

**Town of Duluth
Planning Commission
Meeting Minutes
April 25, 2024**

The meeting was called to order at 6:31 pm by Vice Chair Blane Tetreault.

In attendance: Blane Tetreault, Pam West, Justin Osadjan, Tony Mancuso, and Nate Nesgoda.

Absent: Angela Wilson and Dave Meyer.

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

The agenda was approved as presented.

Seth O'Donovan Variance Public Hearing

Liz introduced the hearing. Seth O'Donovan was applying for a variance from the minimum lot size for a commercial use in a non-commercial zone district in order to then apply for a conditional use for a café on the property, located between 5923 and 5950 North Shore Drive. The minimum lot size for a commercial use in SSUR-1 is 2 times the required lot size for the zone district (2 acres). The proposed lot is 3.76 acres, requiring a variance of .24 acres. Liz showed aerial photos of the site as well as a site sketch showing the proposed use.

Tony noted that the parcel is split in half by the railroad and Old North Shore Road and has North Shore Drive across it on the southern edge. Does those areas count towards the total acreage of the parcel?

Liz said that they did not appear to be a part of the total acreage.

Seth spoke. She said they chose this parcel because it is owned by the grandfather of one of her partners. They would like to keep the property in the family. They are deferring the purchase until next month, pending the outcome of this hearing.

Seth said that she and her three partners met in Colorado. They are all in the high-end hospitality industry. Circumstances became right to move forward with this plan in just the last three months. Two of them were born and raised here and are moving back in a week. She and her partner are also moving back soon. Rural culture is important to them, and it is disappearing in Colorado.

Liz showed the criteria that must be met for approval of a variance and the applicants' responses to those criteria as stated in their application.

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

Applicant states: We believe that this proposal is not only consistent, but emphasizes and elevates the intent of the Comprehensive Land Use Plan for the Duluth Township. Our desire to establish this business on this parcel is due to an intentional decision to seat hospitality offerings in a rural setting, believing that rural spaces are the most leveraged to operate sustainable, healthy, quality restaurants.

Here are some examples of how our concept embodies the Core Community Values of the CLUP:

Ruralness - Our business model will reflect what is valuable to all of us about rural life: quiet settings, natural materials in the building, low-impact to the land in the operations, and hours that encourage quiet & darkness at night and gathering & work in the day.

Natural Environment - The café will be built in a way that minimally impacts the natural landscape of the parcel, focuses guest views on the natural environment and land/water features, and uses natural landscaping techniques to shape functional needs. The operational model seeks to value the preservation of the natural environment through strategies of on-site composting, soil-building, and landscape design that prevents erosion.

Community Life - The café will forefront the communities of the Lake Superior region through ingredient sourcing and the community of Duluth township through visibility regarding quality cuisine and gathering space. The space is intended to be a place of gathering for folks locally and a source of healthy food and inspirational environment without leaving the township. The café will also be designed to be an intergenerational space that welcomes people of all ages and provides format for intergenerational gathering.

"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;

c. The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Applicant states: The proposal for this parcel is for some very specific reasons which other properties do not allow:

1. This parcel is connected to a three-generation family held parcel in the Anderson family that the current generation would like to develop in honor of the grandmother who was the initial titled land-holder in the family. There is a generational connection to this land and a desire to see it become a representation of hospitality beyond what a private residential zoning compliance would allow.

2. In conducting a survey of available commercial land for this concept in the commercially zoned districts of the Duluth Township, we have not found another parcel that provides to the degree that we desire for this concept a connection to natural landscape, minimal and clean building design that is in the spirit of landscape design and ecosystem preservation principals, and access to an increased environment of quiet and minimal light-pollution.

3. The hope of the concept is to enhance the essential character of the residential zoning that this parcel is in.

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

Applicant states: The proposed use is allowed in the Zoning Ordinance with a Conditional Use Permit.

Public Testimony

Frances Burge spoke. She read the Town's Comprehensive Land Use Plan and felt that it didn't support locating commercial uses in areas of the Township like this one. There are areas designated for commercial use available in the Township. The section of road where this property is located is not safe for a commercial use. Speed is an issue, and the property is on a blind curve under the railroad trestle. The use would change the complexion of the neighborhood. The applicants emphasize sustainability, but would clear the lot for the business which did not fit the concept of sustainability. There are other areas where this type of use would be appropriate. Other restaurants and businesses in the area have failed or are struggling. She did not want to see another property developed for a business that then fails. In

addition, the sewer system is struggling and may not be able to handle this additional load. (*Frances also submitted a letter to the Commission which is attached.*)

Dean Korri spoke. He represents the Township on the North Shore Community School board and on the Duluth North Shore Sanitary District sewer board. His first concern was that based on the map included in the notification letter, the parcel didn't look like it was 3+ acres. But Liz's presentation showing the entire lot, clarified that. He said that even though the property is considered one tax parcel, he believes it should be treated as two separate parcels as the property is divided by the railroad tracks and would end up having two addresses on two different roads.

Liz said that it is one tax parcel and must be considered as such. It cannot be legally split because it is not large enough to create two 2-acre lots.

Dean said that he disagreed with considering it one lot. He has the survey and the railroad is not an easement. It's a separate piece of land. So, the two parts of the parcel are separated by another piece of land that is in different ownership. In order to come close to meeting the requirements of the Ordinance, they need both parts of the parcel, but they will actually be cramming everything onto the lower portion, which is much smaller.

Nate said that the parcel may be split by the railroad, but it's a historical lot of record.

Dean said that the proposed driveway is 20 feet from his property. It ends up on a rock outcrop. In addition, they would have to have two separate sewer systems, which would be very expensive.

Seth said that what is shown on the site map is only a proposal. Each item will be evaluated by the Township as they applications are submitted for them, including the driveway. She said that they are aware of needing two sewer systems.

Liz Murray said that since the parcel fronts two different roads there would be two separate addresses, one off of North Shore Drive and one off of the Scenic Highway. This supports the argument that the two parts of the parcel should be treated as separate lots.

Seth said that St Louis County proposed the two separate addresses.

Dean said that the survey he has specifically excludes the railroad and Old North Shore Road. He said that he is not necessarily against their proposal, but it seems like they are stretching too much to make it happen. There are reasons for rules – he is on the sewer board and knows that some things just aren't allowed. There are four restaurants in the area that have failed in the last ten years. Will we end up with another empty building in five years? He would rather that they have a better chance of success with another location that is allowed by the Ordinance.

Derek McCorison spoke. He grew up on Torgeson Road and appreciated the opportunity to speak before the Commission. He said that the parcel is split in two by the railroad tracks. As far as he was aware, there is no legal crossing there. It's over a half mile drive to get from one side of the property to the other. Treating the property as one contiguous block for the purpose of a variance or conditional use is not right. There are a lot of commercial properties available. His family asks that the Commission deny the request.

Tony said that railroad tracks are always a no trespassing areas. Any railroad crossing requires a permit from the regional rail authority.

Lorne Mindestrom said that the letter he got did not show the proposed home with a bed and breakfast on the north side of the railroad tracks. It seemed to him that it should all be addressed together as one package. He also wondered about the chicken coop. Would you want animals down by the lake like that?

Liz said that the property is zoned residential, so they can have a house, chickens, etc. without a public hearing as long as all the requirements of the Ordinance are met.

Gregg Murray spoke. He said he had also submitted written comments. He did not think it was practical to consider the parcel as one lot. He said they are generally supportive of these kinds of uses in the area, but struggles to support this proposal. He understands the family connection to the property, but does not think that is an adequate reason to allow this use in this location. *(Gregg's submitted written comments are attached.)*

Julie (no last name given) said she was in favor of a business like this and felt that it would benefit the fabric of the community. But she was concerned about this location. She said she is a motorcyclist and knows that there have been a number of accidents at this curve. She sees a lot of people accelerating as they come out of Knife River and others trying to pass other vehicles before reaching Knife River. A business at this location would not be that visible. The lack of visibility would also affect its viability. She also had concerns about a restaurant overloading the sewer system.

Mark Herman asked what the true acreage of each part of the parcel was, excluding the roads and the railroad. There are two rights of way and a railroad affecting the parcel size. Lot size requirements are established to protect the watershed and to allow this proposed business on this lot would circumvent that protection.

Liz Murray spoke. She lives directly across North Shore Drive from the property in question. They also have the property directly adjacent to it on the east that has the snowplow turnaround on it. She doesn't understand how an application could be approved without knowing the size of the buildings, the seating capacity, the number of cars and the amount of other traffic, etc. that would be associated with the business. There is not enough information to consider the application. In addition, the property isn't 3.76 contiguous acres. There is not enough room for the building, the driveway, and parking. There would have to be adequate space for delivery and emergency vehicles. She said that it's hard, as a neighbor, to not know what is actually proposed. The speed limit is 50 mph there. How many cars will there be? This particular parcel, despite its sentimental value, just isn't right. They are also planning for a 3000 sq ft bed and breakfast on the second part of the lot. There is just not enough information.

Frances Burge said that the proposed bed and breakfast should be a part of the proposal and hearing. Could they have a residence above the café?

Justin said that there cannot be two separate residences on a parcel. Beth said that the bed and breakfast would be another conditional use hearing.

Frances asked if the conditional use would be transferred to the next owner. Would they be able to use the property in any commercial way they wished?

Liz said that when a conditional use is granted, it is very specific to the use. The new owners would only be able to continue the same use unless they were to submit a new proposal, which would entail a new hearing. If a conditional use is not used for more than a year, it is discontinued. In this case it would revert to residential.

Given the questions about the actual available acreage, Liz asked Seth if she wanted to postpone the variance decision until a survey could be done. Some measurements showed the parcel to be over the required 4 acres, at which point a variance would not be needed. The conditional use would still be needed for a commercial use in a non-commercial zone district.

Nate asked if a survey would really be useful. Having 4 acres instead of 3.76 wouldn't change how it affects the neighbors. There are a lot of other options on the market. Why allow for another business in a residential area that might fail and end up like the Nokomis?

Liz said the Commission can move forward with the variance hearing based on the stated 3.76 acres or ask for more info. They could also continue with the conditional use hearing, but she wouldn't recommend that without resolving the variance.

Dean brought the survey he had up to the Commission. The survey was a registered survey and showed the lot to be over 4 acres. Dean also noted that the sewer board would welcome the added accounts.

Blane moved that the Commission accept the survey presented showing that the property is over 4 acres, negating the need for a variance. Nate seconded. The motion passed unanimously.

It was decided to postpone the conditional use hearing to May 23rd to give Seth more time to talk to the neighbors. Tony made the motion to move the conditional use hearing to May 23. Nate seconded and the motion passed unanimously.

A break was taken.

When the meeting resumed, Liz announced that Blane would be leaving the Commission and that next month would be his last meeting.

Nate asked about where things stood with Birch Hilgers.

Liz said that she gave him a deadline of March 19 to submit his applications and fees, which he did not meet. When he came to the March Planning Commission meeting to protest, she gave him the option to appeal the decision. She generally gives folks 30 days to come into compliance. She then has the Town attorney send them a letter.

Liz said she recently got an inquiry about a property on Paul Road. There is a cabin on the property and the owners, who bought the property about two years ago, want to put an addition on it. She showed the site on St Louis County Land Explorer. There are a number of problems with the property. A previous owner got a variance to build a 700 sq ft cabin 150 feet from the river. But the cabin is over 2000 sq ft and is only about 50 ft from the river. There is a sauna that was not permitted that is also too close to the river. The current owners would like to apply for a variance to add onto the cabin. The cabin is already much larger than what was permitted, so Liz felt that it had essentially already been added onto and a non-conforming structure is only allowed to be expanded one time. In addition, the setback from the river is egregiously closer than what was allowed by the variance. It is within the Town's purview to ask that they move the structures. Instead of expanding, it may be possible to convert some covered porch area to enclosed living space.

She asked what the Commission felt should be done regarding the situation.

Justin said that he would not be inclined to punish the current owners for someone else's mess.

The Commission agreed that further expansion of the building in its current location would not be appropriate.

Liz updated the Commission on Andrew Zurcher. He apparently thought he had been granted a permit for a short-term rental. Liz sent the decision and minutes from that hearing showing that the permit was approved contingent on his completion of a stormwater plan, which he has not yet done. The Town attorney will send him a letter regarding his failure to comply with stormwater regulations and requiring that he cease the short-term rental.

Justin said that there is a gravel pit in Alden Township that appears to be running more trucks per day than allowed by their permit. Alden Township is putting together a complaint to St Louis County. Is there anything Duluth Township can do to support that? It is affecting Duluth Township, too, as the trucks going to Duluth come down App, West Knife River, and Homestead Roads.

Liz suggested that he attend the next Town Board meeting to discuss it with the Board.

Tony recommended contacting the County Commissioners for the districts.

The minutes were approved as presented.

The meeting adjourned at 8:46.