

TOWN OF DULUTH

Special Meeting of Town Board of Supervisors

Purpose: Variance Appeal Hearing

June 26, 2017

Applicants: Charles Bille and Carol Danielson-Bille (Jacob Stonesifer, Johnson, Killen & Seiler)

Appellants: John L. Shulz (John Bray, Maki & Overom), Rebecca Norine (John Bray, Maki & Overom), Jack Nelson and Dan Watkins

Location: Duluth Town Hall, 6092 Homestead Drive, Duluth, Minnesota

Time: 6:00 p.m.

Town Board Members Present: Dave Mount, Barbara Crow, Rolf Carlson, Travis Stolp, Corlis West (Scott Witty, Hanft Fride)

Procedure:

- Chairman Mount made introductory remarks and explained process
- Planning Director Sue Lawson explained findings and conclusions of Planning and Zoning Commission; listed statutory criteria for variances
- Town Attorney commented briefly on variance criteria
- Appellant's attorney presented grievances with Planning and Zoning Commission's findings and grant of variance
- Applicant's attorney responded in support of Planning and Zoning Commission's findings and grant of variance
- Members of the public provided comments in support and opposition of variance
- Board discussed facts and statutory criteria and asked questions of attendees

Decision: Upon Motion, made by Supervisor Crow and seconded by Supervisor West, the Town Board of Supervisors granted the appeal of Planning and Zoning Commission's grant of Bille Variance, thereby denying the Variance Application for the reasons stated below.

Basis for Decision:

The motion passed by the Board of Supervisors was as follows: the Planning and Zoning Commission’s decision to approve the Bille Variance Requests be overturned based on the Town Board’s findings that the Variance Requests are not consistent with the Comprehensive Plan, nor are they in harmony with the general purposes and intent of the Zoning Ordinance.

In support of the stated findings, the Town Board found that the Comprehensive Plan, in Section 4A, 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.” In Section 4B(4) the Comprehensive Plan, which speaks to housing in the north shore corridor, provides “maintain the current development density and mix of housing lot sizes. The small lot size and large size of the proposed home will increase density and decrease view corridors and green space, and so is not consistent with the Comprehensive Plan.

With respect to the Zoning Ordinance, the Board found the number variances needed for the proposed home, as well as the degree of deviation from the stated requirements, to be substantial, even extreme in some respects. The required lot size for SMU6 is 2 acres, so the Bille’s lot size of .31 acres is only 15.5% of the requirement (an 84.5% deviation). The deviation from the lot width requirement was 200 to 75 feet, representing a 62.5% deviation. One of the side yard setbacks required a 23-foot variance from the 35-foot requirement. Based on these significant deviations, the Board concluded that the variances requested were not in harmony with the general purposes and intent of the Zoning Ordinance, which includes encouraging the most appropriate uses of land in the Township, to encourage and maintain the community as rural and in balance with its many natural resources for future generations, and to provide a basis for a sustainable community. Furthermore, the Board noted that the Zoning Ordinance was created under the visions established in the Comprehensive Plan.

In reviewing the Planning and Zoning Commission’s determination, the Board found the Commission in error regarding 2 statutory criteria: (1) Variance must be in harmony with the general purposes and intent of the Ordinance; and (2) Variance must be consistent with the comprehensive plan. The Board found that the Bille Variance Requests were not, for the reasons stated above. The goals and vision of the Comprehensive Plan were discussed at length, and served as the basis for the Board’s decision that the Bille Variance Requests were not consistent therewith.



Dave Mount, Chairman of Town Board of Supervisors

Attested by:

Ann Cox
Clerk, Town of Duluth