

**Town of Duluth
Planning Commission
Meeting Minutes
September 26, 2024**

The meeting was called to order at 6:40 pm by Chair Angela Wilson.

In attendance: Angela Wilson, 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.

Dziengel / Lundberg Variance Public Hearing

Liz introduced the hearing. Lake Dziengel and Karen Lundgren were present and were applying for the following variances for an addition to their home at 5208 Greenwood Rd, located in zone district SUR-1:

- A 9.5 ft variance from the side yard setback from 20 ft to 10.5 ft;
- A 12 ft variance from the requirement that the height of the addition (28 ft) not exceed the height of the original non-conforming structure (16 ft);
- A variance of 17.6% to the requirement that a nonconforming structure not meeting setbacks be limited to a 25% expansion of the original ground floor area of the structure for a total increase of 42%.

Their home is a non-conforming structure because it does not meet the setback requirements from the road and from the side yard and existed as such before the enactment of the Ordinance. These nonconformities would not be increased by the variances. Their request, as stated in the application:

Attached garage variance setback: We are making Greenwood Road our permanent residence to age in place as we are both retired. The current garage is a detached 1-car, 14.5' x 22' or 319 sq ft. It has a dirt floor and meets the accessory structure 10' side setback. We want to build a new attached 2-car garage: 24'x24' or 576 sq ft. It would become part of the primary structure, so we request a 9.5' variance to meet the 20' side setback requirement. The garage/primary structure would remain the same distance from the property line: currently 10.5' from the property line.

Footprint variance for living space addition: We want to construct an 18'x16' or 288 sq ft living space addition on the back of the garage. The final size depends on the necessary setback for the existing well and where to best create access from the existing home into the new construction. Thus, it may be slightly smaller than 18'x16'.

Our primary home, according to Zillow, is 985 sq ft and the existing garage is 319 sq ft: a total of 1304 sq ft existing footprint. The new living room addition of 288 sq ft and the 2-car garage increase of 268 sq ft of footprint totals 556 sq ft or a 42% increase. Minus the 25% minimum threshold for a variance, we are asking for a footprint variance of 17%.

Height variance on the new construction: We want to add a second story on the new construction over the garage and addition. We request a variance of 28' that would slope down to 20' for the new construction. The height is dependent on the slope and foundation requirements but may be lower than 28'. We consulted with a structural engineer on our existing home, garage and load bearing walls, and whether the existing garage could support a second story (it cannot). He confirmed a 4/12 or 6/12 pitch should not require more than 28' peak height. The existing

primary structure is 16' in height and will not change. We will have 9' ceiling height in the living space to also limit the height as much as possible.

The current structure distance from the road centerline to the new garage and existing primary dwelling would remain unchanged. We cannot build toward the lake side of the lot due to the existing well and public septic system.

Liz read the conditions for adding onto a non-conforming structure:

A. Conditions for Enlargement. A nonconforming structure may be enlarged as follows:

1. If the proposed addition meets the required setbacks for the zone district the addition shall not exceed seventy-five percent (75%) of the original ground floor area of the structure and the height of the completed structure will not exceed that of the original structure.
2. If a proposed addition does not meet the required setbacks for the zone district, the addition shall not exceed 25% of the original ground floor area of the structure and the height shall not exceed that of the original structure.
3. A non-conforming structure may be enlarged only once.

The height of their current home is 16 ft and the proposed addition, to accommodate space over the garage, would be 28 ft, a variance of 12 ft.

Karen said that although the house height will be taller, it will only be at the peak and will slope down from there.

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: Our existing primary structure is just under 1000 sq ft. The bedroom adjacent to the garage would become a utility room with a door to the new attached garage. The hallways and doorways in our home cannot accommodate a wheelchair, so this renovation would also allow us to widen entry doors and hallways to increase accessibility, and bath with a roll in shower.

Additionally, we do not have laundry facilities in our home due to space and venting. Expansion would allow us to age in place in a neighborhood we have come to love over the last 11 years. As Lake is Emeritus Faculty at UMD, the extra space would also allow for a small home office to continue research and writing. We plan to replace the current 1970s aluminum siding, install new windows and sheetrock in the existing home, and add insulation to improve energy efficiency and overall aesthetics of the property. We do not anticipate needing to remove any trees or existing habitat. Also, we appreciate the 'dark skies' of our neighborhood and would not add more outdoor lighting.

Our intent is to stay in this home long term; and maintain it as a single family dwelling, adding to the general 'feel of our neighborhood' which is friendly and primarily owner occupied. We modeled our plan somewhat on the exterior view of a residence located at 5371 Greenwood Rd and fit with the general appearance of other homes along Greenwood.

"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: Our lot is considered non-conforming due to the history of the Greenwood Beach neighborhood. We are constrained in that our neighborhood is on a public community septic system; we have a septic holding tank/grinder with underground sewer lines in the back of our home so we cannot build in that direction. The location of our well is another drawback that limits where we can expand. Our home is on a 'rock slab' such that a basement is impossible. We would add a bedroom and bath upstairs over the garage and room addition. Because of the location of existing plumbing and sewer access, the new bath would need to be on the north side, above the existing bathroom. This means a 42" wide staircase on the south side. Because of building codes, a 9 ft ceiling requires about 14 steps or 11 ft in length to accommodate for head space. This is why we need a height variance. The second story would also allow for attic access through a door on the second floor (we currently crawl up a ladder through a small trap door). We also plan to create interior access into the crawl space with is currently only accessible externally and creates difficulty for emergencies such as shutting off the water pump.

We have a large fenced-in yard and have reclaimed much of the character of the property through our own sweat equity in yard work and maintenance the past 11 years. Upkeep was limited in the years prior to our purchase in 2013. We have worked to decrease the fire danger of downed trees in the back of the property through the Fire Wise program and gotten to know our neighbors well over the years. We have also removed a lot of 'rubbish' that was in the back part of the lot. In our immediate vicinity, nearby homes have changed owners since we moved in and we are now the longest term residents in our immediate area, with the exception of our neighbor across the road, Maureen Olson.

We will need to move the propane tank and a small shed to accommodate the addition.

We will work with a design person on the project after we obtain the necessary permission to proceed. We briefly discussed the project with Jim Kampa, of Jim Kampa Renovations and Construction, with a tentative plan to start construction in Spring 2025.

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

Applicant response: Yes.

Lake said that they have considered adding onto their home for a long time but didn't know that it was non-conforming. They explored options and felt that the version they were presenting here would best serve their purposes with the least increase to impervious surface area. They have put a lot of time and effort into reclaiming the property and fixing up the house. They intend to stay here and want the home to be better suited to aging in place.

Liz said that she has been involved in conversations with them for a long time trying to find a solution that will meet their needs. The grinder for the septic is on the south side of the existing house and the well is to the back of the existing garage, both limiting potential placement of an addition.

Tony asked if the proposed garage was a tuck-under. Lake said that it was just a regular two-car garage on the same level as the existing garage. It would be no closer to the road than the existing garage is now.

Tony said that he visited the site and it appeared to him that the increased height would not block any of their neighbors' lake views. Nate and Angela both visited the site and agreed with Tony. Lake said they hope to have the roof slope such that it will only be 4 ft higher at than the current roof at its lowest point.

They consulted with a structural engineer and he said that they shouldn't need to go higher than 26 ft. They are asking for 28 ft just in case.

Liz said that the existing detached garage meets the side yard setback at 10.5 ft, but once it is attached to the house it will be a part of the primary structure which requires a 20 ft setback. If the variance were approved for that side yard setback, it would not increase the distance that already exists from the building to the lot line. If the variances are approved, they would then submit a land use permit for the addition and she would follow it from there, making sure the variances are adhered to.

Tony asked if anyone on the Commission had an issue with the addition wall potentially being set 10.5 ft from the side yard lot line. No one did.

Public Testimony

Beth read one comment that had been submitted by email to the Planning Office:

To whom it may concern,

Reference is made to Duluth Township correspondence dated 12 September regarding the application for several variances concerning the above mentioned property on Greenwood Road, owned by Lake Dziengel and Karen Lundgren.

I wish to formally register that I do not have any issues regarding this application. Judith Thimke

There was no one present to provide comment.

End of Public Testimony

Angela asked if they had talked to their immediate neighbor about the addition. Karen said that they did. The neighbor wanted to know if the home would be closer to hers and it will not be, so she said she was fine with it. Lake said that they did get a survey because no one seemed to know where the property lines were.

Nate said that his original concern with the application was the height, but after walking the site, he did not think it would be an issue.

Angela said that all five of the criteria must be approved in order to approve the variance.

Dave moved that the variances be approved as presented provided they meet the variance criteria. Nate seconded.

Angela Wilson moved to split the question to consider the variance criteria. Nate Nesgoda seconded. The motion passed unanimously.

Tony Mancuso stated that the proposal is in harmony with the general purposes and intent of the Ordinance because it maintains the character of the neighborhood, the side yard setback will not be increased, there is no objection from the neighbors, and the addition will not block the view of neighbors. It is consistent with the Comprehensive Land Use Plan because the existing neighborhood is a fairly compact residential neighborhood and the addition is consistent with this. It does not impact the rural residential character of the neighborhood.

Dave stated that the property owner proposes to use the property in a reasonable manner in that the original home is a nonconforming structure that was built over 50 years ago and the owners now want to improve the home to make it more accessible and accommodate current living standards while being careful to avoid unnecessary impact on their neighbors.

Nate stated that the plight of the property owner is due to circumstances unique to the property not created by the property owner because the house was built 70 years ago and does not conform to current standards for accessibility. They will not be closer to the neighbor's property line.

Nate stated that the variance will not alter the essential character of the locality because it will remain a residential dwelling. Most homes have two or three bedrooms and this one has three. The appearance from the curb will conform to the neighborhood and the variance for the height will not affect anyone else's view. The structure will conform to surrounding residences when completed.

Angela moved that each of the criteria be approved as articulated. Dave seconded. The motion passed unanimously.

Angela moved that with the approval of the criteria the variances, as requested, were approved. Tony seconded. The motion passed unanimously.

Old Business

Liz said that Ken Peterson is the new Planning Commission member. He is on the volunteer fire department, is a project manager for Bruckelmyer Construction, and participated in the formulation of the Town's CLUP, so he is familiar with planning concepts.

The August 22, 2024 minutes were approved as presented.

Directors Report

Liz said that she doesn't have anything new regarding the lawsuit against the Stoney Point property for disregarding the Town's Stormwater Ordinance and continuing their short-term rental after a cease and desist order. The Town's attorney is still trying to get compliance before moving forward.

Liz said that she had not followed up with the junk cars on the property on Torgeson Road in part because the junk car ordinance falls under the Town's purview, not Planning and Zoning's. In addition, in dealing with a similar issue on Englund Road, she has found that the existing junk car ordinance needs to be updated in regard to enforcement and she planned to talk with the Town Board about that.

Angela agreed that the due process part needed to be spelled out. She said that with a zoning infraction, it is an affirmative act on the part of the person who is taking the action. For junk cars, it is a lack of taking action. It is typical for an entity to not pursue enforcement in those situations unless there have been complaints.

Concerns from the Audience

There were no concerns. There was an audience member who was interested in the Planning Commission and would consider serving if an opening came up.

The Commission agreed to have Beth create the decision and findings of fact document for the variance hearing and Angela will sign it when it's ready.

The meeting adjourned at 7:40.