DNR, and maybe the Army Corps of Engineers regarding the property.

Liz said that she works closely with Bri from the DNR. We have had a few projects near trout streams and multiple parties with shoreline violations and she has worked with us on those. They are currently looking at the stairs Del Dais put down to the lake. The DNR's responsibility extends from the high water mark to the lake. The high water mark is relatively high up on the shore so the DNR turns out to be responsible for quite a bit of the land in from the lake. Most of the shoreline in the Township is considered high erosion area.

Angela asked about the situations from the July hearings. Have the illegal buildings on the Dais property been removed yet? Liz said she had a recent conversation with Del and he said he didn't realize they both needed to come down. He said he would be coming up at the end of October. Liz told him the buildings have to be removed before he returns to Oklahoma. He is now interested in building a fence.

Another issue in that neighborhood is that the person next door to Del put in a seawall without the proper permits and then sold the property. So, the new owners are having to deal with that with the DNR.

Angela asked if Andrew Zurcher got a stormwater plan to Liz before his deadline.

Liz said that he did not, hence his request for a hosted high-frequency short-term rental has been denied. The property was taken off of VRBO, but Liz said she has heard lately that it's being advertised again, so she will check into that.

Carlson Variance Hearing

Troy and Meghan Carlson were present and were requesting a variance from the required lot width of 300 ft to 260 ft to construct a home on their property at 6734 Homestead Road.

Liz introduced the hearing. The Carlson's lot is one of several parcels that were originally a part of the old Clover Valley High School property. The property has a trout stream and wetlands on it. She showed a map with the setbacks for the trout stream and the areas of wetlands from the National Wetlands Inventory overlaid on it. Based on this, there are very limited areas to build on the parcel. Their proposed home site meets all of the other dimensional requirements.

Nate asked if the setbacks and wetland were surveyed or estimated. Liz said that they were estimated from Google Earth.

Dave noted that they don't have many options for building, the only other options being at two of the far corners of the property.

Troy said that they need to build close to the road as they have proposed. Although there are two other building sites, the north location would require a bridge over the trout stream, which the DNR told his parents would have to be 8 ft above the stream, and the south location would require an easement over the neighboring property to access it. It would also disturb a lot of area to put a driveway into either of the other locations as they are at the back of the parcel. So, the only option that makes sense is the one near the road. He said that they started work on the site and are willing to pay the resulting fine. They haven't done more work since being told not to.

Liz read the required criteria for approving a variance and showed the applicant's responses to the criteria.

Is the proposed variance in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Plan?

Applicant response: With the setback from the road being somewhat less than required, we have compensated by leaving large trees on the road side of the property and by building the driveway along the edge (not middle) of the property to help maintain privacy. As the area is rural and quiet, we hope to preserve that as much as we can with our home and in any actions that we do on the property, including maintaining side yard distance as much as possible.

The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance, the plight of the property owner is due to circumstances unique to the property not created by the property owner, and the proposed variances will not alter the essential character of the locality.

Applicant response: We plan to build a relatively small home. We chose to build in the front portion as to not disturb as much of the ecosystems in the rear of the property which contains a stream, many mature trees, and low land. The 10 acre lot is more narrow in the front where we are building but the lot width in the rear (east) portion of the property is 660 ft wide. No disturbances are planned in the rear portion, so the land use ratio on our parcel is very minimal.

Angela asked the Carlsons if they anticipated an addition to the home further down the road. She wanted to make it clear that any addition that encroached on the trout stream would need another variance.

Liz said that, assuming this variance request is approved, it would be considered a nonconforming structure, and they would only be allowed to enlarge it once, subject to the Ordinance requirements for nonconforming structures. If the proposed addition did not meet setbacks, another variance would be required.

Blaine asked when they purchased the property and if they were aware at the time that the site wasn't buildable without a variance.

Liz said that Troy's father bought the property and was told by the Town that he could build without a variance. He submitted a variance application at the time, and it was returned to him. But Liz's determination was that a variance was needed. So, it was complicated and, given the circumstances, reasonable that they thought they wouldn't need a variance.

Nathan suggested that they look into getting flood certification. They would likely need one if they were getting a mortgage or selling. Flood insurance is expensive.

Tony asked if they planned on living there full time. Troy said that they did.

Public Testimony

There were no submitted comments and no one was present to speak to the request.

Angela made a motion to grant the variance request. The variance is in harmony with the general purposes and intent of the Ordinance because it is for a residential use in a residential area and will maintain the character of the land by building only on the corner of the lot. The variance is consistent with the Comprehensive Plan because it balances residential use with the natural features of the property, including the trout stream. The use is reasonable and is not permitted only because of the lot width but otherwise conforms with the Ordinance requirements. The practical difficulty is a result of the width of the lot combined with environmental building constraints. The lot width was set by the seller of the property and was not in the applicant's control. The variance does not alter the essential character of the locality because the variance is only 40 ft short of the required 300 ft and all other setbacks are met. Nate seconded. The motion passed unanimously.

Concerns From the Audience

None.

The Commission voted to allow Angela to approve the decision documents when presented to her and sign them.

The meeting adjourned at 7:35.