

**Town of Duluth  
Planning Commission  
Meeting Minutes  
March 28, 2024**

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

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

Absent: No one.

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

The agenda was approved as presented.

**Darin Harth Interim Use Public Hearing**

Liz introduced the hearing. Darin Harth was applying for an interim use to use a guest cabin on his property at 1798 Hegberg Road as an accessory subordinate residential dwelling. He, his partner Ashley, and the residents of the main structure, Josh and Angela, were present. Darin's request, as stated in the application was:

We would like to allow Ashley and her two children to live in our guest house at the back of our property. The house is already built, and would require no new construction. We would like her to be able to stay until she finds another place to live, or until we sell the property. She will not be charged any rent.

Liz showed a map of the property and vicinity. The property is in zone district FFL-1. She showed the definitions for a guest cottage and for a subordinate residential dwelling:

**Dwelling, Accessory, Guest Cottage** – A non-commercial residential dwelling used by property owners for temporary guests.

**Dwelling, Accessory, Subordinate Residential** – An accessory residential structure to accommodate family members.

The Ordinance states that “one separate subordinate residential dwelling may be allowed to serve only members of the family.” The use is only allowed in the zone district as an interim use.

Liz showed the criteria from the Ordinance that must be met for approval of an interim use and Darin's responses to those criteria from the application.

*Is the proposed use consistent with the CLUP and with the spirit and intent of the Ordinance?*

*Applicant states:* Yes. Ashley is active in the community. She is a volunteer for the Clifton Fire Department and the medical responders. She is very respectful of her neighbors' peace, quiet and privacy.

*Is the proposed use compatible with the existing neighborhood?*

*Applicant states:* Yes. We believe the use of the guest house will have no negative impact on the existing neighborhood.

*Will the proposed use impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district?*

*Applicant states:* No. The use of the guest house will not affect the surrounding area.

*Is the location and character of the proposed use considered to be consistent with a desirable pattern of development for the area?*

*Applicant states:* Yes. The guest house is located away from other buildings to keep a rural feeling with large open spaces that promote peace and quiet.

*Does the proposed use comply with the wetlands requirements in Article III, Section 7 of the Ordinance?*

*Applicant states:* Yes. There are no wetlands on the property.

*Does the total amount of impervious surface area exceed that allowed in the zoning district where the use will occur?*

*Applicant states:* No.

*Are the topography, vegetation, and soil conditions adequate to accommodate the proposed use?*

*Applicant states:* Yes. The guest house is on a gentle slope, and will not affect the surrounding vegetation and soil.

*Will the proposed use impact public waters or wetlands during or after construction without appropriate measures? (Will there need to be construction and post-construction stormwater plans?)*

*Applicant states:* There are no public waters or wetlands near the property.

*Are adequate utilities (water supply, wastewater treatment), access, drainage, stormwater retention, and supporting facilities provided or are to be provided, backed by appropriate financial assurance?*

*Applicant states:* Yes. The guest house is powered by solar panels and a battery bank. There is a composting toilet, and a greywater system that has been approved by St Louis County. Drinking water will be hauled in from the store or a local spring.

*Will the proposed use create potential health and safety, environmental, lighting, noise, signing, or visual problems?*

*Applicant states:* No. The guest house is located far from the road, and will not produce any excessive noise or lights.

*Is the location of the site appropriate with respect to existing or future access roads?*

*Applicant states:* Yes. The guest house follows all of the required setbacks.

*Will the demand for public service be affected by the proposed use? Are services adequate to meet any increase demand?*

*Applicant states:* Yes. The effect on public services will be very minimal. We make efforts to conserve resources, and keep our impact on the environment to a minimum. We take advantage of the recycling program offered by Duluth Township. We believe that the occupation of the guest house will not affect the community in any negative way.

Liz said that regarding impervious surface area, they are actually over the maximum allowed but are working with her to remedy that.

Ashley said that she and her two children live in the cabin that is to be the subordinate residence. She moved here from Arizona and it would be a hardship to move her family again. The kids are attending the local school and she volunteers with the community.

Justin asked who lives in main house. Angela and Josh said they did. Darin lives in the cabin with Ashley and the kids. They are all there full time.

Josh said that they have been working for ten years to carve a life out on the land. He and Darin are long-term friends.

Angela asked how long Ashley and her family have lived there. Ashley said they moved there about three years ago.

Tony asked if they got permits to build both structures. Darin said that he did, but he didn't know that the use wasn't allowed.

Tony asked about the letter Liz had sent regarding the zoning violations on the property. Liz said that she stopped by the property in December because she had heard there was a business there that was bringing in a lot of traffic. At that point, a number of issues were identified. They were running an unpermitted business. Some of the outbuildings had not been permitted but have since been permitted. They are over on impervious surface area. 5% impervious surface area is allowed in FFL-1, but they are over 10%. Up to 10% is allowed in the zone district with a stormwater plan. They are working with an engineer and will decide between the stormwater plan and revegetating when they have more information. The main residence and the guest cabin were both permitted at the time they were built. They have discontinued the business and worked with Liz to correct the violations and have met all of the deadlines she set. This hearing for the subordinate dwelling is the last piece outside of impervious surface area.

Justin asked if they considered themselves a nontraditional family. They all said that they do.

Liz noted that it is not allowed anywhere in St Louis County to rent out an accessory structure. Nor do they have enough acreage to split the parcel in half to accommodate the two structures.

Dave said that since they are working to correct the violations on the property and are going in the right direction, he finds it an acceptable use.

Tony asked if it was correct that there is no running water in the cottage and that they use a composting toilet. Darin said that they now have running water from a pond, but carry in drinking water.

Tony noted that they have a permit from St Louis County for greywater. He asked if they have plans over the long term to put in a well and septic system. Darin said that they have talked about it and they would be willing to upgrade if it were required, but the current system has been working well for them and they would prefer to stay with it. Their goal has always been to be off-grid.

Angela asked if their long-term plan was for all of them to continue to live there. They all said that it was.

### **Public Testimony**

Birch Hilgers said that he lives two properties over. He said that these folks are great to work with. He put the driveway in for the previous owners. He asked Liz how she determined impervious surface area. Liz said that she uses the measuring tool on St Louis County Land Explorer. Birch said that Land Explorer is not a legal measuring tool. Liz agreed – it's approximate. If there are questions, she asks the owners.

Birch said that he sees a lot of homes on 5 acre lots, including ones north of Korkki Road. Liz said that some of these parcels may have been created before zoning. These lots would be considered non-conforming now. The lot Darin is on cannot be legally split now.

Beth read five letters:

20 March 2024

Dear Planning and Zoning, Town of Duluth,

I am writing in support of Mr. Darin Harth, and family.

Darin Harth has applied for an Interim Use Permit to use an accessory dwelling on his property as a subordinate residential dwelling. The property is located at 1798 Hegberg Road.

Presently in this local Real Estate Market, there is a shortage of homes and especially affordable homes in this township. It is well known that the conditions in both for sale, and rental housing markets, are not very good.

As in many other local areas, housing in Duluth Township is being impacted by many issues which include Affordability, Availability and Access. Demand is outpacing the supply of homes, especially homes in the “Starter home price brackets.” This lack of housing has created an imbalance in the current market and has led to a decrease in affordability for many families to include this family, whom I am in support of receiving an Interim Conditional Use Permit.

Mr. Harth and family have been involved and supportive of their community to include volunteer duties with the Township Fire Department. They have resided on this property with no negative impacts to their neighbors. They are aware that there may be others who are non-supportive of this permit, as they may perceive the approval of this permit would alter the fabric of their neighborhood. I don’t believe that to be a valid concern, as this family has lived here with no issues in the past.

Not granting this permit would result in this family losing their current home, significantly affect their livelihoods, and impact them financially as well. In these current times, that is not something any resident should have to deal with.

Until there is a substantial increase in the availability of housing in these increasingly unaffordable rural areas, I strongly urge the board to approve this permit.

Respectfully, Darin Gressman

Dear P&Z members,

We are writing in support of Ashley Tillich and Daren Harth to remain on their property on Hegberg Road. Ashley is a valued member of our fire department and they are both assets to our community. Daren's skill as an arborist has been beneficial in reducing our fire hazard clearing dead balsams. He is both handy and helpful. We hope there is a way to go forward that satisfies the spirit of our community plan.

Respectfully,  
Sherry Rovig and Barb Crow

Greetings,

I decided to write this letter to your committee, even though I am not a nearby neighbor of Ashley and Darin ...to maybe give you a little insight to their character .

I got to know Ashley as she works for Voyageur bus company, which my husband, Mike Krois owns. Mike got me in touch with Ashley because [REDACTED]...even though I am twice as old as Ashley she ended up being the stronger one, and truly gave me such great moral support..It was incredible! Around this time my older brother passed away, and I was in charge of getting his incredibly cluttered house ready for sale. Ashley and Darin came down and worked on the house for many many days ...their work ethic was incredible. . I do remodeling as a hobby and I was so impressed by Darin's work since then I have hired him to do many projects at my home, and at my cabin.... to summarize both Ashley and Darin are two of the most hard-working people I know and most important they are caring and very giving people. I am so grateful to call them good friends... and when they're not busy working, they enjoy family time with their two kids. Natalie and Zander..We also bonded over the fact that we are outdoors people and have an extreme love of nature.. they would be great neighbors to have and somebody you could count on and a great addition to your township!.. Sincerely,  
Maron Krois

This is Jake Weerts (wife Theresa Weerts) at [1735 Hegberg Rd](#). Regarding the request for setback variance submitted both by Austin Jeanette and Kelsey Dooley for [1780 Hegberg Rd](#) -and also in response to the accessory dwelling request by Darin Harth at [1798 Hegberg Rd](#)- I support the former request for setback variance and the latter request for Interim Use Permit for accessory dwelling as requested by the aforementioned individuals. They are good neighbors and deserve some latitude as they are not negatively impacting those around them.

Dear Planning and Zoning Committee Members,

We are writing to encourage you to work with Darin Harth and Ashley Tillich in their efforts to stay on their land at 1798 Hegberg Road. Please give them a variance that allows them the time to come into compliance with Duluth Township zoning.

Both Darin and Ashley are valuable members of the community and we would very much like to keep them as neighbors. Darin has done both paid and unpaid work for us over the years; he is knowledgeable, competent and insightful. He also considers the environment and other people in his choices and lifestyle. Both Ashley and Darin give time and effort to their neighbors and community. Ashley does this as a member of the Clifton fire department and Darin is quick to respond when a neighbor needs some help.

There are buildings and building projects within your township that are outside not only the zoning rules but the very intention and spirit that those rules are based on. The Harth Tillich residence is not in this category. Even though they are not in full zoning compliance, they demonstrate a lifestyle that is in harmony with the natural environment and supportive of the community around them.

Thank you for your consideration.

Sincerely,

Molly Tillotson

Inez Wildwood

End of Public Testimony

Tony asked how long they anticipated using the cabin as an accessory dwelling. Darin said their preference would be until they sell the property.

Pam thought the Commission could consider granting the use for a shorter time, maybe 5 years, and then consider a longer term after that. Justin said he was thinking 10 years. Blane said that he would prefer a longer time period so that they did not have to feel insecure about their home. Tony asked about setting it to expire if one of the families moved out. Liz said that keeping track of who was living there would fall to her and it would be both a burden and invasive of their privacy. She suggested either a set time limit on the use, or until the property changes ownership.

The Commission agreed that the applicants have worked in a timely manner to come into compliance with everything Liz cited and agreed on transfer of ownership of the property as the end point for the interim use.

Tony was concerned about precedents. Angela said that each case that comes before the Commission is unique and all are exceptions to the rule. She didn't think that a decision related to this particular parcel and family would likely be exactly replicated by another application.

Angela moved to approve the interim use for the use of an accessory guest cottage on the property at 1798 Hegberg Road as a subordinate residential dwelling for the period of time that the property is owned by its current owner. She moved that the proposed use is consistent with the Comprehensive Plan and within the spirit and intent of this Ordinance because the individuals who occupy the current accessory dwelling are active in the community and supported by neighbors and they live with respect to the neighbors' peace and quiet. She moved that the use is compatible with the existing neighborhood as the guest house has been occupied by these

individuals for a period of years without any negative impacts to neighbors and they have in fact had a positive impact on the community. 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 the guest house has a small footprint, does not affect the neighboring properties and meets all setbacks. The location and character of the proposed use is considered to be consistent with a desirable pattern of development for the area because the guest house is a small structure located away from neighbors' buildings and meets setbacks. There are no wetlands that would be affected. The total impervious surface area currently exceeds what is allowed, but the occupants are working diligently and in good faith to come into compliance. The topography, vegetation and soil conditions are adequate to accommodate the proposed use because it is currently operational and is not impacting surrounding vegetation or soils. There are no public waters near the property. There are adequate utilities based on the off-grid nature of the structure and the documents for the greywater system approved by St Louis County. The proposed use will not create potential health and safety, environmental, lighting, noise, signing, or visual problems because the guest house is located further from the road than the primary structure and will not generate excessive noise or light. The location of the site is appropriate with respect to existing or future access roads because the guest house is located at the far end of the property and meets all required setbacks. The demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities will not be increased by the interim use because the individuals occupying the structure are very environmentally conscientious. The septic is a composting toilet and a graywater system and water is hand carried to the home. Nate seconded.

The motion passed unanimously.

Tony asked about putting a condition on the use that the impervious surface area issue be remedied within X number of days.

Dave felt that they were so close to coming into compliance that it wasn't necessary. He said that they are not grossly over.

Liz said that they are grossly over - over 10%. But they have been working with her on it. She has given them until June to come up with a stormwater plan by an engineer. At that point they will decide whether to go with the stormwater plan or revegetate and remedy in other ways. The issue with putting a deadline on it is if they do go forward with the stormwater plan, the stormwater plan will have its own deadline for completing any required construction. The requirements of these plans vary widely, so there is just not enough information at this time to establish a reasonable deadline.

### **Kelsey Dooley and Austin Jeannette Variance Hearing**

Liz introduced the variance request and the hearing process. Kelsey Dooley and Austin Jeanette were present and requesting an after-the-fact variance for the side yard setback for a garage that has already been built on their property at 1780 Hegberg Road. They realized that they were not in compliance and brought the issue forward to Liz.

Liz showed the vicinity map. Theirs is the lot next door to Darin Harth. The zone district is FFL-1. The garage meets all the dimensional requirements except for the nearest side yard setback. Site photos showed that the garage is approximately 40 ft from the lot line to the east.

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

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

*Applicant response:* A. The intent of the ordinance is to ensure sufficient spacing between structures and property and although our principal structure does meet the established standard, the accessory structure does fall short but does still have ample room between the structure and property line.

B. We value our natural environment and always strive to be good stewards of our land. We utilized this space in particular because the area was already cleared, so further trees and forest area would not have to be disturbed unnecessarily.

*"Practical difficulties," as used in connection with the granting of a variance, means that A. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance; B. the plight of the property owner is due to circumstances unique to the property not created by the property owner; and C. the proposed variances will not alter the essential character of the locality.*

*Applicant response:* A. We request this variance to accommodate our already existing garage that is solely for personal residential use and the structure itself is within zoning guidelines.

B. These circumstances are unique to the property in that the individual (contractor) who built the garage informed us that we did not need to secure a permit to build and failed to let us know that the site did not comply with the 75 ft side yard requirement.

C. This variance would in no way alter the character of the locality. In using this existing cleared site, we were able to preserve more of the naturally wooded area. *Is the proposed variance a use that is allowed under the Zoning Ordinance?*

*Applicant response:* Yes.

Kelsey said that they bought the property in 2020. At the time, there was only the house on the property and they needed a garage as well. There was a concrete slab but they determined that it wasn't thick enough to build a garage on. North of that spot is the septic, so that was not an appropriate location either. They also did not want an attached garage due to the fire risk. The site they choose was a cleared, flat area to the east of the house that seemed very practical. They would not have chosen that site if they had realized it was not in compliance.

Angela asked if they hired a contractor to build the garage. Would a permit have been required? Kelsey said that they did have a contractor and he told them a permit wasn't necessary. Liz said that a permit for the garage would have been required. They will submit an application if the variance is approved.

Tony asked about the pad. Austin said that it may have originally been an RV pad, but he didn't know for sure. It is only 3 or 4 inches thick.

Justin asked if there have been any complaints about the garage. Kelsey said no. When they realized the problem, they brought it up to Liz and wanted to correct the error.

Blane asked if the garage interfered with the construction next door. Birch said he was the property owner on that side and the garage is some 400 ft from his construction and wasn't a problem. He said that they have been great neighbors.

Public Testimony

Beth read one letter:

This is Jake Weerts (wife Theresa Weerts) at 1735 Hegberg Rd. Regarding the request for setback variance submitted both by Austin Jeanette and Kelsey Dooley for 1780 Hegberg Rd -and also in response to the accessory dwelling request by Darin Harth at 1798 Hegberg Rd- I support the former request for setback variance and the latter request for Interim Use Permit for accessory dwelling as requested by the aforementioned individuals. They are good neighbors and deserve some latitude as they are not negatively impacting those around them.

End of Public Testimony

Dave moved that the variance be granted because there is no opposition from the community and they have come forth in good faith, recognizing that an error had been made. Pam seconded.

Angela moved to split the question; Justin seconded. The motion to split the question passed unanimously.

Dave moved that the requested variance is in harmony with the general purposes and intent of the Ordinance because it does not infringe on the neighbors' solitude, it provides sufficient spacing between structures and, although it does not meet the required setback, there is ample room between the structure and the property line. Angela seconded. The motion passed unanimously.

Justin moved that the requested variance is consistent with the Comprehensive Plan because, despite the setback issue, the placement of the garage maintains the rural nature of the Township. Dave seconded. The motion passed unanimously.

Tony moved that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance because of practical difficulties of the site, including the location of the septic system and the concrete pad, and it was a reasonable action to place the garage in the cleared flat area they chose. Nate seconded. The motion passed unanimously.

Pam moved that the plight of the property owner is due to circumstances unique to the property not created by the property owner because when they built the garage, they were told they were in compliance and have since made an effort to remedy the situation. Angela seconded. The motion passed unanimously.

Blane moved that the proposed variance will not alter the essential character of the locality because it is a residential property with a single-family home on it that is consistent with the character of the neighborhood and is in line with other structures in the general vicinity. Angela seconded. The motion passed unanimously.

The overall motion to grant the variance was unanimously approved with approval of the criteria.

### **Kevin and Sara Morgan Variance Hearing**

Kevin and Sara Morgan and their architect, Jacob, were present to request a variance from the requirement that an addition to a nonconforming structure be limited in size to 25% of the original footprint when the addition will not meet setbacks. Their home is at 1700 Old North Shore Road and is nonconforming because it doesn't meet the required setback from the Sucker River. The addition would be approximately 81% of the footprint of the existing home.

Liz introduced the hearing. She showed the vicinity map, site photos, and a site sketch with the proposed addition. The Morgans' original application was for a variance from the setback from the river for the addition. But it was determined that the variance needed was the one related to the size of an addition to a nonconforming structure. If the existing deck is not included in the calculations, the addition would be 81% of the ground floor area of the structure. If the deck is included in the calculations, the addition would be 61%. In either case, they would be over the 25% allowed by the Ordinance and need the variance. Decks are considered accessory

structures; in this case the deck is attached. The proposed addition meets all of the dimensional requirements except for the setback from the river.

Jacob said that he calculated 75% without the deck and 61% with it. Beth said that the 81% figure was an estimate based on the application, which said the addition would be 1500 sq ft, and on St Louis County property records, which said the existing home is 1848 sq ft. She recognized that 81% was an estimate.

Angela asked if the State's setback requirement from the river was more lenient than the Town's. Liz said that it was.

Liz showed that just past the house is a steep slope down to the river. There are limited flat areas around the house that would be suitable building sites. Their house is between 100 and 110 ft from the river. The addition would be set further from the river, but would still not meet the setback.

Justin asked how far they were from Old North Shore Road. Sara said it was about a quarter of a mile. It can't be seen from the freeway either. She said that they chose to put a second floor on the addition to minimize the footprint.

Justin asked if they would still need a variance if they built the addition off the back of the home. Liz said that they would.

Sara added that the back of the house is the only safe yard area for the kids because of the river. An addition there would also interfere with sunlight to the existing garden.

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

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

*Applicant response:* The proposed addition will follow all Ordinance requirements with the exception of the setback to the Big Sucker River. We are honoring the natural environment by orienting and building the addition further away from the river than the existing structure. Our values align with the CLUP in multiple ways.

We are keeping the property as a single-family home, investing in our rural community and its values. We care deeply for this property and raising our three young children here. We would like to keep our 20 acre property, respect the natural environment, and use the existing infrastructure that is already there rather than parceling the land to build a new home further from the river.

Honoring the natural elements of the site and what makes it unique is important to us. We thoughtfully considered tree removal and impacts to the site when designing the addition. We also have thoughtfully considered and planned for storm-water management. We have designed the roof of the addition to slope away from the river. By utilizing gutters and underground drain tile, we will divert rainwater from both the addition and existing structure to a portion of the site further away from the river. With the addition we will need to update our septic mound system. The septic system will be moved further away from the river than the existing.

*"Practical difficulties," as used in connection with the granting of a variance, means that a) The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance; b) the plight of the property owner is due to circumstances unique to the property not created by the property owner; and c) the proposed variances will not alter the essential character of the locality.*

*Applicant response:* a) We are requesting to add an attached addition that we are proposing to build further away from the Big Sucker River than the original home. We are requesting this variance in this

specific location as it's important to us to preserve the trees on our property as much as possible. This location would require minimal tree removal as it is already a cleared portion of the site. We want to preserve the value of the property by making it suitable for 2024 living expectations. When originally looking at homes we did not think we were going to be blessed with children, and now we have three wonderful kids who also love the home. But the existing home does not have enough bedrooms or storage and with our extreme winters, an attached garage would make our lives better with three little ones. So, rather than relocate from a site and home that we love, we are requesting to alter it to meet our needs. We have thoughtfully considered and planned for stormwater management. We will be diverting rainwater via gutters and a drain tile to a portion of the site further away from the creek. B. These circumstances are unique to the property in that the individual (contractor) who built the garage informed us that we did not need to secure a permit to build and failed to let us know that the site did not comply with the 75 ft side yard requirement.

b) Our home (the original structure) was built in 1966-1967 and existed in its current location at the time of our purchase. Because the existing structure is entirely within the current setback requirements (sic), it is not possible to add on in a way that meets the setback requirements of the Ordinance. To reduce the footprint and impact on the site the proposed addition will have a partial second floor and will be farther from the river setback requirements than the existing structure. We are looking to build our addition in a way that has the least impact on the site, understanding the existing structure does not meet the setback requirements and the proposed addition will not make the non-conformance worse.

c) The site is zoned RR-1 as a single-family home and will remain the same. The addition will be consistent with and complimentary to the existing architecture. Our site is very private. There will be no visual impact on any neighbors or publicly accessed roads and we will maintain the rural character of our site.

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

*Applicant response:* N/A - Zoned RR-1 - Single family dwelling is allowed.

Tony asked where the septic was and Jacob showed its location on the map. It would not have been a suitable location for an addition even if the septic hadn't been there.

Kevin said when they found this home they weren't worried about the size of the house because they did not expect to have children. Then they ended up with three kids. They worked hard as they planned the addition to stay consistent with the unique flavor of the home.

Jacob said the house was in some disrepair when they bought it and they have been fixing it up and planting trees. All of the drainage from the home will continue to slope away from the river. They also plan to capture gutter water and direct it away from river, as well. The location for the addition is already clear.

Tony noted that their home is right on edge of the slope down to the river. They will have to plan for unusual weather events. He asked about erosion control and the engineering of the home and addition. Jacob said they will follow all recommended erosion control measures. The addition will be engineered for the hillside and clay.

Justin asked how far the home is from the river. Jacob estimated by GIS that it is 100 to 110 feet back and the garage is at about 132 ft. There is no way to add onto the existing structure and meet the setback from the river.

Dave said that in his experience, the County includes the deck with the house in the property assessment and that would make the addition 61% of the size of the original structure.

Kevin said that most of the area of the addition is the garage. It is really hard to get below that square footage when considering a garage and it's not practical to have a detached garage when you have three kids.

Sara said there would be a master bedroom above the garage. The laundry room is currently in a hallway and will be relocated.

#### Public Testimony

Trudi Taylor spoke. She lives to the east of the Morgans and said that they are great neighbors. They need more room and have worked hard to figure out how to do it. They are good stewards of the land and are the kind of people you want living next door to you.

Frank Taylor said that he has been there since the 70s and supports their proposal.

Tom Kremer said that he supports the proposal.

The Taylors had submitted a letter to the Commission in support of the proposal, as well.

#### End of Public Testimony.

Pam said she was struggling because she didn't think the size of the addition was reasonable. The house would not be allowed that close to the river now and if it were not already there the Commission would be very unlikely to grant a variance for it now. 110 ft was too close. The reasoning behind the 200 ft setback is to protect the river.

Dave said that they are being proactive with stormwater. He asked what the area of the existing home was. Sara said that it was approximately 1200 sq ft downstairs and 1600 sq ft upstairs.

Blane asked what the disturbance of the slope would be there. Jacob said that they would have to go below frost line, so about 5 ft. Erosion control would be in place during construction and then all water would be rerouted post-construction. Liz said that she would be making onsite inspections.

Justin said that it looks like there is an 8 ft drop off right there. Jacob showed that it would be less at the location of the addition.

Blane said the addition is 80% of a fairly small footprint and it doesn't seem like that much to him.

Nate said that he is an appraiser and the home is not small for the area. It is 1850 sq ft up and down. It may only be two bedrooms, but its 3700 sq ft. He asked if they considered finishing the basement. Sara said that that would be a lot of work. The other option they have considered is splitting the property and building a new home. That would be more impactful.

Justin said he agreed with Pam. The setbacks from trout streams are there for a reason. This is a significant expansion of a home well within those setbacks.

Liz said that the Ordinance allows them to expand up to 25% of the original footprint without a variance, so that would be another option.

Sara said that because of how the roof is built, they cannot build up. Jacob said the roof is a low slope rubber roof with beams – it is an architecturally significant house. They have 23 acres and could divide that further, but want to keep the character of the property.

Dave said that if they built a garage outside of the setback they would have to change the driveway and clear a lot of area. It seemed to him that what they were proposing would not be that detrimental to the trout stream.

Tony said that the house has been there for 60 plus years. The addition would be far less impactful than dividing the property and building another home. Angela noted that they could still do that at any point. Sara said they wanted to keep the property together and have a garage.

Justin said that without the garage, the addition could be much smaller and require less of a variance. They could build onto the existing garage which does meet setbacks. The proposed addition is larger than many private homes. And they want to put it in a protected area where a home would not be allowed now. The home is already in place there, but this would be a significant increase in the size of the home.

Sara said that even if the Commission were to change the percentage allowed, the same amount of land will be disturbed for the construction. They've spent a lot of money to get to this point.

Angela said that if this request were to be granted, they could not add on again. A non-conforming structure can only be expanded once in its lifetime.

Dave said that to him it was reasonable and not invasive. They are just adding a bedroom and a garage to an existing structure.

Tony agreed. He thought it was reasonable.

Angela made a motion to approve the variance from the requirement that an addition to a nonconforming structure be limited in size to 25% of the original footprint when the addition will not meet setbacks to the requested 61% increase in size. The 61% is calculated by including the deck as a part of the original structure. Tony seconded.

Angela moved to split the question. Tony seconded.

Angela moved that the proposal is in harmony with the general purposes and intent of the Ordinance because it does not encroach further on the trout stream and it is a continuing use as a single-family home that is an existing non-conforming structure. Tony seconded.

The motion passed with Angela, Tony, Dave and Blane voting in favor and Nate, Justin and Pam voting in opposition.

Angela moved that the variance is consistent with the Comprehensive Plan because it is an expansion of an existing use of a single-family dwelling that will entail minimal disturbance to the protected area. Blane seconded.

The motion passed with Angela, Tony, Dave and Blane voting in favor and Nate, Justin and Pam voting in opposition.

Angela moved that the use is reasonable in that it is a single-family dwelling and it is a reasonable expansion of the existing footprint of the home that is not permitted by the Ordinance due to its nonconformity.

The motion passed with Angela, Tony, Dave and Blane voting in favor and Nate, Justin and Pam voting in opposition.

Tony moved that circumstances unique to the property are that it is an existing structure, the sewer system would be impacted if the design were changed, the driveway would have to be resituated if the design were changed, and the circumstances were not created by the property owner. Any design change would entail significant impact to the property. Dave seconded.

The motion passed with Angela, Tony, Dave and Blane voting in favor and Nate, Justin and Pam voting in opposition.

Angela moved that the variance will not alter the essential character of the locality because it is a 61% increase and the structure will continue as a single-family dwelling and will not encroach any further than the existing structure. Tony seconded.

The motion passed with Angela, Tony, Dave and Blane voting in favor and Nate, Justin and Pam voting in opposition.

With the approval of all the criteria necessary for allowing a variance, the variance was approved.

Angela moved that as a part of the variance, a requirement be adopted that as a part of the design, BMPs for erosion and sediment control be in place and stormwater be directed away from the trout stream and that a land disturbance inspection be required during and after construction, regardless of the amount of land disturbed. Tony seconded.

The motion passed unanimously.

### **Old Business**

Liz had nothing to report.

The February 22 minutes were approved as presented.

### **Director's Report**

Liz said that Andrew Zurcher was still not in compliance. He has not submitted a stormwater plan and has made no progress towards compliance. The Board has approved sending him a letter initiating litigation. The MPCA has issued a second letter with additional fines. The DNR is holding his permit because he hasn't provided sufficient information, and the stormwater plan is not yet in place.

Angela asked if he was still renting. Liz said that the rental unit is listed on-line, but there's no way of knowing how often he is renting it out. He has a permit for a low frequency short-term rental, which allows him to rent 4 times per year. The permit is over the counter and is renewed on a yearly basis. Because of the non-compliance issues, she would recommend against renewing it this year.

At the Annual Town Meeting the budget for Planning was approved and the overall levy was approved.

### **Concerns from the Audience**

Birch Hilger, on Hegberg Road stated that he submitted permit applications and a check in October 2021. Then he recently got a letter from Liz saying that he does not have permits and owes \$2304 dollars. Five days later the MPCA showed up. He had a survey done and the land disturbance is only 9/10 of an acre. Liz then sent another letter with more fines because he didn't meet deadlines. He said that he plans on legal action. He cannot work with Liz. He is coming to the Commission for resolution.

Angela said that she would need a lot more information. Birch said that he sent permit applications, but the Town claims to have never received the paperwork. Four times the permit fee is crazy. St Louis County, Duluth, and others only charge two times the permit amount. He believes the numbers are way off what they should be. He has not submitted payment yet because they haven't agreed on the number.

Liz said that if someone disagrees with a decision the Planning Director has made, they can appeal it.

Angela said they would need to see all the documentation.

Another audience member who did not introduce himself asked about setting a precedent by allowing two dwellings on a single lot. There are already too many residences on lots that are too small. The Township has changed too much and has moved away from its rural roots. There is a chance he won't be able to get his kids into the local school because it is already full.

Liz said that sometime around 2006, the RR-1 zone district was established with a minimum lot size of 4.5 acres. That has resulted in subdivision and more homes on smaller parcels. The Township follows the St Louis County subdivision rules which allow a parcel to be divided into no more than 4 parcels.

A break was taken while the findings of fact were prepared.

The findings for the hearings were approved and the meeting adjourned at 10:40.