

**Town of Duluth
Planning Commission
Special Meeting Minutes
August 3, 2017**

The meeting was called to order at 7:00 pm by Chair Jo Thompson.

Present: Jo Thompson, John Schifsky, Wayne Dahlberg, Jerry Hauge, Larry Zanko, Liz Strohmayer, and Dave Edblom.

Absent: No one.

Also present: Sue Lawson, Planning Director and Rolf Carlson, Town Board liaison to the Planning Commission.

The agenda was approved as presented.

Sue said that there will be a hearing for a conditional use application for a short-term rental on August 24th. The Commission has also agreed to meet, if necessary, on August 31st if anticipated applications come in that require hearings.

Variance Hearing: Town of Duluth Expansion of Clifton Fire Department Fire Hall No. 1

The Assistant Chief of the Clifton Fire Department, Rob Peldo, was present representing the Fire Department for the hearing.

Sue started by reading the Town's Communication Agreement.

She then introduced the hearing process and the request.

The request is for a variance from the road setback. Sue showed a map of the Fire Hall site on the corner of Ryan Road and Old North Shore Road. The dimensional standards for MUNS-4 are

Lot Area	Lot Width	Lot Coverage	Road Setback	Side Yard Setback		Rear Yard Setback	
				Principal	Accessory	Principal	Accessory
4.5 Acres	300'	7%	100'	50'	50'	50'	50'

The proposed addition meets all of these setbacks except for the road setback. The required road setback is 100 ft for MUNS-4 and the addition would be 88.6 ft from the road. When the application for the variance was completed, a request was also included for a variance from the maximum 25% expansion of a nonconforming structure, but the existing structure is not nonconforming, so no variance is needed for that.

Sue showed the site map.

She then read each of the criteria for granting a variance and the response to each of those criteria from the application.

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

Applicant states: a) The purpose of the Zoning Ordinance is to promote the health, safety, and general welfare of the community by dividing the Township into zones and regulating the uses of land and the placement of all structures. In this instance, the very minor intrusion (135 SF) into the road setback is certainly within the harmony and intent of the Ordinance. The purposes of road setbacks are to provide a margin of safety from traffic on highways, allow for infrastructure placement in the ROW and setback, and to provide a degree of privacy. The addition certainly will not impede any additional infrastructure while still providing a significant margin of safety from traffic. One of the basic, essential purposes of a government is to provide for the health and safety of its residents. Providing efficient and effective fire department facilities is crucial to the safety of the Town's residents. In this case, the addition will:

- Allow for a more rapid response to fire and other emergencies. The addition will house a fourth bay so that all four of the emergency vehicles will have quick and immediate access to a door.
- A new office for files and supplies while opening up the office in the original hall for much needed training space.
- A repair work space needed for maintenance and for storage of items used in fire suppression
- Provide a water storage tank located under the new bay to provide water to top off tankers when they return from a fire. It is essential that they be full for the next emergency.

b) The vision of the Comprehensive Plan states under Land Use Policies, Infrastructure: "Provide fire and first responder emergency services." This variance request will meet that policy through providing responsive and effective services and enhancing public safety.

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance. "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: a) The request is a reasonable one because the actual square footage of the addition intruding into the allowable road setback (135 sf) is very minor. Except for this minor amount, the addition would be able to add up to 75% of the existing structure which would be 2,365 SF. The requested variance is for 1,511 SF.

b) The property is unique because it is the only Fire Hall on the west side of the Township. As a Fire Hall, it needs to be significantly larger in area than what is necessary for other properties within the Township. The property owner did not "create" that "plight"— instead, the need for larger facilities and structures is inherent to the use.

c) The Comprehensive Plan's General Land Use policies (pg. 14) states: "Maintain the rural character of Duluth Township." Originally, one of the design requirements for the addition was that it fit with the character of its rural and residential neighborhood. The addition will fit seamlessly with the original design of the existing Fire Hall using similar materials and design elements.

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

Applicant states: Yes.

Larry asked about the storage tank underneath the Fire Hall and how it might impact wells on neighboring properties.

Rob said that he didn't see any problems with surrounding wells. It is a 6,000 gallon tank which is actually pretty small. They will only be using it to top off trucks. They won't be using it to fight fires. It won't need to be filled very often. It will be filled on a trickle feed, not a rapid fill. Technically, they are only allowed to fill out of the Lake for emergencies, not for topping off trucks. They have been doing that because they have had no other source for water.

Larry asked if they could collect rainwater from the roof for some of their water supply.

Rob said that it was something they could look into, but it would not be practical a lot of the time, including winter. He said the tank would be full in winter also, but because the tank will be underground it will not be subject to freezing.

Jo asked if they considered putting the addition on the back side of the existing structure where it would not need a variance from the road setback.

Rob said that the way the hall is set up, all of the bays are on the front side. The kitchen is in the back. If the addition was on the back there would be one truck on the back side and three on the front.

Liz said that the bays are one big open space. Heaters and exhaust systems are already in place for the trucks leaving out the front. A whole new system would need to be put in to have the fourth bay be separate. It could be done, but it was much more cost effective to put it on the front of the building with the others.

Public Testimony

There was one previously submitted comment from Dean Laiti. Sue read it aloud:

The only issue that I would have with the variances, is the addition of placing a water storage tank under the new bay, the concern would be that it would be filled by the current well system instead of refilling the trucks from the lake at the marina. Would there be any impact on the water supply for the surrounding homes or cause an issue with their wells, with the filling of the firetrucks and new water storage tank using a large amounts of water to fill. If the variance is allowed and there is an impact on the surrounding homes wells, who would be responsible for fixing the problem?

End of Public Testimony

Dave made a motion to approve the variance as presented. Larry seconded.

Jo made a motion to split the motion. Jerry seconded. The motion to split the motion passed unanimously.

Liz made a motion that the variance is in harmony with the general purposes and intent of the Ordinance and that having the additional bay on that side of the Fire Hall will increase fire department response time and will increase the health and safety of the community. Dave seconded.

Jo asked if trucks would be able to back out of the addition as proposed without having to back onto Ryan Road. Rob said that the trucks are backed in, so they pull straight out.

John said that one of the general land use policies is to “encourage commercial design that reflects the existing character of the community.” Even though this project is not commercial, it is more commercial in nature than residential. Did they think about how it fit with the community?

Sue said that when the fire hall originally went in, some of the neighbors were opposed to it. One of the concerns was that it would not fit with the residential nature of the neighborhood. The fire hall does not look like a commercial building and the addition follows the existing hall design.

Dave said that if you look at the fire halls in other communities, they are often just a flat roof and four doors. The design of this fire hall is much more compatible with the surrounding residential area.

The motion passed unanimously.

Jo made a motion that the proposed variance is consistent with the Comprehensive Land Use Plan in that the Town provides fire protection for the community and it fits with the vision for the Township. John seconded. The motion passed unanimously.

Jo made a motion that the variance request is reasonable because the setback is minor. Liz seconded.

Dave said that the square footage of the portion of the addition that does not meet the setback is 135 sq ft. A 10 by 10 ft shed can be built without a permit. He felt it was reasonable.

Jo said that she thought the Town is growing and there is a need to expand the fire hall. It makes much more sense to expand the hall on Ryan Road than the hall at the Town Hall.

The motion passed unanimously.

Wayne made a motion that the plight was not created by the owner and that the Ordinance revision increasing the setback from the road created the plight. John seconded.

Sue read from the application that it is “unique because it is the only fire hall on the west side of the Township. As a Fire Hall, it needs to be significantly larger... and the property owner did not create that plight.”

Wayne said that at the time the fire hall was built, the setback for Ryan Road was an 85 ft. The building was designed to allow for the additional bay to the front. There is actually a drain line specific to fire halls in place to the next bay.

The motion passed unanimously.

Liz made a motion that the variance will not alter the essential character of the neighborhood because the variance will not increase traffic or alter the neighborhood in any other way. Larry seconded.

Jo moved to amend the motion to say that the design fits seamlessly with the existing fire hall and the surrounding area. Liz seconded and the amendment to the motion passed unanimously.

The motion, as amended, passed unanimously.

The motion to approve the variance because it meets all of the criteria as stated above was approved unanimously. A break was taken before beginning the next hearing at 8:00.

Variance Hearing: Charles Bille and Carol Danielson Bille

Sue began by reading the Town’s communication agreement, explaining the hearing process and presenting the variance requests.

The request, from Charles (Chuck) Bille and Carol Danielson-Bille, is for the following variances at the property located between 5846 and 5848 North Shore Road: 1) from the minimum lot size, 2) from the minimum lot width, 3) from the road setback, 4) from the west side yard setback (nearest), 5) from the setback from an established watercourse with a defined bottom, and 6) from the setback from the vegetation line of Lake Superior

Sue read the history of the site. The Town Board overturned the previous decision of the Planning Commission granting the variance based on 1) it was not consistent with the Comprehensive Plan and 2) it was not in harmony with the general purposes and intent of the Ordinance. Sue said that this is a new variance and the decision of the Town Board are not relevant to this new variance. There have also been previous hearings for variances for the property. There have been two major changes since those hearings, 1) the Duluth/North Shore Sanitary District is in place now and 2) the State statutory definition of “practical difficulties” has changed.

Sue showed the vicinity map and showed where neighbors were in relation to the property. She showed the vicinity photo.

The setback requirements, the dimensions for the proposed home and the amount of variance needed are as follows.

	Road Centerline to Front of House (ft.)	Furthest Side Yard (ft.)	Nearest Side Yard (ft.)	Minimum Setback from Lake Superior Vegetation Line	Lot Size (ac.)	Impervious Surface Lot Coverage (%)	Min. Lot Width	Building Height	Unclassified Watercourse
Required by Zone District	110’	35’	35’	100’	2	25%	200’	35’	50’
Proposed Project	68.6’	35’	12’	87’	.31	18%	75’	25’	35’
Variance Needed	41.4’	No	23’	13’	1.69 acres	No	125’	No	15’

Two non-conforming lots were combined and the combined parcel is still nonconforming in lot size and lot width. The property is a nonconforming lot of record as described in an abstract dated June 23, 1958.

A letter has been received from Joe Jurewicz, P.E., DNSSD District Engineer, indicating that the property can be connected to city sewer.

Sue showed the site map and site sections. The site section shows how the house is set down on the site and will not be very visible from the road.

Chuck said that they are eliminating the walk-out basement so in the front of the house they will have an area of fill and a stone retaining wall from there across the property below the driveway, reducing the chance of erosion. The basement will not be seen from the lake. The roof pitch has changed from a 4:12 pitch to a 3:12 pitch so it flattens the profile and the height will be between 21 and 22 ft.

Sue showed plans and elevations for the house and the preconstruction and post-construction stormwater management plans.

Wayne asked how much lower the structure is in this plan.

Chuck said that he dropped it 3 ft. The last plan was right at 25 ft. He dropped the pitch of the roof and eliminated walkout basement. From the lake all you will see is the front part of the house, which will be timber framed. The rest of the house will be regular construction. From the road you will only see 3 or 4 ft of the second floor of the house plus the 4 ft of the roof. There will be screening, so that may not even be visible. They also changed the driveway to include a turn-around area to reflect the previous request of the commission. The retaining wall will angle out in front of the house and will cut down on potential erosion.

Jo asked if the lake side windows were patio doors and if there would be a patio or deck out there.

Chuck said the lake side of the house would be all glass. They will not be patio doors. They will have a small lanai type deck, with part of it in the house and the deck part will only go out as far as the overhang. When you look at it straight on you will see the 3 large windows and on the left side it will go back a few feet with a glass door that goes out on the deck with a small bump-out. That side will be towards the Sievert property. The deck itself will face the lake.

She then read each of the criteria for granting a variance and the response to each of those criteria from the application.

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

Applicant states: 1a. Pursuant to Article I, Section 3 of the Ordinance:

A. Intent. The intent of this Ordinance is to establish comprehensive land use regulations for the Town of Duluth in accordance with the provisions of Minnesota Statutes Chapters 366 and 462 and all acts amendatory thereto or other legislative changes hereafter enacted.

B. Purpose. The purpose of this Ordinance is to promote the health, safety, and general welfare of the community by dividing the Township into zones and regulating the uses of land and the placement of all structures. This Ordinance seeks to encourage the most appropriate uses of land in the Township, to encourage and maintain the community as rural and in balance with its many natural amenities, to protect its rich and diverse natural resources for future generations, and to provide a basis for a sustainable community.

1A + B

The Variance Request meets the purpose and intent of the Ordinance. The Home the Billes propose will provide a safe and comfortable home, while contributing to the general welfare of the Township through additional real estate tax revenues and a more desirable real estate market. As proposed, this home would sit in an ideal location on the Property, and would not be a detriment to any neighbor or tourist visiting

our area. In fact, it would improve what would otherwise be a vacant and undeveloped Lake shore lot in a neighborhood where every Lake shore lot has a home or cabin in place.

This Home will in no way adversely affect the health, safety, or welfare of the Township's residents. In fact, this Home will on this Property is much better for the community than other uses on the property that are allowed by the Ordinance. For example, under the Ordinance (Article VIII.3), an RV and outhouse could be permissibly kept on the Property. This would likely have a negative effect on surrounding property values and would generate no additional tax revenues. The proposed Home, on the other hand, would likely increase surrounding property values and increase tax revenues. In fact, the health, safety, and welfare of the Township's residents are adversely affected by having the Property remain vacant without a residence on it. Having a year-round occupancy of the Property allows it to be properly maintained and supervised and will ensure that no dangerous conditions exist on the Property. The Billes cannot oversee the Property and its use if they are not living there.

The most appropriate use for the Property – in fact, the only viable use for the Property – is to contain a Home. Allowing the construction of this Home is not only an appropriate use of the Property – it is the best use of this Property.

This home will not alter the Township's rural status. This Home, with moderate tree coverage, a professionally designed and maintained landscape, will be in conformance with the attributes of a rural residence. Furthermore, allowing this Home to be constructed on this Property would certainly not detract from the rural appearance in this neighborhood.

The Variance Request is consistent with the Comprehensive Land Use Plan, which encourages growth in housing.

The Township's CLUP thoroughly discusses how the Township hopes housing to develop in the next five years: Chapter 3.E (p. 8) of the Plan states: "Future land use, economic growth and community pride are all strongly tied to housing. Housing is a dominant presence on the community landscape and is a bedrock supporting a community's health, wealth, and future vitality."

Chapter 4.A (p. 11) of the Plan states: "New housing has occurred throughout the Township. All new housing promotes the community's rural character and sustainable development practices."

Under the CLUP, the Township clearly desires for additional housing to occur. It is good for the growth of the community and is necessary for community pride. Given these points, granting the Variance Request would be consistent with the CLUP. The Billes desire is to build a new house on a vacant Property. This new Home will be well-maintained and will contribute to community pride and the image of the Township. Rather than having a vacant Property, which adds nothing to the Township, the Billes will construct a brand-new Home that will give the public a positive image of the Town of Duluth.

Construction of this Home would not be adverse to the Property's natural attributes either- notably here, on the shores of Lake Superior. In fact, with the Variance Request granted, the Property will have onsite stewards who can assure that the Property is preserved. For example, the Billes have already developed a Stormwater Management Plan including a Rain Garden to help protect Lake Superior from run-off on the Property, which is hereto attached as Exhibit B³. Also, since the Property is primarily bedrock underneath, erosion concerns are minimal. Finally, the impact of the Home on nature would be slight – no septic system is required because city sewer is available⁴ and the Home has a relatively small footprint.

Granting the Variance Request would also facilitate a sustainable community as is encouraged in the CLUP on page 8: "Well-maintained housing contributes to building community pride and a positive

community image and it reflects overall quality of life for a community”. Discouraging or disallowing the construction of this Home does nothing to support the goals set forth in either the CLUP or the Town’s stated Intent and Purpose.

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance. "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 Billes face practical difficulties in complying with the Ordinances. The purchase of a non-conforming lot of record is not a cause of “Practical Difficulty”. The “Practical Difficulty” lies strictly with the circumstances that are unique to the property. It is the lot size that is at issue in the “Practical Difficulty” pursuant to this Property. For the Billes to get any use and enjoyment out of the Property, a Variance needs to be granted.

The Billes’ proposal to construct their Home on the Property is not permitted by the Zoning due to Lot Size Restrictions and Setbacks, but Is Reasonable because it will allow for the Highest and Best Use of the Property for both the Billes and the Town of Duluth.

When the Billes purchased the Property in 1992, there was a structure located on it as indicated in the Sketches. This structure was destroyed shortly thereafter by fire. The fact that there was a structure on the Property at the time of purchase indicates that there is a reasonable use for the Billes to construct a Home on their Property. Regardless of the size or location of this original building, the simple fact that a structure existed on this Property is reason enough for the Billes to believe they would be allowed to move forward with plans to construct a residence through the process available to any property owner by Requesting a Variance.

The Billes were well aware of the fact that they had purchased two separate non-conforming lots of record in 1992 – one non-conforming lot of record on the upper side of Hwy 61, and a second non-conforming lot of record on the Lake side of Hwy 61. In fact, for their financing, only the property on the upper side of Hwy 61 was held in a mortgage. The Property on the Lake side of Hwy 61 was owned outright. With the scrutiny and government regulations regarding financial institutions, no lending underwriter would even consider providing financing unless they had investigated and approved the conditions of fact regarding the two totally separate non-conforming lots of record issue.

The Property is in a SMU-6 District, which “is intended to provide residential and mixed uses consistent with the recreational and natural attributes of Lake Superior, on a suburban-scale lot size.” Art. V.2.E (p. 32). The term “suburban-scale lot size” is a rather subjective term, because considering “suburban-scale lot sizes”, that can mean anything from 50’ X 100’ lots to lots with significant amounts of acreage. However, this does not mean that this Property as contemplated for a residential use is unreasonable.

The neighboring properties exemplify that a single home on a 75’ wide lot is a reasonable use in the SMU-6 district. For example, Dodge’s Log Lodges has 5 cabins, a full size two story home and a garage located on a lot approximately 215’ wide and 200’ in depth. That is one building for every 6,000 sq. ft., which doesn’t allow for much impervious surface area when you include drive ways and parking spaces,

not to mention Green/Open space or setbacks from Lake Superior. The property immediately neighboring the Bille Property to the northeast has a cabin with an attached deck representing a footprint over 800 sq. ft. along with a separate storage building of another 200 sq. ft. The property at 5844 North Shore Drive to the southwest of the Billes' Property has a structure on it and a width of only 40'. The entire set of properties on the Lake Superior side of Hwy 61 between Stoney Point Road and the northeast border of the Town of Duluth all have structures that encroach Lake Superior shore space, the Hwy 61 centerline, or side setbacks.

If the Variance Request is granted, the Property will be in conformance with the essential character of the locality, which is characterized by homes and cabins existing on lots of similar size.

The variance will not alter the essential character of the locality. The locality/neighborhood is generally the lakeside lots in the Greenwood Cliffs Subdivision. Most lots in the Greenwood Cliffs Subdivision have a residential building on them. Furthermore, none of those lots with buildings on them comply with all lot size and setback requirements set forth in the Ordinance. The following table shows several properties right by the Property owned by the Billes which do not comply with the zoning requirements set forth in the Ordinance.

Parcel ID: 315-0060-00530 Address: 5856 North Shore Drive, Duluth 55804	House less than 60' from the Lake 1 Acre in Area.
Parcel ID: 315-0060-00520 Address: 5860 North Shore Drive, Duluth 55804	Lot only 100' wide, under 1 Acre in Area, not 35' Side yard setbacks.
Parcel ID: 315-0060-00500 Address: 5862 North Shore Drive, Duluth 55804	Lot only 100' wide, under 1 Acre in Area, not 35' Side yard setbacks.
Parcel ID: 315-0060-00500 Address: 5864 North Shore Drive, Duluth 55804	Lot only 100' wide, under 1 Acre in Area, not 35' Side yard setbacks.
Parcel ID: 315-0060-00470 Address: 5868 North Shore Drive, Duluth 55804	Lot under 1 Acres in Area, House less than 70 ' from Lake, House less than 70' from Road Centerline

The foregoing table makes it clear that the essential character of the Greenwood Cliffs Subdivision is residential buildings on Lake Superior lots smaller than those required by the Ordinance. Nearly every property located on Lake Superior along Highway 61 between Stoney Point Road and the Historical turn-in a half mile northeast has a home or cabin on it. The Home proposed by the Billes will not detract from the appearance or values of the area. In fact, requiring the Property to exist without a home detracts from the character of the locality. A vacant lot anywhere in a developed neighborhood is a negative consideration compared to a well designed and constructed Home.

This is not a case where the Billes are relying solely on economic considerations to prove practical difficulties. The practical difficulty is that the Billes own a beautiful piece of property they would like to live on, but cannot, due to an inability to comply with the Ordinance. The Billes have maintained ownership of the Property (and paid taxes on it) for over 25 years with the intent and hope of building their retirement home and establishing permanent residence in the Town of Duluth. That time has now arrived, and the Billes believe that a new and attractive home will provide the best use of the Property.

That said, there are certainly economic considerations here. The property has an assessed valuation of over \$100,000. Not being allowed to construct a home on this Property makes it extremely unmarketable

and probably unsellable without the capacity to construct a home on it. It would be unlikely that anyone would consider purchasing this Property at a cost of \$100,000 and pay taxes of \$2,000 per year for a mere campsite. On the flipside, additional tax revenues derived from the Property with a Home constructed on it provides an economic advantage to the Town of Duluth if the Variance is granted. The Billes' Variance Request is not entirely economically driven, but economic considerations do favor granting the Variance Request.

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

Applicant states: The Property is in the SMU-6 District, which "is intended to provide residential and mixed uses consistent with the recreational and natural attributes of Lake Superior, on a suburban-scale lot size." Art. V.2.E. (p. 32). Residential use is the sole intended use for the Property. As such, the proposed variance is allowed under the Ordinance.

Sue read the summary submitted with the application.

The Billes have owned the Property for over 25 years and have been able to get very little practical use out of it. We are now requesting a variance so we can build our retirement Home on the Property. Granting the Variance Request would allow the Property to have a practical use under the Rules of Law. Granting the Variance Request would facilitate the essential character of the locality, increase the Town's tax revenue and property values. For the foregoing reasons, we respectfully request the Commission to grant the Variance Request.

Chuck read from a prepared statement.

Good evening and thank you for providing Carol and I the opportunity to present our variance request. I would also like to introduce our son Evan.

As you may know, our variance approval from May 25th was appealed and overturned by the Town Board. I met with the Town Board on July 13th to discuss the basis for their decision, since it was based strictly on the Comprehensive Land Use Plan dated 2002 and not on the Rule of Law that was adopted in 2015. At this meeting, Dave Mount suggested that I could appeal their decision to the District Court, or apply for a new variance with the planning/Zoning Commission. Rather than go the District Court route at this time, which would be expensive for both Carol and I, and also the Town, we decided to adjust the design of our home and apply for a new variance.

I'm sure that we're all going to have to listen to the same opposition that we've grown accustomed to during the past couple public hearings, but I would like to address a few of the issues in the hopes that we don't end up "kicking the same can down the road" for hours on end that have already been discussed and resolved. Additionally, there has been a lot of public input that is either incorrect or simply false that needs to be considered in this process. I don't believe taking the time to challenge every one of these comments is practical, but hope that the Commissioners can discern the difference between honest and accurate facts from the subjective, prejudicial and opinionated remarks some people are willing to make in a public forum.

The first issue I'd like to present is the subject of a non-conforming lot of record. The definition of this concept is well addressed in the Town ordinances, but that definition appears to give some individuals problems understanding.

Lots of Record

- a. A lot that is part of a subdivision recorded in the office of the County Recorder or Registrar of Titles of St. Louis County, MN, or
- b. A lot or parcel described by metes-and-bounds, the description of which has been lawfully created and recorded prior to the date of enactment of this Ordinance, or amendments thereto, provided that a lot on federal, state, tax forfeited or Minnesota Power lands that have been leased out prior to the date of enactment of the Ordinance shall be considered a lot of record even though that lot has not been individually recorded in the office of the County Recorder or Registrar of Titles. (p. 28)

When Carol and I purchase our property in 1991, we knew that we were purchasing two separate and distinct non-conforming lots of record made up of five separate and distinct parcels. One lot of record was comprise of three conjoining parcels on the upper side of Hwy 61 and the other was comprised of two conjoining parcels on the lake side of Hwy 61. Now, to avoid the rude, disrespectful, and inappropriate remark that “we knew, or should have known that these properties were non-conforming,” I’d like to go on record and state that we absolutely knew that these lots were non-conforming lots of record. In fact, when we obtained a mortgage for the properties, we only financed the existing house and lots on the upper side of Hwy 61 and retained ownership outright, the lots on the lake side of Hwy 61. Having formerly held a MN Realtor’s License, a MN Real Estate Broker’s License, and MN Appraiser’s license, I did have some background and understanding of real estate and finance law. Furthermore, with the government scrutiny over the banking industry, can anyone imagine a mortgage underwriter financing a property unless he clearly understood the concept of property designations? If I could simplify the issue regarding lots of record and conformance vs. non-conformance relative to construction... These properties became non-conforming lot of record the day the Town first adopted Zoning Ordinances. If these properties were never subdivided or had their boundaries changed after the ordinances were adopted by the Town, then they are considered lots of record. The fact that they did not meet the zoning ordinances for construction of a structure, meant they were nonconforming lots of record. However, Ordinances have also been adopted by the Town for a path to obtain a building permit by applying for and following the steps we are now going through known as the Variance process. These lots were identified in our abstract dated April 3, 1922 exactly as they exist today, so they have never been altered since the adoption of the first Ordinances took effect in 1982. There are unrefutable Facts of Law as written in the Town Ordinances.

The second issue is the subject of “Practical Difficulties.” Again, there is a definitive set of criteria that explain this concept.

"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. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

For anyone to suggest that purchasing a non-conforming lot of record would be considered an owner creating a practical difficulty is absurd.

I do believe it’s of value to discuss the Town Board’s basis for their decision to overturn the variance granted, so I want to make sure that the Planning/Zoning Commission realizes that our new variance request is based on both the CLUP from 2002 along with the Town Ordinances adopted in 2015.

Section 4A – Housing (p 11) of the CLUP lays out a vision for “the preservation, conservation of open space and natural resources to energy , conservation, the maintenance of view corridors , and the preservation of large front yard setbacks where space permits.” With our new house plan, we will be providing 91% of our lot to open space, our driveway and subsequent view of Lake Superior will be maintained as is, and we will be providing one of the largest front yards of any property between Stoney Point Road and the northeast border of the Town of Duluth by a factor of nearly 200%.

Section 4B – North Shore Corridor (p 14) of the CLUP: A. “Discourage development that changes the density as currently zoned.” Our plan does not change the density as currently zoned, but maintains the density that already exists in this corridor between Stoney Point Road and the northeast boundary of the Town of Duluth. The term discouraging development is quite different from denying development. A vacant lot along this corridor is the anomaly, not a lot with a home in place. That said, this home fits well within the nature of the other homes along this corridor, so granting the variance is well within the parameters of the CLUP.

Remarks have also been made regarding the number of variances being considered. I’ve not found one stated restriction within the Ordinances regarding a limit to the number of variances granted for the construction of a structure. The same consideration holds true for the percent deviation of the variance from the zoning standards... The Ordinances do not restrict the percent deviation variances required to allow for construction of a structure. Employing these restrictions to this process becomes extremely subjective and opens the door for nothing more than prejudicial opinion rather than applying the rule of Law. If it takes every variance listed in the Ordinances to be granted for approval to construct a home or structure, and it cannot be proven that this will adversely affect the health, safety, or general welfare of the community, but does allow for the “most appropriate use of land,” then the Commission should approve the variance request.

Impervious surfaces – Chapter 3A (p 7) of the CLUP. “A variety of research across the country has concluded that as the intensity of land use increases and the amount of impervious surface increases, the potential for water quality problems increase.” We’ve designed our home and attached garage to minimize the surface area coverage (house = 895 sq ft, garage = 528 sq ft). Placing living space above the garage further supports the effort to keep the impervious surface to a minimum. But we plan to take this concept of water quality to a step further. A couple of neighbors have brought up the concern of a well on our lot as a potential hazard to the aquifer and water quality supporting the area. This subject does not fall under the Town’s authority. However, since it was brought up, we feel it’s important to address.

The property owned immediately to the northeast of our lot by Schulz/Nelson has a sensitive well located less than 100 ft from a non-potable privy. The MN Department of Public Health is currently investigating this problem and will take responsibility for resolution, so I won’t comment further on this violation. But I will say that Carol and I, as well as other neighbors should be concerned. Contamination of this aquifer is potentially a real issue by all neighbors because of the Schulz/Nelson well location. For that reason, we do not intend to drill a well on our property, but are having a cistern water system being designed for our home. We will collect water from the run-off on our roof to recycle for usage along with having water delivered to the cistern system. I talked to Mike Freeman of the MN Department of Public Health and he supports it strongly. He said that a well would have to be 400 to 500 ft deep and it would be likely that we would have to frack to get water. The quality of the water might be questionable. It is a very expensive process. In White Bear Lake we already bring in drinking water. The cistern water would be used for showering, washing dishes and flushing toilets. By collecting water from the roof of the home, the impervious surface area will be significantly reduced. Run-off will decrease to only the surface area of our driveway.

In summary: Hopefully the following statement will simplify and clarify some of the confusion regarding our variance request:

- 1) We own a non-conforming lot of record.
- 2) To construct our home, we are faced with practical difficulties not created by us.
- 3) We are applying for relief from six ordinances.
- 4) The home that we have designed will not adversely affect the public health, safety, or welfare, and will not be detrimental to the neighborhood. It will however, provide the most appropriate use of our land while conserving our property value.
- 5) For these reasons, we feel the Planning/Zoning Commission should approve our variance request.

Carol and I have too much invested, both financially and emotionally, to do anything other than continue our pursuit to build our home on our lot. And I need to stress this point. This is our lot, there are our concerns to be considered, and we have legal rights! We've gone through two extensive and complete public hearings with the Planning/Zoning Commission, we've complied with every request made of us by Sue Lawson, the Director of the Planning/zoning commission, and have agreed to comply with the conditions set by the Commission for the construction of our home which this new application includes. This has been a roller coaster ride that no one should be subjected to, and it has taken a toll on both Carol and myself. We would much rather work with the Commission, the Town Board and the community to achieve our hopes of living on our property.

For the reasons stated above, we respectfully request that the Commission approve our new variance request and allow us to pursue our dreams of building our home and taking up residence in our new home. Thank you for your time and consideration... Chuck and Carol Bille.

Larry asked about the cistern. Will it be outside or inside? Will they have a purification system?

Chuck said that it would be inside the house in the basement. He has purchased 2200 gallons of storage tanks. They will have access to the system from the gutter system and for delivery of water through the garage. With two of them there, they are likely to use 1,000 gallons a month, so with a 2200 gallon capacity, they should be good. They will purchase spring water for drinking. They will have filters for water coming in. Chuck said that he has degrees in math, chemistry and biology so he feels that he has the knowledge to treat the water. He has concerns about the contamination from the privy near their property line. Pathogens can lie dormant for decades, so rather than take a chance, they decided on this alternative.

Wayne asked, for clarification, what part of the yard is the front yard when he refers to "the front yard."

Chuck said that on a lake property the front yard is considered the yard that is between the house and the lake. That is what he is referring to as the front yard.

Public Testimony

Sue and Beth read the written comments that had been previously received. These written comments, from the following parties, are attached.

- | | |
|-------------------|----------------------------|
| 1. Moe | 7. Hudson, Nick and Andrea |
| 2. Block | 8. Pelkey |
| 3. Stelter | 9. Danielson |
| 4. Vallie | 10. Gjerde |
| 5. Schwarzrock | 11. D'Angelo |
| 6. Hudson, Foster | 12. Stoup |

13. Gjerde
14. Haagsman
15. Slette
16. Corbett/Sage
17. Burkhard

18. Schulz
19. Wallace
20. Klein
21. Watson

John Bowen spoke from a prepared statement. He distributed a handout to Commission members (attached).

I called Sue to get on the agenda for your July 27 meeting to talk about the Bille lots and how they had been considered at the last variance hearing. Before this Commission, two Commissions and appeals boards, of which I was part of in one way or another, have overlooked the fact that two lots of record are involved, requiring the variance to be considered under Section 4: Construction on Nonconforming Lots of Record B2 “two or more lots of record.” When I read the May minutes and Wayne stated “Billes’ lot is a nonconforming lot of record,” the light came on, everyone, including me, had been referring to the Billes’ two lots of record as one lot of record and we were wrong. I wanted to meet with Sue before the meeting so she knew what I was going to say. Note, I did not know the Billes were submitting another variance request when I called her. We met and went over the packet I was going to talk about at the meeting and Sue thought it would be best to bring this up at the Billes’ public hearing and I agreed. Sue said in her statement that the lots were combined. She is wrong.

In Section II of the application they list 2 parcels but the legal description of the property is written as if there is only one parcel, “Lot 15 EXCEPT the easterly 75’, and all the part of Lot 16 lying easterly of a line drawn between and equidistant from the east and west line of said lot, all in Block 3, in Greenwood Cliffs.” There is an individual tax statement and description for each of the listed parcels. If you look at page 2 of the info I gave you, Parcel 1: 315-0060-00580 WLY 25 ft Lot 0015 Block 003 Greenwood Cliffs, Parcel 2: 315-0060-00585 ELY ½ Lot 0016 Block 003 Greenwood Cliffs. Now if you look at page one you can see how the legal description is written when there are two or more lots and when the lots are combined to create one lot.

In Section V of the application they state “1. This property is a non-conforming lot of record as defined by the Town Ordinance on page 28: A lot or parcel described by metes-and-bounds, the description of which has been lawfully created and recorded prior to the date of enactment of this Ordinance, or amendments thereto.” I disagree. I have not seen a parcel or tax statement describing a 75 ft wide property owned by the Billes as defined above. This property is 2 contiguous lots of record under a common ownership. This wording is very important as it determines how the Commission is required to consider the variance under Section 4, Construction on Nonconforming Lots of Record. I think the variance must be considered under B2 of Section 4:

- B2. In a group of two or more contiguous lots of record under a common ownership, an individual lot will be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
- a. The lot must be at least sixty-six percent (66%) of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
 - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and this Ordinance;
 - c. Impervious surface coverage must not exceed twenty-five percent (25%) of each lot;
 - d. Development of the lot must be consistent with the comprehensive plan.

As neither of the lots meet the B2a requirement then you must go to B3. For the record I don’t think they meet B2d either: “A lot subject to B.2, above, not meeting the requirements of B.2 must be combined

with the one or more contiguous lots so they equal one or more conforming lots as much as possible.” As of tonight, the Billes’ two lots of record have not been combined to equal one conforming lot as much as possible as required by B3 above. As the lots “must be combined,” this variance cannot be considered until the lots have been combined into one. A big note here, even if the lots were combined into one tomorrow, it could not be considered under Section 4, Construction on Nonconforming Lots of Record, as it would not be a lot of record until the next ordinance is adopted.

If you look at page one again, I can illustrate what happens when lots are created and combined. I had one original lot, one parcel, one tax statement. Then I purchased 35 ft of land to get in compliance with the ½ acre zoning to build a garage. This created a new lot. Now I have two lots, two parcels, two tax statements. Note, the 1984 Ordinance increased the zoning to one acre. In 1984 I purchased Lot 3. This lot was a lot of record when I purchased it. I did not create the lot, so it remained a lot of record. Now I have three lots of record, three parcels and three tax statements. In 1988 I combined the three lots into one. Now I have one lot, one parcel and one tax statement, but it is not a lot of record as I had created it after the 1984 Ordinance. This lot became a lot of record with the adoption of the 1991 Ordinance. Note, I have the original tax statements to back up the above. Page 3 shows what lots that have been combined look like on the County Land Explorer and page 4 and 5 show what the Billes’ two lots look like today. This variance does not meet the requirement of Section 4, Construction on Nonconforming Lots of Record and should be denied.

Under Section VIII, Reasons for the Variance:

1. Variances shall only be permitted:

- a. When they are in harmony with the general purposes and intent of the Ordinance, and
- b. When the variances are consistent with the Comprehensive Plan.

I was on the Board and all the committees that worked on the Comprehensive Plan and on the Ordinance and I can tell you that this variance does not meet the intent of either one.

This new variance request addressed Section VIII, Reasons for the Variance, with a lot of words, but it did not address the basis the Appeal Board used when making their decision to overturn the Commission’s approval of the last Bille variance. The lot size, lot width, setbacks, number of variances, size of the variances required and house footprint have not changed. I didn’t see anything in this new variance request to negate the finding of facts the Appeal Board used to overturn the Commission’s approval of the last variance. If the Commission grants this variance, I will be very interested to see what your finding of fact is that renders the Appeal Board’s finding invalid.

The application states, “The Billes face practical difficulties in complying with the ordinances. The purchase of a nonconforming lot of record is not a cause of “practical difficulty.” The “practical difficulty” lies strictly with the circumstances that are unique to the property. It is the lot size that is at issue in the “practical difficulty” pursuant to this property. For the Billes to get any use and enjoyment out of the property, a variance needs to be granted.” The Billes purchased two very small nonconforming lots of record created by owners before them. The 25 ft and 50 ft wide lots were created in 1958, a lot smaller than the 1930s subdivision platted 100 ft wide lots in the area. The 200 ft wide lot width was in place at the time and had been for 7 years. I still say by purchasing lots that were 25 ft and 50 ft wide, so grossly under the 200 ft wide zoning requirement and knowing a variance to build on this property had been denied the year before, the owners caused their “practical difficulty.”

The application states when the Billes purchased the property in 1992 there was a structure located on the property that led them to believe they could move forward with plans to construct a residence through the process available to any property owner by requesting a variance. Bill Watson, owner of this property before the Billes, applied for a variance in June 1991 (I have planning minutes) to construct a single

family dwelling on this property. The Watson variance request was denied even if, as the applicant states, there was a structure already on the property. This should have led the Billes to believe they could not build on this property.

No one forced the Billes to pay taxes on the property.

The Commission's findings of fact in approving the Billes' last variance stated a fact that was not a fact. The lots were not created by the 1930 subdivision, but created in 1958 by owners. This fact was known by the applicants when the Commission had a long discussion about this at the public hearing. If something had been said at that time, it would have saved a lot of time and it surely would not have been in the Commission's findings of fact.

This is the fourth variance request to construct a home on this property, Watson one and Billes three, with three being denied and one approved by the Commission but overturned by the Appeal Board. Whatever you do tonight will be appealed. I'm sure we'll all have the material memorized, for and against, before this is done.

In closing, not conforming to the Ordinance regarding the lots and the Appeal Board decision is enough facts to deny this variance.

John added that the Comprehensive Plan does encourage housing, but not complete disregard for the minimum standards in the Ordinance. On Page 18 of the Comp Plan under Shoreline District Strategies, Regulation 6, it says "maintain restrictions on substandard lots as defined in the current Zoning Ordinance." Allowing this variance does not meet that requirement.

Jeff Nelson spoke. He said that this is not about personalities or the design of the house, it is about a piece of property and the laws put in place to protect it. Everyone on the Commission is basically a volunteer. He appreciates this. No one likes controversy or conflict. When Commission members accepted their positions, they volunteered to protect the land and the North Shore Management Plan and the neighbors who live in the neighborhood. The public trusted that they would uphold those laws, even if it was uncomfortable. This includes the Comp Plan and the North Shore Management Plan. He has faith that the Commission will do the right thing, even if it is hard.

Howard Sievert spoke. He said that he is affected by these variances as he is the closest neighbor to them. He thinks it's a great thing and they should build their home there. John said that they didn't have to pay their taxes, but that's not true. He almost lost his property at one time because he couldn't pay his taxes. He said they would be great neighbors and will do a good job. Others have gotten their own variances but don't want these to be granted. It is hypocritical. The Billes are paying taxes, they want to improve the property, they want to improve the community, let them do it. He does not object at all to the 12 ft side yard setback.

End of Public Testimony

A short break was taken.

Carol spoke. She said that it was mentioned that their house plan has not changed from the plan they submitted before, but it has changed drastically. You cannot count a garage as living space or a basement with a cistern system as living space. In addition the cistern alleviates any concerns about a well. Regarding Dan Watkins concern about losing his view, he would not have a view if not for their property. They have no intention of taking that view away. They have tucked the house down and to the side to be non-intrusive. They are trying to be as respectful to the community and the environment as they can. Regarding the denial of the Watkins variance,

the people they bought the property from did not attend the meeting due to a family tragedy, so the denial was a denial by default.

Jo pointed out that one of the commenters said the lot size requirement is for one acre, but it is two acres. She also reiterated that the previous hearing and Town Board decision should not be considered because this is a new variance application.

Wayne Dahlberg made a motion to approve the variances as requested. Larry Zanko seconded.

Dave Edblom made a motion to split the motion. Jerry Hauge seconded.
The motion to split the motion passed unanimously.

Wayne Dahlberg made a motion that the variances are in harmony with the general purposes and intent of the Ordinance. The shoreline district has been developed for many years in a quite dense fashion and this continues. We do have things in place for maintaining view corridors, which he believes this proposed project honors, both in height and respecting the existing view corridor, as they have tucked it into the trees on the west side of the property. It is in sync with lot sizes from previous development. Larry Zanko seconded.

Jo asked about the provision in the Ordinance that the lot must be at least 66% of the required width and size consistent with Minnesota Rules, Chapter 6120.

Sue said that that provision is taken from the Shoreland Management Rules which apply to inland lakes. The North Shore Management Board developed the rules for shoreland along the north shore of Lake Superior and those are the rules that apply in this case. So, in her opinion, the 66% provision does not apply in this case.

Jo said that she does not feel comfortable saying that these variances are consistent with the Ordinance, which the Commission is required to follow. A variance is to allow for a deviation from the Ordinance, but in this case the requests are substantial. And the argument of being a substantial deviation from the Ordinance has been used in other hearings, including those in higher courts. She said she does not feel comfortable that this variance request meets the intent of the Ordinance when so much deviation is required.

Wayne said that side yard setbacks were increased with the rewriting of the Ordinance in 2005 for this zone. Previously, the side yard setback was 20 ft. It is now 35 ft. He thought this change was unfortunate because so many of the lots in this area, as well as Greenwood Beach and Wonderland, have considerably less size and width to them than is required by the Ordinance. The amount of the side yard setback was increased, but most of the properties in these areas do not come even close to the increased side yard setback. Is the size of the request for the side yard setback so severe because we created it?

Jo said the dimension requirements were set in response to the Comprehensive Plan and its vision for the Township. Just because we already have this increased density, do we continue it? The Ordinance set the density for this area at two acres per house.

Wayne noted that the Commission is in the process of reviewing these dimensions for the Greenwood Beach plat, which is similar to this area, and is prepared to rewrite the Ordinance to allow for smaller lot sizes.

Jo said the Commission has not yet reached a conclusion on this. We are still bound by the current Ordinance.

John said that he was not sure the analogy with Greenwood Beach was accurate. Greenwood Beach is as it is; the discussion is not about building another house, but about making the requirements more fitting for the houses that

are already there. This variance is the one that is before us now. He is concerned about the lot size. It seemed to him that when he reads the Ordinance, it talks about maintaining rural character. The north shore is not as rural as some areas in the Township, but the Ordinance recognizes the significance of putting a house on a lot this size. He looked carefully at the neighborhood and many of those buildings were built in the 1910s and 20s. He does not think the degree of the lot size variance is appropriate.

The motion passed with Jo Thompson, John Schifsky and Liz Strohmayr opposed.

Wayne Dahlberg made a motion that the variances are consistent with the Comprehensive Land Use Plan. Dave Edblom seconded.

Wayne said the proposal will not alter the rural character of the neighborhood.

The motion passed with Jo Thompson, John Schifsky and Liz Strohmayr opposed.

Dave Edblom made a motion that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance because it is a residential area and his home and property won't be different from others in the area. Larry Zanko seconded.

Dave said that it is a residential area and this home and property won't be different from others in the area. It is only reasonable to be able to build a home on it. It is not a business.

John said that he did not believe you have that right just because you own the property.

The motion passed with Jo Thompson, John Schifsky and Liz Strohmayr opposed.

Wayne Dahlberg made a motion that the plight of the property owner is due to circumstances unique to the property and not created by the property owner because one of the requested setbacks is from the unclassified waterway, which is a drainage swale created by MNDOT – it is a manmade unclassified stream. It is not due to the plight of the property owner. And because, at the time of the platting in the 1930s, the highway was in place and the lots were created there in Greenwood Cliffs sandwiched between the water and Hwy 61. Jerry Hauge seconded.

John said that the Billes do not provide detailed reasoning for why their circumstances are unique to the property and not created by the property owner.

Liz said that Chuck addressed it in his statement.

Chuck said that they purchased the property as it was. Nothing they did created the practical difficulty. It was a nonconforming lot of record. Just purchasing the property does not create a practical difficulty. The Ordinance that was put in place created the practical difficulty by making the property nonconforming.

Sue said that the Billes spoke to practical difficulty on page 6 of the application. She read this. "This is not a case where the Billes are relying solely on economic considerations to prove practical difficulties. The practical difficulty is that the Billes own a beautiful piece of property they would like to live on, but cannot, due to an inability to comply with the Ordinance. The Billes have maintained ownership of the property for over 25 years."

The motion passed with John Schifsky opposed.

Dave Edblom made a motion that the variance, if granted, will not alter the essential character of the locality because it is a home on a small lot like others in the area. Larry seconded.

Larry said that the plan does not alter the essential character of the locality. It is the most appropriate use of the land in that area based on what is already there. It maintains the current density of the area.

The motion passed with Jo Thompson abstaining.

The main motion to approve the variances because they meet the criteria as stated above was approved four to three.

In favor of the motion granting the variances:

Wayne Dahlberg, Jerry Hauge, Larry Zanko, and Dave Edblom

Opposed to the motion granting the variances:

Jo Thompson, John Schifsky, and Liz Strohmayer

Chuck thanked the Commission for taking the time to consider their request. He said that with regard to the Comprehensive Plan, he feels that there are errors in the plan. It is 15 years old. Is there a plan to revisit it so that it aligns more closely with the Ordinance?

Sue said the Commission looked at the plan in its entirety in 2012. At that point in time, the Commission determined that it did not need to be updated. The Zoning Ordinance follows the Comprehensive Plan, not the other way around. The Comprehensive Plan provides the vision and the guidelines and the Ordinance provides the rules to achieve those goals. However, it has been five years and the Town could look at it again.

Chuck said that one of reason – under strategies it says “Publicize the Comprehensive Plan vision and policies to encourage voluntary actions consistent with the community’s long range vision, conduct regular (annual) surveys or hearings promoting the Comprehensive Plan vision.” Have there been surveys?

Sue said that there is an annual questionnaires that asks how satisfied citizens are with various aspects of the Town and its governance.

Chuck said that it is difficult for anyone to apply for a variance when so much of it is subjective and then the Ordinance is more specific and non-subjective. It is confusing – how does one read this and then apply it.

Wayne said that the Comprehensive Plan is a vision and the Zoning Ordinance is the Town’s best attempt at putting teeth or mechanism to that vision.

Chuck also said that he was not familiar with rain gardens when they were brought up in the last hearing. Since then, he has seen some and he is intrigued by the idea and looking forward to trying it on his property.

A break was taken for the Findings of Fact and Decision documents for the Fire Hall and the Bille Variance to be written and approved by the Commission.

The meeting adjourned at 11:30.

Parcel 315 0050 02340 TAX 1985
LOT 3
Now I have 3 lots of record, 3 Parcels,
and 3 tax statements. Lot 3 was a lot of
record when I bought it. I didn't created it.

Note:
All lots are nonconforming.
Also I have the original tax
statements to back this up.

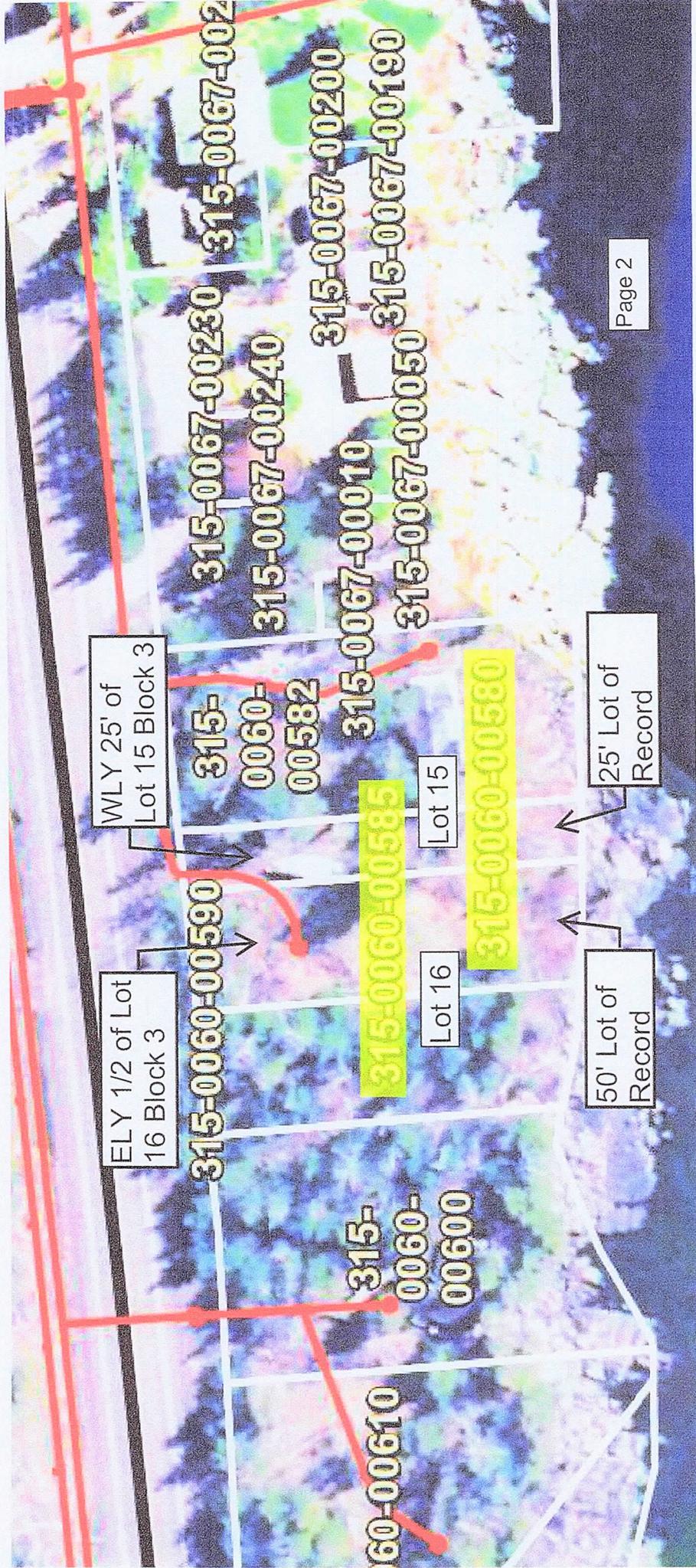
Parcel 315 50 2325 TAX 1983
NLY 35 FT OF SLY 115
FT OF LOTS 1 & 2.
Now I have 2 lots, 2 parcels & 2 tax
statements. This lot is not a lot of record
at this time. When the 1984 ordinance
was adopted it became a lot of record,
now I have two lots of record.

Parcel 315 50 2330 Tax 1970
SLY 80 FT LOTS 1 & 2.
1 lot, 1 parcel and 1 tax
statement. Original lot was a
lot of record.

This is the legal description
of 2 or more lots combined to
create one lot.

Parcel 315 0050 02325 TAX 1989
SLY 115 FT OF LOTS 1 & 2 AND ALL
OF LOT 3
I combined all three lots. Now I have
one lot, 1 Parcel and 1 Tax. This lot it is
not a lot of record at this time as it was
created after the 1984 ordinance. It
became a lot of record when the 1991
ordinance was adopted.

Note:
This lot is also nonconforming
as I have 41,206.9 Sq Ft. An
acre is 43,560 Sq Ft so I'm
2,353.1 Sq Ft short of the one
acre zoning requirement.



WLY 25' of
Lot 15 Block 3

ELY 1/2 of Lot
16 Block 3

Lot 15

Lot 16

25' Lot of
Record

50' Lot of
Record

315-0067-00230

315-0067-00240

315-0060-00582

315-0060-00590

315-0060-00600

60-00610

315-0067-00200

315-0067-00010

315-0060-00585

315-0060-00600

315-0067-00190

315-0067-00050

315-0060-00580

Lot 16

315-0060-00600

https://gis.slcourtycountyminn.gov/LandExplorer/

1/1

PROPERTY DETAILS REPORT
 St. Louis County, Minnesota
 Date of Report: 7/18/2017 1:55:08 PM

General Details							
Parcel ID:	315-0050-02325						
Title Holder:	BOWEN JOHN D ETUX						
Document Department:	-						
Document Number:	61554F						
Document Date:	-						
Plat Name:	GREENWOOD BEACH TOWN OF DULUTH						
Legal Description Details							
Plat Name:	GREENWOOD BEACH TOWN OF DULUTH						
Section	Township	Range	Lot	Block			
				012			
Description:	SLY 115 FT OF LOTS 1 & 2 AND ALL OF LOT 3						
Taxpayer Details							
Taxpayer Name and Address:	BOWEN JOHN D 5409 GREENWOOD RD DULUTH MN 55804						
Parcel Details							
Property Address:	5409 Greenwood Rd, DULUTH						
School District:	381						
Tax Increment District:	-						
Title Holder:	BOWEN JOHN D ETUX						
Property/Homesteader:	BOWEN, JOHN D & COLLEEN J						
Assessment Details (2017 Payable 2018)							
Class Code (Legend)	Homestead Status	Land EMV	Bldg EMV	Total EMV	Def Land EMV	Def Bldg EMV	Net Tax Capacity
201	1 - Owner Homestead (may be partial)	\$24,100	\$58,600	\$82,700	50	50	-
Total:		\$24,100	\$58,600	\$82,700	50	50	\$529
Land Details							
Deeded Acres:	0.00						
Lot Width:	0.00						
Lot Depth:	0.00						
Waterfront:	-						
Water Front Feet:	0.00						
Water Code & Desc:	W - DRILLED WELL						
Gas Code & Desc:	-						
Sewer Code & Desc:	P - PUBLIC						
Building 1 Details (RESIDENCE)							
Building Type	Year Built	Main Floor Sq. Ft.	Gross Area Sq. Ft.	Basement % Fin.	Style Code & Desc.		
HOUSE	1945	724	724	-	BNG - BUNGALOW		
Segment	Story	Width	Length	Area	Foundation		
BAS	1	4	13	52	POST ON GROUND		
BAS	1	24	28	672	POST ON GROUND		
DK	1	4	5	20	POST ON GROUND		
DK	1	7	8	56	POST ON GROUND		
Bath Count	Bedroom Count	Room Count	Fireplace Count	HVAC			
1.0 BATH	2 BEDROOMS	-	0	CENTRAL, FUEL OIL			

3

Search Address or Tax PIN

Parcel ID Number:
315-0060-00580

[Parcel Tax Lookup](#)
[Property Details](#)

Address:
Owner Name: BILLE CHARLES E ETAL
Owner Address:
Taxpayer: BILLE CHARLES & CAROL DANIELSON
Address: 4660 ALLENDALE DR ST PAUL MN 55127-2324

60ft 58.20 45.93172 - 91.80862 Degrees

https://gis.sllouiscountymn.gov/LandExplorer/

1/1

PROPERTY DETAILS REPORT
St. Louis County, Minnesota
Date of Report: 7/18/2017 2:15:46 PM

General Details							
Parcel ID:	315-0060-00580						
Title Holder:	BILLE CHARLES E ETAL						
Document Department:	-						
Document Number:	73009 G						
Document Date:	-						
Plat Name:	GREENWOOD CLIFFS TOWN OF DULUTH						
Legal Description Details							
Plat Name:	GREENWOOD CLIFFS TOWN OF DULUTH						
Section	Township	Range	Lot	Block			
			0015	003			
Description:	WLY 25 FT						
Taxpayer Details							
Taxpayer Name and Address:	BILLE CHARLES & CAROL DANIELSON 4660 ALLENDALE DR ST PAUL MN 55127-2324						
Parcel Details							
Property Address:	-						
School District:	381						
Tax Increment District:	-						
Title Holder:	BILLE CHARLES E ETAL						
Property/Homesteader:	-						
Assessment Details (2017 Payable 2018)							
Class Code (Legend)	Homestead Status	Land EMV	Bldg EMV	Total EMV	Def Land EMV	Def Bldg EMV	Net Tax Capacity
151	D - Non Homestead	\$19,600	\$0	\$19,600	\$0	\$0	-
Total:		\$19,600	\$0	\$19,600	\$0	\$0	\$196
Land Details							
Deeded Acres:	0.00						
Lot Width:	0.00						
Lot Depth:	0.00						
Waterfront:	SUPERIOR						
Water Front Feet:	25.00						
Water Code & Desc:	-						
Gas Code & Desc:	-						
Sewer Code & Desc:	-						
Sales Reported to the St. Louis County Auditor							
No Sales information reported.							

4

Parcel ID Number:
315-0060-00585

[Parcel Tax Lookup](#)
[Property Details](#)

Address:
Owner Name: BILLE CHARLES E ETAL
Owner Address:
Taxpayer: BILLE CHARLES & CAROL DANIELSON
Address: 4660 ALLENDALE

https://gis.stlouiscountymn.gov/LandExplorer/

1/1

PROPERTY DETAILS REPORT

St. Louis County, Minnesota

Date of Report: 7/18/2017 2:14:36 PM

General Details							
Parcel ID:	315-0060-00585						
Title Holder:	BILLE CHARLES E ETAL						
Document Department:	-						
Document Number:	73009 G						
Document Date:	-						
Plat Name:	GREENWOOD CLIFFS TOWN OF DULUTH						
Legal Description Details							
Plat Name:	GREENWOOD CLIFFS TOWN OF DULUTH						
Section	Township	Range	Lot	Block			
-	-	-	0016	003			
Description:	ELY 1/2						
Taxpayer Details							
Taxpayer Name and Address:	BILLE CHARLES & CAROL DANIELSON 4660 ALLENDALE DR ST PAUL MN 55127-2324						
Property Address:	-						
School District:	381						
Tax Increment District:	-						
Title Holder:	BILLE CHARLES E ETAL						
Property/Homesteader:	-						
Assessment Details (2017 Payable 2018)							
Class Code (Legend)	Homestead Status	Land EMV	Bldg EMV	Total EMV	Def Land EMV	Def Bldg EMV	Net Tax Capacity
151	0 - Non Homestead	\$79,900	\$0	\$79,900	\$0	\$0	-
Total:		\$79,900	\$0	\$79,900	\$0	\$0	\$799
Land Details							
Deeded Acres:	0.00						
Lot Width:	0.00						
Lot Depth:	0.00						
Waterfront:	-						
Water Front Feet:	0.00						
Water Code & Desc:	-						
Gas Code & Desc:	-						
Sewer Code & Desc:	-						
Sales Reported to the St. Louis County Auditor							
No Sales information reported.							

5

Bille Variance, August 3, 2017

Written Comments

1. Moe
2. Block
3. Stelter
4. Vallie
5. Schwarzrock
6. Hudson, Foster
7. Hudson, Nick and Andrea
8. Pelkey
9. Danielson
10. Gjerde
11. D'Angelo
12. Stoup
13. Gjerde
14. Haagsman
15. Slette
16. Corbett/Sage
17. Burkhard
18. Schulz
19. Wallace
20. Klein
21. Watson



Beth <bmullan.duluth@gmail.com>

Chuck and Carol Billie's Building Variance

Moe, Donald J <donald.moe@usbank.com>

Mon, Jul 31, 2017 at 10:02 AM

To: "bmullan.duluth@gmail.com" <bmullan.duluth@gmail.com>

Dear Duluth Town Planning and Zoning Commissioners,

I am writing this letter in support of Chuck and Carol Bile's Variance Application to build their home on their Lake Superior lot. I have known both Chuck and Carol for over 20 yr. Both Chuck and Carol will incorporate the natural setting and beauty of the north shore into their new home and knowing Chuck's attention to detail, Chuck will create a home that will be aesthetically appealing to the town of Duluth. Chuck and Carol have owned their lot for 25 years and have paid taxes on it for that entire period of time. They now want to build their retirement home to reside in the Duluth area. Granting this variance for them will allow Chuck and Carol to become supportive and productive members of the Duluth community. The house that Chuck has designed will blend in well with the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Respectfully,

Donald J Moe

Assistant Vice President of Executive Services

Corporate Security

p. 612.303.0875 | c. 612.718.9238 | donald.moe@usbank.com**U.S. Bancorp**

MN-US Bancorp Ctr, Minneapolis

800 Nicollet Mall, Minneapolis, MN 55402-7020 | BC-MN-H23P | www.usbank.com

U.S. BANCORP made the following annotations

Electronic Privacy Notice. This e-mail, and any attachments, contains information that is, or may be, covered by electronic communications privacy laws, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.

LETTER TO THE PLANNING/ZONING COMMISSION OF THE TOWN OF DULUTH.

Dear Duluth Town Planning and Zoning Commissioners,

I'm writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. I've known both Chuck and Carol for quite some time, and believe their new home will be a solid addition to the Town of Duluth. My brother Chuck takes such pride in his homes and he adores the northern area as, this is where we were raised as children.

They have owned this lot for 25 years, paid taxes on it for that entire period of time, and now wish to construct their retirement home and take up permanent residence in this community. Granting this variance will provide the Town of Duluth with a new and beautiful home, and residents who will be supportive of the community.

This new home has been designed to fit into the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Chuck and Carol Bille have always loved your area of the country and this is their final request to build their "Dream Home", in the north woods, please don't crush their dreams since they have held onto this land for 25 years. They would be a great asset to your area.

Sincerely,

Marcia Block

Block.marcia@yahoo.com



Beth <bmullan.duluth@gmail.com>

Bille property variance application. Town of Duluth.

Tim Stelter <stelster@massmountain.com>

Mon, Jul 31, 2017 at 3:47 PM

To: bmullan.duluth@gmail.com

Dear Duluth Town Planning and Zoning Commissioners,

Hello Beth,

My wife Patricia and I are writing you in regards to Carol and Chuck Bille's request for a variance to enable the building of their retirement home on the Lake Superior lot in the Town of Duluth. The Billes would be an asset, as residents, to the Town of Duluth. They have been long time residents in White Bear Township, MN. They have been excellent neighbors and we will be sorry to see them relocate.

Building on lakeshore involves meticulous planning with an eye for the unique environment. Chuck has always been dedicated to keeping those things in mind. As a young man he had home which he built on Lake Nebagamon, WI. Chuck also owned a fly fishing business in Duluth for many years. His wife Carol is from Grand Rapids, MN and does business in Duluth. The Billes have very close ties to your area. He has owned this lot on Lake Superior for 25 years and dutifully paid taxes for that time. I've known Chuck for much longer than that and it has always been a dream of his to retire and build on his lot on Superior. In viewing his plans for the home, and the building's location, I can't imagine a better use for the lot. Chuck's plans will enhance the property and provide a dwelling that any town would be proud to have within their borders.

As life-long residents of Minnesota we implore everyone on the Town Zoning and Planning board, to approve the Bille's variance application, they need, to build their home in your town. As a lake property owner myself, up north, I know the challenges to properly build on lakeshore. Chuck Bille will graciously abide by any decision you make and, if it's a positive one, Chuck would build a home that would improve both the green space within the property, and also increase the property values, in the surrounding area.

Sincere Regards,

Timothy and Patricia Stelter

Vadnais Heights, MN. 55127

**Beth <bmullan.duluth@gmail.com>**

Variance Application

joevallie <joevallie@yahoo.com>
To: bmullan.duluth@gmail.com

Mon, Jul 31, 2017 at 6:14 PM

Dear Duluth Town Planning and Zoning Commissioners,

Joe Vallie is writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. I've known both Chuck and Carol for quite some time, and believe their new home will be a solid addition to the Town of Duluth.

They have owned this lot for 25 years, paid taxes on it for that entire period of time, and now wish to construct their retirement home and take up permanent residence in this community. Granting this variance will provide the Town of Duluth with a new and beautiful home, and residents who will be supportive of the community.

This new home has been designed to fit into the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Sincerely,

Joe Vallie



Beth <bmullan.duluth@gmail.com>

Variance Application

Ted Schwarzrock <ted@schwarzrock.com>

Mon, Jul 31, 2017 at 10:08 PM

To: bmullan.duluth@gmail.com

Dear Ms. Mullan:

My wife and I are writing this note to you to inform you of our support for the Variance requested by Chuck and Carol Bille. They have a Variance Application on file with your office covering a home that they plan on building on their Lake Superior lot. Both my wife and I have a long history with the Bille's and with the north shore of Lake Superior. We have spent considerable time on property we owned for over 40 years. We believe that their home will be a solid addition to the Town of Duluth.

The Bille's have owned and paid taxes on this lot for over 25 years. Every time we drive past it, I have inquired about their plans to move there. They have long planned on building this home and retiring there as a permanent resident. Granting this Variance will provide the Town of Duluth with a new and beautiful home, and with residents who will be involved in, and supportive of, the local community. In addition to increasing the tax base in the Township, this new home has been designed to fit into the neighborhood extremely well and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Our request, as part time inhabitants of Lake Superior's north shore, is that the Committee approve the Bille's Variance application forthwith.

Thanks for your consideration. Should you have any further questions about this, please don't hesitate to contact me, directly.

Ted & Ruth Schwarzrock
P.O. Box 390028
Minneapolis, Minnesota 55439

Foster A. Hudson

22281 Highway 23 N.E

Hawick, MN. 56273

July 31, 2017

To The Duluth Town Planning and Zoning Commission:

I am writing this letter in support of Chuck and Carol Bille's application for a variance to build a new home on their land in Duluth Twp.

I am retired from the Minn. Dept of Natural Resources where I spent 36 years in State Park Mgmt. I was the first manager of Tettegouch State Park when we opened it in the 80's.

While living on the N. Shore I got to meet many people involved and passionately interested in protecting the natural setting of the area. However, I learned to be realistic. Development will happen. So, we can only encourage people to do it right.

After "grilling" Mr. Bille about their plans, including landscaping, I believe they have the right idea. Keep it modest, design the exterior to blend into the natural surroundings, and landscape to match the environment.

I could certainly endorse this type of development and would encourage you to grant the Billes their variance

Dear Duluth Town Planning and Zoning Commissioners:

We're writing this letter in support of Chuck and Carol Billes' Variance Application to build their home on their Lake Superior lot. We have known both Chuck and Carol for seven years and believe their new home will be a solid addition to the town of Duluth.

They have owned this lot for 25 years and now wish to construct their retirement home and take up permanent residence on the North Shore. Granting this variance will provide Duluth Twp. with a wonderful home as well as kind, respectful residents whom many people I know admire.

My family and I have camped on this lot before and have seen how it is a perfect place for a new home. I have also been to the Billes' current home many times and have seen how well-maintained and impeccably clean it is, both inside and out. I have no doubt that their maintenance of this lot will only benefit the surrounding community.

Sincerely,

Nick and Andrea Hudson
Owner of Success Fitness
Maplewood, MN



Beth <bmullan.duluth@gmail.com>

Chuck and Carol Bille variance

Sarah Pelkey <sapelkey@hotmail.com>

Tue, Aug 1, 2017 at 1:14 PM

To: "bmullan.duluth@gmail.com" <bmullan.duluth@gmail.com>

Sent from my iPad. I am writing in support of the variance for the Bille's Lake Superior lot. I have known the BILLE's for many decades and know them to be extremely industrious people who take pride in their homes they have built. Every home this couple built fit into the neighborhood and enhances property value in their neighborhood. They are conscientious about their yard and very respectful to all their neighbors. If Chuck designs and builds a house you can be assured it will be beautiful and well suited to the lot.

Sincerely, Sarah A. Pelkey



Beth <bmullan.duluth@gmail.com>

Letter to the Planning/Zoning Commission of the Town of Duluth

Perry Danielson <pdanielson27@gmail.com>

Tue, Aug 1, 2017 at 9:36 PM

To: bmullan.duluth@gmail.com

Dear Duluth Town Planning and Zoning Commissioners,

I am writing this letter in support of Chuck and Carol Bille's request for a Variance Application to build a new home on their Lake Superior property. I've known the Bille's for probably more than 25 years. I believe their new home would be an exceptional addition to the town of Duluth.

Chuck and Carol have owned this property for something like 25 years, paid the property taxes the entire time, and now wish to build their retirement home and make the town of Duluth their permanent residence. I believe granting this variance would be an addition to the town of Duluth as well as adding new residents interested in supporting the community.

I have no reservations their new home has been designed to fit into the neighborhood and that the landscaping will enhance the viewing corridor to Lake Superior.

Sincerely,

Perry Danielson

Dear Duluth Town Planning and Zoning Commissioners,

My husband and I are writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. We have known both Chuck and Carol for many years, and for as long as we've known them they have talked about building a home on this lot. From the drawings Chuck and Carol have shown us, we believe that this home would be a stunning addition to the Town of Duluth.

Chuck and Carol have owned this lot for 25 years, paid taxes on it for that entire period of time, and we believe that they have the right to construct their retirement home and take up permanent residence in the community. Granting this variance will provide the town of Duluth with a beautiful home, and some wonderful residents, who are supportive of the community they reside in.

The drawings that we've seen of the home, Carol and Chuck wish to build, will fit perfectly into the neighborhood. The corridor to the lake will still allow visibility of Lake Superior for those who pass the property and the landscaping will enhance the green space.

Again, we have known the Bille's for many years and believe that granting them the variance to build on their lot would be a solid decision. The home would be a beautiful addition to the town of Duluth, and the Bille's would be a great couple to have join the community.

Sincerely,

Noel & Casey Gjerde



Beth <bmullan.duluth@gmail.com>

Support of Building Variance - Chuck and Carol Bille

Lea DAngelo <leadangelo@yahoo.com>

Wed, Aug 2, 2017 at 9:41 PM

To: "bmullan.duluth@gmail.com" <bmullan.duluth@gmail.com>

Dear Duluth Town Planning and Zoning Commissioners,

I'm writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. I've known both Chuck and Carol for many years and believe their new home will be a solid addition to the Town of Duluth.

They have owned this lot for 25 years, paid taxes on it for that entire period of time, and now wish to construct their retirement home and take up permanent residence in this community. Granting this variance will provide the Town of Duluth with a beautiful home and residents who will be supportive of the community.

This new home has been designed to fit into the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Sincerely,
Lea D'Angelo



Beth <bmullan.duluth@gmail.com>

Support of building variance: Chuck and Carol Bille

Steve Stoup <stephenstoup@gmail.com>

Thu, Aug 3, 2017 at 8:30 AM

To: bmullan.duluth@gmail.com

Dear Duluth Town Planning and Zoning Commissioners:

Dear Duluth Town Planning and Zoning Commissioners,

I'm writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. Knowing Chuck and Carol as I do, I'm confident their new home will be a solid addition to the Town of Duluth.

They have owned this lot for 25 years, paid taxes on it for that entire period of time, and now wish to construct their retirement home and take up permanent residence in this community. Granting this variance will provide the Town of Duluth with a beautiful home and residents who will be supportive of the community.

This new home has been designed to fit into the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Sincerely,
Steve Stoup

Sent from my iPhone

August 2nd, 2017

Dear Duluth Town Planning and Zoning Commissioners,

We're writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. We've known both Chuck and Carol for 20 years and believe their new home will be a solid addition to the Town of Duluth.

They acquired this lot ~25 years ago with the goal of retiring with permanent residence in this community. Granting this variance will provide the Town of Duluth with a beautiful new home and with residents who have proven that they are supportive of the community they reside in.

This new home has been designed to fit into the neighborhood extremely well and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Sincerely,

Ken and Cathy Gjerde
5771 Lake Ave
White Bear Lake, MN 55110



Beth <bmullan.duluth@gmail.com>

Variance Meeting for tonight

Jane Haagsman <janehaagsman@yahoo.com>

Thu, Aug 3, 2017 at 1:47 PM

Reply-To: Jane Haagsman <janehaagsman@yahoo.com>

To: "bmullan.duluth@gmail.com" <bmullan.duluth@gmail.com>

Dear Duluth Town Planning and Zoning Commissioners,

I am writing this letter to you in support of Chuck and Carol Bille's Variance Application to build the home they plan on retiring in on their Lake Superior lot. Because there are homes (and businesses) on the surrounding lots, it was never a question that building on this lot would become such an extreme obstacle for them.

The Bille's have owned this lot for 25 years, paid taxes on it accordingly and planned on building a home that would fit in with the footprint of the lot without compromising the surrounding homes in any way. Additionally, they have received permission from the adjoining neighbor to build within 12 feet of his existing cabin. Their proposed home will be right around 1000 SF, which includes the garage. With the attention the Bille's pay to their current home, the exterior of their home will be landscaped beautifully, while being respectful to the other homeowners. With a home on this lot, it would also appear that the town of Duluth would also receive additional taxes.

It's always a boost to any community to have additional members who support local businesses, civic events and participate in opportunities to make your city a better place to

live. I know as full time residents, Chuck and Carol would certainly fit that bill and more.

I appreciate your thoughtful consideration to their request to build on their lot.

Warmest Regards,

Jane Haagsman
President, Commercial Painting
612-964-4714
janehaagsman@yahoo.com



Beth <bmullan.duluth@gmail.com>

Chuck and Carol Bille Home

Loren Slette <lslette@northerntrends.com>

Wed, Aug 2, 2017 at 11:04 AM

To: "PlanningZoning@duluthtownship.org" <PlanningZoning@duluthtownship.org>

Cc: Sue Lawson <suelawson@lakeconnections.net>

Board members

I would like to express my support for Chuck and Carol Bille to be able to build a house on the lot just East of Stony Point. I feel this lot is high enough above the lake that erosion won't be an issue. With the sewer in place that shouldn't be an issue either. I feel this is a reasonable use for this lot. Thanks you for your time!

Loren Slette

Northern Trends Building & Design, Inc.

606 Garfield Ave

Duluth, MN 55802

Cell [218.590.5009](tel:218.590.5009)

Office [218.727.0778](tel:218.727.0778)

Fax [218.727.2818](tel:218.727.2818)



Beth <bmullan.duluth@gmail.com>

Danielson/Bille Variance

nansoffice@gmail.com <nansoffice@gmail.com>

Wed, Aug 2, 2017 at 10:30 PM

To: Beth Mullan <bmullan.duluth@gmail.com>, Sue Lawson <suelawson@lakeconnections.net>

Cc: caroldanielson@comcast.net, Chuck Bille <cebille@comcast.net>

Ms. Mullan and Ms. Lawson:

We are again writing in support of the Danielson/Bille variance request to build a home on their property in the Town of Duluth.

We continue to believe that their plan to build a home on their property would fit in with the neighboring properties and would not infringe on the rights of neighboring properties and would, in addition, add to the general welfare of the community for a variety of reasons, including their presence in the community as residents and neighbors as well as through increased tax revenues in our township.

My husband, Jim Sage, and I are long-time residents of the Town of Duluth, and we support their request for a variance.

Thank you,

Nan Corbett and Jim Sage

2212 Hegberg Road

Duluth, MN 55804-9630

Phone: [218-525-7265](tel:218-525-7265)

nansoffice@gmail.com

5820 North Shore Drive
Duluth, MN 55804

July 31, 2017

Planning Department
Duluth Town Hall
6092 Homestead Road
Duluth, MN 55804

Dear Planning Commission:

Subject: Variances Request by Charles Bille and Carol Daniel-Bille.

After looking over the lot on North Shore Drive, and I'm against granting the variances requested. The variances requests, all six of them, give the feel of building a home that is much too big for the lot and the structure would impose upon the lot's immediate neighbors.

Other issues with the variances requested include:

- The lot size is less than 1/3 of an acre; much less than the 1.0 acre requirement for SMU6 location.
- Potential issue of exceeding impervious surface coverage requirements.
- Setting the precedent that Duluth's Township Zoning can be totally waved if someone simply makes a variance request.

I'm not against variance requests. However, if this request was for relieve of one of the variances, I might consider such a request in a positive light.

Thanks for your considered of my written testimony.

Sincerely,



Lawrence Burkhard

5820 North Shore Drive
Duluth, MN 55804

August 2, 2017

Town of Duluth Planning Commission

Re: Bille Variance Application July 15, 2017

Dear Board Members:

We, the undersigned, do not favor granting the variances requested by the Bille's in their variance proposal. We oppose the granting on principle – the principle being that the Comprehensive Land Use Plan and the Zoning Requirements lay out a vision for and requirements of development in the township and need to be followed - and not because we don't want the Bille's as neighbors. We argue that granting these variances goes against the vision of the township and the township's Comprehensive Land Use Plan (CLUP).

At the June 26 Town Board meeting on Appeal of the March 9, 2017 Bille Variance Proposal the Town Board members discussed the effort the township put into developing the CLUP and visioning the future for development in the township. The comprehensive plan was carefully developed with the future in mind and the zoning ordinance was created under the vision established in the CLUP. At the meeting it was stated that "the intent of the comprehensive plan was to slowly reverse density" in the township. (This variance proposal does not.) It was further stated that the Bille variances are "***outside the vision of the township***" and "***outside the comprehensive plan***".

The Town Board noted that this building was "***not appropriate at this scale***". And it is the "***largest house on the smallest lot***". The Findings of Fact stated that "*the number of variances needed for the proposed home, as well as the deviation from the stated requirements, to be substantial, even extreme*". The house, at nearly 1500 square feet, is similar in size to a suburban house in Duluth. In this second variance request the only dimension that has changed from the original variance application is the height of the building – which was within Zoning Guidelines at the time (see attachment.) The requests for variances – many substantial – are for six of the nine critical measurements. Variance requests for this parcel have been turned down six times in the past and we see no reason for them to be granted at this time. The parcel remains the same size.

Previously we noted:

1. The property is not consistent with the **Comprehensive Plan**. The **Comprehensive Plan** specifically provides for a strategy of maintaining restrictions on substandard size lots as defined in current zoning (*Duluth Township Comprehensive Plan 5.4 Regulation 6 Maintain Restrictions on substandard lots as defined in current zoning ordinance*)
2. The **Comprehensive Plan** and the **Zoning Ordinance** were developed in conjunction with the **North Shore Management Plan**. It is notable that the **North Shore Management Plan** provides (1) *new residential development along the shoreline should be designed in order to preserve natural features and minimize impacts* (NSMP 6.1): and (2) *Structures on the water should not negatively impact adjacent properties* (NSMP 6.1). The Bille's proposed development is inconstant with these two objectives. A 1500 square foot structure would take up close to 10% of the available space and its construction would ruin natural features with removal of trees and grass. Property values would drop. (Per real estate estimates).

The Bille's argue that granting the variances "will not alter the essential character of the locality" and they go on to detail dimensions of surrounding properties. All of these properties were in place prior to

the current CLUP being in place and could not be built today given the vision of development in the plan – the argument is moot.

Planting trees that will take years to grow between the house and the road, adding a rain garden, professionally landscaping the property do not alter the fact that this property is widely divergent of the zoning guidelines and this development is not what the good citizens of Duluth Township envisioned when they completed the current Comprehensive Land Use Plan. The current variance Application does not address any of the Findings of Fact from the Town Board meeting on June 26.

We respectfully ask that the Bille variance application of July 15, 2015 be denied.



John Schulz
5848 North Shore Drive



Rebecca Norine
5848 North Shore Drive



John (Jack) Nelson
5848 North Shore Drive

(JNS)

Bille Variance application

	Road Centerline to Front of House (Ft)	Furthest Side Yard (ft)	Nearest Sideyard (ft)	Minimum setback from lake Superior Vegetation Line	Lot Size (Ac)	Impervious Surface Lot	Min Lot Width	Building Height	Unclassified Watercourse
Required by Zone District	110	35	35	100	2 Ac	25%	200	35	50
Actual	68.6	35	12	87	0.31	18%	75	25	35
Variance?	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes
Actual	68.6	35	12	87	0.31	18%	75	21.6	35
Variance?	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes

May 2017 Application

August 2017 Application

LETTER TO THE PLANNING/ZONING COMMISSION OF THE TOWN OF DULUTH.

Address your email to:

Beth Mullan bmullan.duluth@gmail.com

Dear Duluth Town Planning and Zoning Commissioners,

I'm/we're writing this letter in support of Chuck and Carol Bille's Variance Application to build their home on their Lake Superior lot. I've/we've known both Chuck and Carol for quite some time, and believe their new home will be a solid addition to the Town of Duluth.

They have owned this lot for 25 years, paid taxes on it for that entire period of time, and now wish to construct their retirement home and take up permanent residence in this community. Granting this variance will provide the Town of Duluth with a new and beautiful home, and residents who will be supportive of the community.

This new home has been designed to fit into the neighborhood extremely well, and the landscaping of the lot will enhance the green space and viewing corridor to Lake Superior.

Sincerely,

Mark and Kathy Wallace

6568 Falstaff Ter

Woodbury MN 55125



Beth <bmullan.duluth@gmail.com>

Bille Variance Application

Rhonda Klein <evergreenpress@mac.com>

Thu, Aug 3, 2017 at 5:54 PM

To: bmullan.duluth@gmail.com

Dear Ms. Mullan and the Duluth Planning and Zoning Commissioners,

This letter is in support of Chuck and Carol Bille's variance application to build their home on their Lake Superior lot. My husband and I have known Chuck and Carol for quite some time, and believe their new home will be a beautiful and solid addition to the city of Duluth.

Sincerely,

Rhonda and Russell Klein

From: daniel at dodges <dodgesloglodges@hotmail.com>
Date: August 3, 2017 at 6:54:30 PM CDT
To: Duluth Town Clerk <townclerk@lakenet.com>, "suelawson@lakeconnections.net" <suelawson@lakeconnections.net>
Subject: BILLE VARIANCE

GREETINGS TO THE DULUTH TOWNSHIP PLANNING & ZONING COMMISSION:

Today I find myself writing once again to voice opposition to the Bille variance request.

I will not address the legal aspects of an opposing argument as I know other neighbors and concerned parties have done so.

I would like to make a few observations in general.

I wonder how many times the commission has to address a variance request from one individual....it just seems unreasonable that after three denials and two additional denials on appeal (not including the previous owners denial) that the board and other township citizens should have to be held hostage by one persons refusal to accept some common sense decisions.

The number that screams loudest to me in all the discussion is 16%. That is the amount of land area that is available of the two acre required minimum. This is really all that needs to be said to make a decision based on complying with the comprehensive plan. This is NEW CONSTRUCTION--not adding to an existing structure.

The applicant has stated previous that the land when it was owned by the previous owner--Bill Watson--had a 20' x 45' building on the property. This obviously cannot be true because if that was the case Mr. Watson would not have needed to apply for a variance to build...the existing structure would have made that unnecessary.

The applicant has misrepresented information and lashed out at anyone with an opposing view. It has been said Mr. Bille and myself never spoke at anytime regarding the negotiation of the sale of the property at 5849 North Shore Drive--the home directly across the scenic drive from the vacant lot in question. This is untrue. I made the initial call to Mr. Bille to inquire on the price of the house and was told the price was \$189,000 based on an appraiser "from the twin cities area" and that he and his wife's retirement plans had changed due to the circumstances with their son. This was the reason stated why they were "giving up on their dream to retire into the house" that they were selling. I know and remember what I was told...that I would have a lake view from 5849 North Shore Drive.

There has been much back and forth on whether or not a precedence will be established if the variances are granted. I do believe it is naïve to think that in the future if an applicant with similar circumstances is denied a variance that there would not be justification for a lawsuit against the township. Intentional or not by saying yes now only paves the way for similar

requests and additional building on other undersized lots in the future. This has happened in other counties (Lake County.)

Thank you and regards--Daniel Watkins

Daniel Watkins

Managing Agent

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