

## EAST BETHEL PLANNING COMMISSION MEETING

May 28, 2013

The East Bethel Planning Commission met on May 28, 2013 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT:   Tanner Balfany                   Eldon Holmes                   Lorraine Bonin  
                          Brian Mundle, Jr.               Glenn Terry                    Randy Plaisance

MEMBERS ABSENT:    Lou Cornicelli

ALSO PRESENT:       Colleen Winter, Community Development Director  
                          Tom Ronning, City Council Member

### Call to Order & Adopt Agenda

**Holmes motioned to adopt the May 28, 2013 agenda. Terry seconded; all in favor, motion carries unanimously.**

### Public Hearing – Interim Use Permit (IUP) for Home Occupation in the RR-Rural Residential District

#### **Background Information:**

Property Owner/Applicant  
Thomas VanElsberg  
4991 201<sup>st</sup> Ave. NE  
East Bethel, MN 55092  
Dellwood Acres, Lot 6, Block 1  
PIN 24-33-23-14-0008

The property owner/applicant is requesting an IUP for a home occupation that would allow the buying and trading of firearms. Obtaining a permit for a Home Occupation – IUP is a necessary step in order for Mr. VanElsberg to obtain a Federal Firearm License from the ATF. In Mr. VanElsberg's case, the home will be used as an office only and no retail sales of any firearms will take place on the premises. His business model is that he will buy, sell and trade firearms at trade shows and on the Internet. He will have a limited supply of firearms at his residence, but will utilize drop shipments from manufacturers and wholesalers directly to the buyers. Mr. VanElsberg will not have any employees, and no signage associated with the business will be displayed at the home.

Home occupations are a permitted use in the RR- Rural Residential District as long as the Applicant can meet the requirements of the City Code and can comply with the conditions of the IUP. The proposed home occupation will meet requirements of the ordinance so long as the IUP conditions are met. In the event the conditions are not being met, the IUP would be revoked.

#### **Recommendations:**

Staff requests Planning Commission recommend approval to City Council for an IUP for a home occupation for the buying and trading of firearms, located at 4991 201st Ave. NE, Dellwood Acres, Lot 6, Block 1, PIN 24-33-23-14-0008 with the following conditions:

1. Home Occupation shall meet the specific home occupation standards set

forth in the City Code Appendix A Section 10-18:

- a. No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation.
  - b. No traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.
  - c. Any sign associated with the home occupation shall be in compliance with the East Bethel City Code Chapter 54. Signs. Home occupation signage must be no larger than two (2) square feet (City Code Chapter 54-4.3).
  - d. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
  - e. A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
  - f. The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.
  - g. There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.
  - h. Parking needs generated by the home occupation shall be provided on-site.
  - i. A home occupation shall occupy no more than fifty (50) percent of the floor area of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use.
  - j. No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.
  - k. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.
2. Home will not be used as a point of retail on site sales.
  3. No signs associated with the business will be displayed at or on the premises.
  4. Violation of conditions and City Codes shall result in the revocation of the IUP.

All conditions must be met no later than June 31, 2013. An IUP Agreement shall be signed and executed no later than June 31, 2013. Failure to execute the IUP Agreement will result in the null and void of the IUP.

**Public open at 7:05 p.m.**

**Closed public hearing at 7:05 p.m.**

Bonin asked it states you will have a limited supply of firearms. What is limited? VanElsberg is guessing there would be no more than ten to fifteen. Bonin said no storage. Winter said a limited number of firearms at the house. The guns would be sent to who ever wanted them. Bonin said if there was up to fifteen there,

there would be storage. Mundle said they would be for sale. They would be a model for what is to be sold. VanElsberg said they would be held until they are sold. Bonin so they would be stored there until they would be sold. Holmes asked what about advertising? VanElsberg said the Internet. This is just a hobby he was pursuing, if he had dreamed it would be this much work, he wouldn't have done it. He still has to get a license from the ATF. He would like to sell 6-8 a month. Holmes would like to see another item on the recommendation that the guns be locked up at all time, that are for sale. VanElsberg said that is part of ATF's requirements. Holmes said what about picking up of the guns. There is the possibility that they could come and pick up at the house if they are done locally. Mundle said it says would not be used as point of retail sale. Holmes asked about selling ammunition. Would you be selling that? VanElsberg said no, just guns. He would do all shipping and receiving offsite. He is a warehouse manager, so he would have stuff delivered and ship from there. Holmes said you work for another company and they are going to allow that. VanElsberg said yes. Mundle said in your letter to the City, what are the related items? He left it open for other sporting goods. Hunting items. Mundle said, so hunting items. Holmes said you would trade firearms, so that means you would be taking something back home. VanElsberg said there would be a possibility of that.

**Terry recommend approval to City Council for an IUP for a home occupation for the buying and trading of firearms, located at 4991 201st Ave. NE, Dellwood Acres, Lot 6, Block 1, PIN 24-33-23-14-0008 with the following conditions:**

1. **Home Occupation shall meet the specific home occupation standards set forth in the City Code Appendix A Section 10-18:**
  - a. **No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation.**
  - b. **No traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.**
  - c. **Any sign associated with the home occupation shall be in compliance with the East Bethel City Code Chapter 54. Signs. Home occupation signage must be no larger than two (2) square feet (City Code Chapter 54-4.3).**
  - d. **The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.**
  - e. **A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.**
  - f. **The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.**
  - g. **There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.**
  - h. **Parking needs generated by the home occupation shall be provided on-site.**

- i. **A home occupation shall occupy no more than fifty (50) percent of the floor area of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use.**
  - j. **No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.**
  - k. **There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.**
2. **Home will not be used as a point of retail on site sales.**
  3. **No signs associated with the business will be displayed at or on the premises.**
  4. **Violation of conditions and City Codes shall result in the revocation of the IUP.**

**All conditions must be met no later than June 31, 2013. An IUP Agreement shall be signed and executed no later than June 31, 2013. Failure to execute the IUP Agreement will result in the null and void of the IUP.**

**Adding the condition that firearms be locked up.**

**Holmes seconded; all in favor, motion carries 5-1 (Bonin opposed).**

Before the Council June 19, 2013.

**Public Hearing:  
Interim Use Permit  
for Lucky Paws, a  
Home-based Dog  
Training and Play  
Care Center**

Consider Granting an Interim Use Permit (IUP) for Heather Hime for a Home Occupation in the RR – Rural Residential District.

**Background Information:**

**Property Owner/Applicant:**

Heather Hime  
NE  
4349 Viking Blvd NE  
0009  
East Bethel, MN 55092

**Property Location:**

4349 Viking Blvd.  
  
PIN 25-33-23-32-

The applicant, Heather Hime, is requesting an IUP to operate a home-based business named “Lucky Paws.” The business will provide dog training and a dog play care center. There are several types of programs offered through her business including playgroup services, daytime boot camp training services, and one-on-one training services. The hours of operation for those programs are Monday – Friday, 8 am – 4 pm.

In addition to the three programs offered above, there is also a boot camp program where dogs stay overnight in the residence at 4349 Viking Blvd NE and go home on weekends. The maximum number of dogs in this type of program is three (3). Programs offered include a 4-week program and a 2-week program.

Ms. Hime's business plan is attached and includes details outlining all of the programs that she offers as well as the facilities, fencing, flooring, cleaning, waste disposal, and other requirements. Her Business Plan is included as Attachment #1.

Home occupations are a permitted use in the RR - Rural Residential District as long as Ms. Hime can meet the requirements of the City Code and complies with the conditions of the IUP. The proposed home occupation will meet requirements of the ordinance so long as the IUP conditions are met. In the event the conditions are not being met, the IUP would be revoked.

**Recommendations:**

Staff requests Planning Commission recommend approval to City Council for an IUP for a home occupation known as Lucky Paws, located at 4349 Viking Blvd. NE, PIN 25 33 23 32 0009, with the following conditions:

1. Home Occupation shall meet the specific home occupation standards set forth in the City Code Appendix A Section 10-18:
  - a. No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation.
  - b. Traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.
  - c. Any sign associated with the home occupation shall be in compliance with the East Bethel City Code, Chapter 54. Signs. Home occupation signage must be no larger than two (2) square feet (City Code Chapter 54-4.3).
  - d. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
  - e. A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
  - f. The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.
  - g. There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation. (There will be a fenced in area, which Winter will show the Commission.)
  - h. Parking needs generated by the home occupation shall be provided on-site.
  - i. The area set aside for the home occupation in the principal structure shall not exceed 50 percent of the gross living area of the principal structure and the area set aside for the home occupation in the attached or detached accessory structures or garages shall not exceed total accessory structure space.
  - j. No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.
  - k. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas,

heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.

2. In addition, Ms. Hime shall be required to obtain a private kennel license and meet all of the requirements of Sections 10-54 and 10-55 as set forth:

**Sec. 10-54. - Kennel license.**

The maximum number of dogs allowed without a kennel license is two. The maximum number of dogs allowed with a private kennel license is to be determined by the number of acres:

- a) Five acres or more but less than ten acres: six dogs.
- b) No private kennel licenses shall be issued on parcels of 2½ acres or less. No commercial kennel licenses shall be issued in zoning districts other than commercial and industrial districts. The city shall not approve variances to allow private kennel licenses on parcels of less than 2½ acres, and shall not approve variances or other zoning devices to allow commercial kennel licenses in zones other than commercial and industrial districts.
- c) No person shall maintain a private or commercial kennel in the city without securing a license from the city council. The fee for the license shall be as established by resolution of the city council.
- d) Prior to issuance of a private kennel license from the city council, a hearing before the planning and zoning commission must be held. Notice must be given to all affected property owners within one-quarter mile of the outside dimensions of the parcel where the kennel is contemplated. The planning and zoning commission will make a recommendation to the city council on the request.
- e) Prior to issuance of a commercial kennel license from the city council, a hearing before the planning and zoning commission requesting an interim use permit must be held. Notice must be given to all affected property owners within 500 feet of the outside dimensions of the parcel where the kennel is contemplated, and published in the city's official newspaper at least ten days before the public hearing. The planning and zoning commission will make a recommendation to the city council on the request.
- f) Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses does not assume that future licenses will be granted. Licensees will need to independently assess whether any improvements made in relation to city requirements will be amortized during the initial time period of the license. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog need to reapply for a private kennel license. Licensees who relocate to another area of the city need to reapply for a private

kennel license. Licenses are not assignable to other parties.

- g) The initial term for a private kennel license shall be one year; subsequent licenses, if so granted, will be for a term of up to three years.
- h) Licensees authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.
- i) No party, person, corporation, or other entity will be allowed more than one private kennel license.
- j) Kennel licenses in effect on residential property at the time of adoption of the ordinance from which this article is derived that do not meet the requirements of this article are considered legal, nonconforming licenses and can continue to keep up to the number of dogs authorized by the kennel license at the time of adoption of the ordinance from which this article is derived. Adding more dogs to an existing license would require meeting the requirements of subsection (f) of this section.

**Sec. 10-55. - Conditions for issuance of a private kennel license.**

The following conditions are mandatory for the issuance of a private kennel license:

- a) Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.
- b) Dogs shall be confined to their own property by a provable means.
- c) Housing and shelter must be provided which will keep animals comfortable and protected from the elements.
- d) Accumulations of feces shall be located at least 200 feet from any well.
- e) All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.
- f) All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.
- g) The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
- h) Kennels shall be considered an accessory structure for setback purposes.

All conditions must be met no later than June 30, 2013. An IUP Agreement shall be signed and executed no later than June 30, 2013. Failure to execute the IUP Agreement will result in the null and void of the IUP.

**Public hearing opened at 7:17 p.m.**

Resident at 4247 Viking Boulevard. Her concerns were about barking dogs and the amount of noise coming from the business.

Holmes said there is an ordinance on dog barking and if it was too much, then you can call the police. She doesn't want to have to call the police.

Megan Tracy asked what type of dogs we are talking about and her second issue was type of training - obedience or hunting or gun training. She was also concerned about fencing.

**Public hearing closed at 7:18 p.m.**

Heather Hime, 4349 Viking Boulevard NE. Balfany asked what type of dogs? Hime any type of dogs, breed and size. They are subject to temperament training. It is important that the dogs get along. It would be obedience type training. At this point in time no hunting training. Mundle said 15 is the maximum and boarding training would be three. Hime said they would stay overnight in the home as part of the family. If they are disturbing the neighbors, they would be disturbing her. Mundle said so 18. Hime said no that would be 15 as the total.

Mundle stated the private kennel license states maximum of six dogs. Winter said that would be for the three dogs – the ones that would be staying in her home overnight. The doggy daycare center falls under a home occupation. She is only boarding the three that are in the boot camp. The other dogs are for the business. Mundle said so the other dogs go home at night. Winter stated that is correct. Plaisance asked how she dealt with dogs that have behavioral training or emotional issues. Heather stated those types of issues are for one-on-one training in people's homes. Plaisance said your pole barn, are you looking at renovating it? Would the training be indoors or out? She said both. Holmes said you have a different address. Winter said she just recently moved to the site. Holmes said 2710 Polk Street is no longer the address. Winter said yes. Hime said she is currently running her business out of the south metro. She does a lot of training in people's homes. She has been in business since 2010. Prior to that she worked in a center where there were 80 dogs. Fifteen dogs are smaller in comparison. Holmes said he has so many questions. The septic is where on this property. If you can see where the house and the deck is, it is straight out from the deck. The fenced in area is to the west of the pole barn. She said the fence is a privacy fence, and would be escape proof. There will also be a welded five foot fence around that area so if the dogs escape they are still locked in.

Neighbor would have a concern about animals that would get lose, due to her small children and animals. Hime said the pasture area will be cleaned up. Holmes wondered how large the pole barn is. Hime said it is 30 x 40. Neighbor asked if the building would be insulated for sound. Hime said it already is. The total number is 15, 3 of them could be boot camp dogs. Neighbor asked if there is a noise concern. She said she would do everything possible so people wouldn't know there was anyone there. She goes and picks up the dogs, so there wouldn't be traffic.

Holmes asked how she is involved with the Web links. The first one is hers, the other ones were ones that she worked for, and then some of the others are information on managing the business. Holmes said some of the training you do is for other companies. She said she rents space for training. Holmes said do you know about our barking ordinance. She said yes. Holmes said the waste from the animals she is open to recommendations. She said she has Ace Solid Waste who she is currently using. There is a potty area where the privacy fence. Bonin said that whole area is fenced off is next to the neighbors. Bonin said the fenced area. She said no, that is an old pasture area. 50x50 is the outdoor area. If you were to look at other doggy daycares that is fairly close to what they have for much larger groups of dogs. There would be immediate waste pick up to ensure cleanliness. Holmes said is there any plan on expanding. She said no, not at this point. She wouldn't add any additional dogs. At most she might have to hire someone to watch dogs while she does training. The business that she does now, she is having someone else taking over that portion of the business. Holmes asked would you be adding some more buildings. She said no.

Bonin's concern is that the home businesses that are in front of the commission of late aren't favorable businesses to the community. Balfany said that is more of a statement. Bonin said yes.

**Mundle recommended approval to City Council for an IUP for a home occupation known as Lucky Paws, located at 4349 Viking Blvd. NE, PIN 25 33 23 32 0009, with the following conditions:**

1. **Home Occupation shall meet the specific home occupation standards set forth in the City Code Appendix A Section 10-18:**
  - a. **No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation.**
  - b. **Traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.**
  - c. **Any sign associated with the home occupation shall be in compliance with the East Bethel City Code, Chapter 54. Signs. Home occupation signage must be no larger than two (2) square feet (City Code Chapter 54-4.3).**
  - d. **The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.**
  - e. **A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.**
  - f. **The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.**
  - g. **There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.**
  - h. **Parking needs generated by the home occupation shall be provided on-site.**

- i. The area set aside for the home occupation in the principal structure shall not exceed 50 percent of the gross living area of the principal structure and the area set aside for the home occupation in the attached or detached accessory structures or garages shall not exceed total accessory structure space.**
  - j. No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.**
  - k. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.**
- 2. In addition, Ms. Hime shall be required to obtain a private kennel license and meet all of the requirements of Sections 10-54 and 10-55 as set forth:**

**Sec. 10-54. - Kennel license.**

**The maximum number of dogs allowed without a kennel license is two. The maximum number of dogs allowed with a private kennel license is to be determined by the number of acres:**

- a) Five acres or more but less than ten acres: six dogs.**
- b) No private kennel licenses shall be issued on parcels of 2½ acres or less. No commercial kennel licenses shall be issued in zoning districts other than commercial and industrial districts. The city shall not approve variances to allow private kennel licenses on parcels of less than 2½ acres, and shall not approve variances or other zoning devices to allow commercial kennel licenses in zones other than commercial and industrial districts.**
- c) No person shall maintain a private or commercial kennel in the city without securing a license from the city council. The fee for the license shall be as established by resolution of the city council.**
- d) Prior to issuance of a private kennel license from the city council, a hearing before the planning and zoning commission must be held. Notice must be given to all affected property owners within one-quarter mile of the outside dimensions of the parcel where the kennel is contemplated. The planning and zoning commission will make a recommendation to the city council on the request.**
- e) Prior to issuance of a commercial kennel license from the city council, a hearing before the planning and zoning commission requesting an interim use permit must be held. Notice must be given to all affected property owners within 500 feet of the outside dimensions of the parcel where the kennel is contemplated, and published in the city's official newspaper at least ten days before the public hearing. The planning and**

**zoning commission will make a recommendation to the city council on the request.**

- f) Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses does not assume that future licenses will be granted. Licensees will need to independently assess whether any improvements made in relation to city requirements will be amortized during the initial time period of the license. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog need to reapply for a private kennel license. Licensees who relocate to another area of the city need to reapply for a private kennel license. Licenses are not assignable to other parties.**
- g) The initial term for a private kennel license shall be one year; subsequent licenses, if so granted, will be for a term of up to three years.**
- h) Licensees authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.**
- i) No party, person, corporation, or other entity will be allowed more than one private kennel license.**
- j) Kennel licenses in effect on residential property at the time of adoption of the ordinance from which this article is derived that do not meet the requirements of this article are considered legal, nonconforming licenses and can continue to keep up to the number of dogs authorized by the kennel license at the time of adoption of the ordinance from which this article is derived. Adding more dogs to an existing license would require meeting the requirements of subsection (f) of this section.**

**Sec. 10-55. - Conditions for issuance of a private kennel license.**

**The following conditions are mandatory for the issuance of a private kennel license:**

- a) Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.**
- b) Dogs shall be confined to their own property by a provable means.**
- c) Housing and shelter must be provided which will keep animals comfortable and protected from the elements.**
- d) Accumulations of feces shall be located at least 200 feet from any well.**
- e) All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and**

**the premises shall not be allowed to become unsightly.**

- f) All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.**
- g) The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.**
- h) Kennels shall be considered an accessory structure for setback purposes.**

**All conditions must be met no later than August 30, 2013. An IUP Agreement shall be signed and executed no later than August 30, 2013. Failure to execute the IUP Agreement will result in the null and void of the IUP.**

**Seconded by Terry; all in favor, motion carries 5-1 (Bonin opposed).**

This will go before City Council on June 19, 2013.

**Public Hearing - Variance Request to Allow a Minimal Setback from the front and side yard setback in order to build a garage and comply with setback from septic drain field**

Consider Approval of a Variance to Allow Minimal Setback from the front and side yard setbacks.

**Background Information:**

**Property Owner/Applicant:**

Matthew Saarloos  
18429 Lakeview Point Dr. NE  
East Bethel, MN 55092

**Property Location:**

18429 Lakeview Point Dr. NE  
PIN 35-33-23-32-0022  
Zoning: R-1 Single Family Resid.

Mr. Saarloos is requesting a variance from both the front and side yard setbacks in order to build a 24' x 28' foot detached garage. Mr. Saarloos currently has an existing dilapidated structure that is unsafe; he will be demolishing that garage and putting a new garage in its place. The new garage will be on a floating slab. The proposed garage would be set back an additional 2 feet from the front yard setback and 4 feet from the side yard setback. The old garage was located 3 feet off of the front yard property line and 3 feet off of the side yard property line. So the proposed setbacks for the new garage are 5 feet from the front yard setback and 6 feet off of the side yard setback. Staff has worked with Mr. Saarloos and this is the only place that he can locate a garage on his property and have a driveway where he can pull into the garage. On the east side of his property there is a dedicated permanent easement for a road and he is not able to locate his garage on that side of the property and comply with the appropriate setbacks and still have room to put in the type of driveway that is necessary to turn in to his garage. His drain field is located in the middle of his lot and staff felt that it was very important that he comply with the setback of 10 feet from the drain field, he therefore has no choice as to where he can locate the new garage. As proposed, this is the best and only site.

It should be noted that many of the garages in this area sit close to the boulevard. **Attached are pictures that show the location of Mr. Saarloos' garage and several garages in the neighborhood.**

The property is zoned Single Family Residential and is in the Shoreland Overlay District; normal setbacks are:

Detached accessory structure		
(a)	Front yard	Must meet required setback of principal structure and cannot be located between the principal structure and the street
(b)	Side street	25 feet and cannot be located between the principal structure and the street
(c)	Side yard	10 feet
(d)	Rear yard	10 feet

There are three variances that are required:

1. Front yard variance – Must meet required setback of principal structure – 25 ft. The variance request is for 20 feet.
2. Front yard setback of principal structure – Garage would be located between the principal structure and the street. This is somewhat debatable as you could make the determination that his front yard is the lake side.
3. Side yard variance – The variance request is for 4 feet.

Variance Findings of Fact:

1. The property owner proposes to construct a 24’ x 28’ detached garage which will replace an existing dilapidated structure.
2. The proposed location of the new garage is set back further from the front and side property lines than the existing structure.
3. The proposed location of the new garage will be in line and in some cases set back further than neighboring detached garages.
4. Due to the location of Mr. Saarloos drain field and septic tank, the garage needs to be set back 10 feet from the drain field.
5. Due to the setback requirement and the narrowness of Mr. Saarloos property, the proposed location of the new garage is the only place to locate a detached garage and have a driveway that provides an adequate turning radius to get into the garage.
6. The new garage will not alter the essential character of the neighborhood
7. The strict enforcement of the zoning ordinance would cause undue hardship because of circumstances unique to the individual property under consideration.

**Staff Recommendations:**

City Staff requests Planning Commission recommend variances approval, based on the findings of fact, to City Council for the following variances:

- a. Front yard variance – Must meet required setback of principal structure – 25 ft. The variance request is for 20 feet.
- b. Front yard setback of principal structure – Garage would be located

- between the principal structure and the street.
- c. Side yard variance – The variance request is for 4 feet.

**Public forum opened at 7:40 p.m.**

**Public forum closed at 7:40 p.m.**

Terry asked how large the current garage is. Matt Saarloos said the current is 18 x 20. Bonin asked where the garage doors are, so you pull in on the side. Saarloos said yes, correct. Holmes asked if the existing garage has a floor. Saarloos said no, it is a dirt floor. He isn't sure what kind of footings are there. Terry wondered why the setbacks are better with the one. Winter said he is trying to put it back as far as he can, but to also comply with the drain field setbacks. Holmes said the State of Minnesota says we have to state a hardship. Winter said she could state the hardship.

1. The property owner proposes to construct a 24' x 28' detached garage which will replace an existing dilapidated structure.
2. The proposed location of the new garage is set back further from the front and side property lines than the existing structure.
3. The proposed location of the new garage will be in line and in some cases set back further than neighboring detached garages.
4. Due to the location of Mr. Saarloos drain field and septic tank, the garage needs to be set back 10 feet from the drain field.
5. Due to the setback requirement and the narrowness of Mr. Saarloos property, the proposed location of the new garage is the only place to locate a detached garage and have a driveway that provides an adequate turning radius to get into the garage.
6. The new garage will not alter the essential character of the neighborhood.
7. The strict enforcement of the zoning ordinance would cause undue hardship because of circumstances unique to the individual property under consideration.

The other thing that needs to be noted is a dedicated road easement on the other side of the property.

Holmes said he doesn't understand why it is a hardship. Winter said because of the drain field. Balfany said because there would be no vehicle storage. Holmes said he has a real problem with this. The existing garage is smaller. If it had an exiting floor it could be grandfathered in. He doesn't see the hardship. There are a lot of places in the country that don't have garages. He assumes you are going to have boat storage. He said no boat. He said he has a problem with the size of the garage. Balfany said it can't be turned. Winter said where the drain field is also causing the hardship and the setback from the easement. Holmes said he is missing the boat on this one. Terry said what he is proposing is less of an impact than the current garage. He is getting rid of the hazard to the City. He is improving the set back. The hardship in doing that, he is limited to what he can do. Changing the size will not alter the setbacks. Holmes said that is the problem with these lots by Coon lake. He could just build a 16x24 foot garage. He said he is the first of six in a row that have garages at the street. Bonin said it

is pretty typical of that area that garages are close to the road. He asked if Winter had some of the photos. Winter showed the pictures to the Commission. Holmes asked why the entrance to the garage couldn't be on the north side. Winter said that is because of the easement.

Could the garage be turned to access off the street? Winter stated no because then you aren't complying with the driveway set back. Holmes said he would rather see the garage facing the street. Winter said then there would be no driveway at all. Balfany said then it would be closer to the easement. Mundle said if you leave the structure as is and you have it coming off of Lake Point Drive. It would be 28 foot deep and 24 wide. Holmes said on the north side.

Bonin said she has been the contrarian so far. It makes total sense to her.

**Bonin recommend variances approval, based on the findings of fact, to City Council for the following variances:**

- a. **Front yard variance – Must meet required setback of principal structure – 25 ft. The variance request is for 20 feet.**
- b. **Front yard setback of principal structure – Garage would be located between the principal structure and the street.**
- c. **Side yard variance – the variance request is for 4 feet.**

**Terry seconded.**

Holmes said it should be looked at more closely, he doesn't think there is a hardship. He thinks it could be planned out better to help both the City and Saarloos. Saarloos said he has talked to Nick Schmitz on this also. Mundle asked if you had talked about having the door on the north side. Winter said then you aren't allowing for adequate room to get in and you wouldn't have a driveway. Holmes said you are already applying for a variance to get in there. Terry said it becomes a safety issue if you are trying to back out into the street. Holmes said there are a lot of garages that don't have a driveway and are right off the street.

**All in favor, motion carries 5-1 (Holmes opposed)**

This item goes before City Council on June 19, 2013.

**143 Maple Road –  
discussion regarding  
variance for septic  
drain field**

Discussion with Property Representative from Wells Fargo indicating your opinion on variance for septic system.

**Background Information:**

We have been in discussions with Kari Achenbach of Edina Realty. Ms. Achenbach is the seller's representative (Wells Fargo) for a foreclosed property located at 143 Maple Road. This property currently does not have a compliant septic system; in working with a septic designer, they are proposing to locate the new septic system and drain field in the front yard. There are several issues regarding this property.

1. As proposed, the drain field would come right up to the front property

line and there would be no setback from the boulevard which is 12 feet wide from the blacktop to where the property line starts. Normal setback requirements for a drain field are 10 feet from the property line.

2. As proposed, the tanks would be located 3 feet from the drain field. There is concern about the area needed to excavate for the tanks and disturbing the soil that is part of the drain field.
3. This is considered an "other" septic system construction as it will be removing soil and bringing new soil in. It would also be a very shallow drain field.
4. There is no place on the lot for a second drain field location.
5. If the drain field will be right on the property line, what happens if it freezes over and or leaches into the city boulevard?
6. The situation behind the house is no better. There is currently a well back there and they would have to relocate the well and redo the plumbing inside the house in order to hook up to a new septic system. They would not be able to meet the setbacks in the back yard either.

Nick Schmitz, Building Official, and Colleen Winter, Community Development Director, went out to the site and took some measurements and pictures.

**Recommendation(s):**

This is a very tough situation and as city staff we cannot recommend that a variance be approved for this property. We realize this may make the property unsellable as is, but there are simply too many problems to overcome, and we do not believe the City should put themselves in a position of culpability. At this point this is a discussion item only, but staff is respectfully requesting that the Planning Commission give Ms. Achenbach their opinion so that she is able to bring that back to Wells Fargo and identify next steps for this property.

Bonin said in a foreclosure situation, the person who owned the property before, they get nothing for it. So the only person who will benefit from this property being sold would be the realtor. Balfany said the bank too. Bonin said she isn't concerned about the bank losing money. Mundle said why does it matter who owns it. Bonin said we are looking at a property that doesn't meet any requirements for a residence. Mundle said it did have a residence on it. Winter said in the Shoreline Management area you have to have a compliant septic system. They are looking at a design to get it in compliance. Mundle wondered where the current septic system is.

Bonin wondered what the dimensions of the property are. Winter said that is included in the packet. She believes it is 99 deep and 60 wide.

Holmes said he drove by this property today. This property is small. By coincidence. His lake property where he has his place. There is a home that has the same problems as this one. There is a system; it is the Shark or the Alligator or something like that. They had to put that in, and it was a test for the State of MN. They have tested this thing. It is actually an excellent system. To do what they are proposing here, he wouldn't pass it. It is a special system and it works and the State of MN actually allowed it within three feet of the property line. It

has been tested by other states. California is starting to use it a lot. It could be used here to upgrade the property. Winter said does it have a drain field and tank. Holmes said no, it doesn't. The first five years the State of MN required it to be pumped, but in the first five years it didn't have much in it. He knows that it works well. It isn't cheap. It cost like \$30,000. It is one way to get around what we are doing here. If a car got off kilter and went over the drain field, that would be a problem. He believes it is the Shark system or the Alligator. The people are really happy with it. Bonin asked what it uses electricity for. It pumps from one tank to another. Balfany said there is an Alligator system. Holmes said it is something that should be looked into. With a lot of the problems that we have over at Coon Lake Beach, the City should look into the system. The people have owned the thing 5 years and 1 month. The State has told them they don't have to pump the septic for five years, where we have to pump ours every three years.

Mundle asked where the existing system is. Winter noted where the existing system is on a map. Balfany said they are replacing the existing drain field. Winter stated Yes - Their proposal is to put in the two tanks, and a pressurized supply line. Where this is physically located, it would be right on the property line. Holmes said the Alligator system is a good system. He would vote not on what is in front of us. Mundle said he thinks something should be done. He knows there are systems upon systems in Coon Lake Beach area that they allowed variances. He said around 2000 the Council passed some sort of ordinance that pretty much put it under the building official review. Because they were passing them anyways. Balfany said from 2005 - 2013, there were some granted. Winter said variances have been granted in relation to a holding tank not for a drain field. The only set back for a drain field has been 5 feet. Holmes said the new system is impressive the persons neighbor, they are five feet away from their well and that well has been tested every six months.

Plaisance said if something doesn't get resolved what are the consequences. Winter said they would have to tear down the house. They wouldn't be able to market the property. Plaisance said would the City have to take over the property. Winter said no.

Robert DeRoche, 185 Collen, Coon Lake Beach. The ordinance states if the house were to stay as it is, then there can be a holding tank put on the property. And it would have to be pumped with a sewer pumper once a month. The regulations around the lake have changed a lot of stuff and a lot of the programs that are coming out there. It is tough to do anything with. If you look at the ordinance, we have people who wanted to change that. You can do a holding tank, but you can't change the footprint of the home. If you are going to have it pumped once a month. Bonin wondered how much it costs. Holmes said it about 50/60 for a holding tank. Balfany said from \$600 - \$2000 a year. Bonin said it would cost someone probably \$1200 per year. Holmes said the other system was close to \$30,000. It is quite the system. It was a brand new system 5 years ago. Balfany said obviously we don't need to set new precedence. In a state like if we were to allow a holding tank, versus a drain field.

DeRoche said we are looking at community systems over there as the HRA. The

other side of that, if the neighbors don't pay for it, we are right back to where we are on the north side of East Bethel. Balfany said this is speculation, not reality. Terry said if the owner of the property if they instead of trying to sell the property have decided to rent it, would they still have the same issue. DeRoche said there are a lot of systems that could be non-compliant. As long as it remains there, like 553 Lakeshore as long as that person owned that property, as soon as that changed. Now if you want to remodel, now you have to bring your system into compliance. He said rental of that doesn't change anything. Terry said the bank has always owned the property. Balfany said they were a lien on the property. Winter said it has been notified that it is a failing system. DeRoche said you don't want to get to the point where they are red tagged. We don't want to get to the situation where the MPCA comes in and red tags.

Terry said there is nothing in there that says it is a failed system. Winter stated non-compliant is a failed system, it has been determined to have failed under the codes. Winter said holding tanks can only be used when a standard system can't be installed. In this case, a holding tank would be an option.

Achenbach represents Wells Fargo for this property. Holding tanks: are we looking at a design. We would be starting over with a new design. Would that be approved? What would the process be for that? Winter said we could work with you on that. She thought that this was already talked about with the septic designer. Achenbach said this tiny house has very little value, there has to be a remedy for the situation. Bonin wondered if there was any interest in selling the property to the neighbors. Balfany said can they do that in that area. Achenbach said if they could sell the lot, they would. Bonin said if the houses are close together, people like some extra space. Plaisance wondered if another building could be erected on the property. Winter said no. Holmes said this property is way too small. Plaisance said the holding tank is the only option available. Bonin said a holding tank is really not a long term solution. Plaisance said the only other solution would be to demolish the home, unless we allow the variance. Bonin said you would be spending more on a holding tank for 10 years than what the property is worth. If a holding tank would make the property worth keeping as a separate lot. Would someone want to buy it, if there was a holding tank? There was someone who wanted to buy it, but she doesn't know if they would want it with a tank. Balfany said if they could work it into the rental cost. Bonin wondered what the property sizes are around it. Achenbach said there is a vacant lot on the one side. Mundle said if you look at the attachment you can see the sizes.

DeRoche said most of the lots were given out with newspaper subscriptions in the fifties. He said he has a smaller lot. Winter said it is an eclectic mix of property sizes. It is a very unique situation down there. Balfany said one of the options is to approach the neighbors. But from what he can say about the septic plan for the variance, he can't see it working. Too many problems can arise. DeRoche said if the City plow trucks push snow up on the drain field that would be a problem.

She will go to her client with the options. She thinks demolishing the home is the worse solution. She will have to get some numbers on the holding tanks.

DeRoche said you want to make sure you go in front of this Commission before making a final decision. Achenbach if someone wanted to move forward with a holding tank I would need to come back for another process. Balfany said you would have to come before us. Winter said she would work with her on this.

Bonin said she doesn't know who owns lot 151. Is there a possibility of getting property from them so this could be workable? DeRoche said good luck. There is a reason he put the fence up where it is. Bonin said he values his property. Achenbach said she has already received a letter from that gentleman's attorney.

**George Cossette –  
George's Boat  
Repair, 18649 Hwy.  
65 NE**

Interpretation request regarding greenhouse type enclosures for storing of boats

**Background Information:**

**Property Owner/Applicant:**

George Cossette  
1615 2<sup>nd</sup> Avenue NE  
Anoka MN 55303

**Property Location:**

George's Boat Sales and Repair  
18649 Hwy 65 NE  
East Bethel, MN 55011

Staff had a conversation with Mr. Cossette last winter regarding his desire to put up half tunnel/greenhouses to store his boats in. At that time a letter was written stating that such structures are not listed as permitted or conditional use permits in the B-3 Zoning District and do not meet city code.

Mr. Cossette has requested to appear before the Planning Commission to state his case for enclosing his boats for storage utilizing a half tunnel/greenhouse storage system.

**Recommendation(s):**

Please refer to original letter dated Dec. 14, 2012. This is a discussion item only. Mr. Cossette is requesting an interpretation by the Planning Commission regarding his request and next steps in the process.

Cossette stated he originally got the idea for having this type of enclosure because when he was traveling he was at a vineyard where they had a half funnel system and tractors and equipment were stored in it. He was using it to keep whatever he had out of the elements. He shrink wraps the boats. He thought what is the difference on the green house? The shrink wrap can only be used once. This would save the materials and recycling. That is basically what he is here for.

Balfany said have you looked into other types of structures in the past. Cossette said he just bought the property a couple of years ago. He said he knows we have a ratio of land versus property. These don't have a foundation or plumbing or anything. This would be the most reasonable. He was hoping that we could just do that. It would save money. Holmes said have you looked at costs versus a pole barn. Back in the 80s his pole barn was over \$60,000. Holmes asked how many boats do you think you could get into this structure. Cossette he said he could put 12 in each unit. He was looking at putting 3 units in. He uses a footprint of a pontoon for the storage. Holmes wondered how many boats are normally stored. Cossette said 80. There would be 36 inside. This is an idea of

saving money and saving the environment.

Holmes asked what do you charge for shrink wrapping a pontoon? It is \$12.00 a foot, and \$150 to store the boat. A pontoon is \$240.00. Holmes asked if you had this structure what would the cost be? Cossette said it would be \$150. Holmes said have you talked to insurance company about what it will cost? Balfany said the insurance costs would be 60/75 cents per building value. Holmes said to insure the building you will have to recoup that cost. Cossette said he wouldn't insure the buildings separately. He said it is pipe with plastic. It is a metal frame with plastic. Mundle said he what type of insurance. Cossette said he has liability charge. Holmes said you would still have boats that are shrink-wrapped on the outside. Cossette said if it works he would come back for more. Balfany said does this start to impact the impervious square footage.

Winter said what the struggle is; we are defining this as a structure. You talk about the building code and then it has to meet certain code requirements. She was not able to find anything that related to that. She could only find agriculture buildings of 3,000 square feet. This is a very unique situation. We don't regulate greenhouses. It is a structure related to his business. Holmes said this structure would be up all the time. Cossette said the highway is right there, and the privacy fence is right there. So that building, that is 100 feet behind the privacy fence. His property is 773 feet long. Unless the people are looking at the property they won't see that. Winter asked are we defining this as a structure or a building.

Holmes wondered if she looked at the building code. Winter said no, she isn't the building official. But she did have a conversation with the building official on this and he said the issue is a structure. Plaisance said he thinks we see the point you are trying to make. We need to get over making it work with the code. Since we have defined it as a structure, how can we get over that? Holmes said the biggest problem is precedence. Because the person next to him says they want to put one up. He understands what Cossette is trying to do.

What will the three structures cost? Cossette said he doesn't know what the costs are. But at a minimum it would be \$6,000 - \$8,000. Balfany said it comes back to what a structure is or what it is not. The first one is a true greenhouse look. The secondary one has a half tunnel he would have a hard time calling that one a structure. Cossette if that was the case, he would obviously look at the half tunnel. Balfany said whatever we decide it would need to be a structure. The taller one is more of a structure. It would need to be a structure. Bonin said to her it doesn't sound like a structure. It doesn't sound substantial enough to be a structure. Holmes said the plastic is only warrantied for four years. So in four years you would have to buy new plastic. Cossette said yes. Holmes said personally setting a precedence would be dangerous. You know if you were the only one there and the rest of the City couldn't see this. If someone would come forward and say George did this. He has a lot of problem with that. Holmes said he would rather see a pole barn. Bonin said he thinks it needs to be something temporary. You don't know what is going to come in there. You don't know what the future holds for that area. We can't do something that will hinder the change. Change might not come. Cossette said the buildings are temporary.

People have their boats at home right now. Next fall he will have to re-shrink again.

Balfany said out of curiosity. If it was something that was granted and if they had to be torn down every six months would that be too difficult. Cossette doesn't know. Balfany said if it was a matter of that, would you be able to do that. Mundle said we would possibly allow it as a temporary structure. Holmes said the labor of tearing that down and putting that back up might be cost prohibitive. Balfany said compared to the hours shrink wrapping the boats.

Bonin said she would like to make a comment on setting a precedent. If you word it in such a way, it would create rule for them. Balfany said then another person would say to work it some way for me. Holmes said if Terry opened up a boat business down the road, then they would ask to be allowed to do the same. Bonin said the wordage could be for use in that area. Balfany said it is a slippery slope. We aren't coming up with a solution for you at this point. Winter said Cossette wanted to come before you so he could get your opinion.

Balfany said does that give you an idea on where we are at. Cossette said we alluded to the time that will go into. It is 200 – 300 feet back from the road. It doesn't make sense to him. He took the time to call Davis. No one would even know he has these structures on his property.

**Approve April 22,  
2013 Planning  
Commission Meeting  
Minutes**

Page 5/17 Terry had a correction, seconded sentence said “that should be changing the physical structure” change to “It should only apply to changing the physical structure.”

**Holmes motioned to approve the April 22, 2013 minutes with said changes. Mundle seconded, all in favor, motion carries unanimously.**

**Other Business/City  
Council Report**

Holmes said he would like to bring up something he accidentally saw tonight. In the home occupation. There should be no outdoor storage of goods. He doesn't know of any home occupation where there wouldn't be outdoor storage of goods. Bonin said outdoor. Holmes said if it said outdoor storage, he would like it to be said there is no outdoor storage.

Mundle said there should be no outdoor display or outdoor storage. Holmes said correct. He understands the meaning. Bonin said you add another outdoor in there.

Terry said I don't think you need to make a motion to open the public hearing. Balfany said the chairperson doesn't typically make the motion. That is why he will say he will entertain a motion. Holmes said the chairperson cannot make a motion. Although the Planning Commission is not under Roberts Rules of Order.

Tom Ronning stated everything got a lot of attention but the guns. There was no discussion about ammunition, storage, or the guns. We got a lot of people worried about dog noise. Balfany said that is when it comes before Council that is where it will come forward. Holmes said the reason he didn't pursue it is because of the ATF rules.

Ronning said one of the items that they looked into was the restructuring of the bond. They were looking at recovery zone bonds. You can't call them early. The attorney and the rest of us believe we meet the criteria. It had a 45% subsidy on the interest payments. With the sequestration, that opens the door for refinancing. There is a build America bonds that had a 35% subsidy. During the presentation, that by doing this we can save \$3 million dollars. Balfany said there is an opportunity for some savings.

EDA minutes discussions there was a nomination. Wendy Warren nominated for League of Minnesota Cities award. As part of the EDA conversation there was a discussion about compensation for the president of the EDA. Also included in there the liaison some sort of compensation. He isn't interested in anything. They did move, he guesses that some of these, does the Road Commission have anything. They would make sure the compensation for all the commissioners is equal. They discussed the service road on the west side of Hwy 65. The cost for the road is \$1.5 million. The penalty is we would lose the State aid. If they don't spend \$700+, we don't spend that. But we would spend \$60 on engineering. The vote was 3-2 for the service road. If we had that kind of highlights we should spend it on other roads.

**Adjournment**

**Holmes made a motion to adjourn the meeting at 9:15 p.m. Plaisance seconded; all in favor, motion carries.**

Submitted by:

Jill Anderson  
Recording Secretary