

EAST BETHEL PLANNING COMMISSION MEETING
June 23, 2020

Pursuant to Minnesota Statutes Section 13D.021 and the declared public health emergency due to COVID-19, this meeting was held remotely.

MEMBERS PRESENT: Wanda McLaurin, Sherry Allenspach, Glenn Terry, Tom Eich, Jim Smith, Daryl Lawrence, Sharon Johnson

ALSO PRESENT: Jack Davis, City Administrator, Stephanie Hanson, Community Development Director, Erin McDermott, Zoning Administrator, Carrie Frost, Administrative Coordinator, Tim Harrington, City Council Liaison

1.0 Call to Order

Vice Chair Terry called the Planning Commission regular meeting to order at 7:04 pm.

2.0 Adopt Agenda

Vice Chair Terry noted Item #6 was pulled from tonight's agenda. Commissioner Allenspach asked if a notice was mailed out of this being removed from the agenda. Ms. McDermott said it was posted on the City website and no mailings were sent.

Vice Chair Terry moved and Commissioner Allenspach seconded to adopt the revised agenda as presented. Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

3.0 Approve May 26, 2020 meeting minutes

Chair McLaurin moved and Commissioner Johnson seconded to adopt the May 26, 2020 regular meeting minutes as written. Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

4.0 Public Hearing – Interim Use Permit for Keeping of two (2) cows – 3221 212th Ave NE

Background Information:

Tim Ernst is requesting an IUP for the keeping of 2 beef cows. The property is 13.81 acres, and is located in the Rural Residential zoning district, PID#15-33-23-11-0011. City Code Chapter 10, Article V, Section 10-151 requires properties with 2 cows provide 3.8 acres of pastureland. Mr. Ernst submitted a site plan showing approximately 4 acres of fenced pastureland. The proposed pasture area shows the location of the proposed pasture, also depicting that the pasture area meets all setback requirements listed in Chapter 10, Article V, Section 10-152 Domestic farm animal shelter setbacks, paddocks, and pastureland. There is not presently a shelter for the cows, but the applicant expressed to Staff that he will place a shelter in the pasture area.

Vice Chair Terry opened the public hearing at 7:08 pm.

Via a picture on his cell phone, Mr. Ernst showed that the lean to is already framed in.

Laura McCarthy, 21260 E. Bethel Blvd, lives east of the Ernst property. She asked to see the drawing that was mentioned in the letter. Ms. McDermott pulled up the drawing and pointed out where the lean to building will be located.

Mr. Ernst showed where the shelter is located. The cows will only be there summer through fall. He does not believe the cows will create enough manure to be a problem. Mr. Ernst has also planted five rows of trees next to the forest line as an additional barrier.

Vice Chair Terry closed the public hearing at 7:15 pm.

Vice Chair Terry moved and Commissioner Smith seconded to recommend approval to the City Council of an IUP for Tim Ernst for the keeping of two (2) cows at 3221 212th Ave NE, with the following conditions:

- 1. Permit shall expire when:

 - a. The property is sold, or**
 - b. Non-compliance of IUP conditions****
- 2. Property owner shall have thirty (30) days to remove the approved cows upon expiration of the IUP.**
- 3. Conditions of the IUP must be met no later than October 1, 2020. Failure to meet conditions will result in the null and void of the IUP.**
- 4. Property may be inspected and evaluated annually by city staff.**
- 5. There will be no other farm animals that are governed by the City Ordinance kept on this property without an approved amendment by City Council.**
- 6. Applicants must comply with City Code Section 10, Article V – Farm Animals**

Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

This item will go before the City Council on July 13, 2020.

5.0 Public Hearing – Interim Use Permit for Keeping of six (6) chickens – 2100 Deerwood Lane NE

Background Information:

Ashley Anderson is requesting an IUP for the keeping of up to 6 chickens, with the permission of property owner Dale Groettum Jr. The property is 0.5 acres, and is zoned R-1 Single Family Residential, PID # 33-33-23- 34-0033. Chapter 10, Article V, Section 10-151 (j)(3)q establishes that this 0.5-acre parcel is adequate size for the keeping of chickens, with half of an acre being the minimum size for keeping chickens. Chapter 10, Article V, Section 10-151 it is also stipulated that chickens require 0.01 acre per animal unit, with a minimum area of 2 square feet or floor area per chicken in the enclosed coop, and 6 square feet of floor area per chicken in the attached pen. The property has adequate space for the coop and pen area required by ordinance.

Vice Chair Terry opened the public hearing at 7:08 pm. Hearing no comments, the public hearing was closed.

Commissioner Smith said he believes that is a good area for chickens.

Vice Chair Terry moved and Commissioner Smith seconded to recommend approval to the City Council of an IUP for keeping of six (6) chickens at 2100 Deerwood Lane NE with the following conditions:

- 1. Permit shall expire when:

 - a. The property is sold, or**
 - b. Non-compliance of IUP conditions****
- 2. Property owner shall have thirty (30) days to remove the approved chickens upon expiration of the IUP.**
- 3. Conditions of the IUP must be met no later than September 1, 2020. Failure to meet conditions will result in the null and void of the IUP.**
- 4. Property may be inspected and evaluated annually by city staff.**
- 5. There will be no other farm animals that are governed by the City Ordinance kept on this property.**
- 6. Applicants must comply with City Code Section 10, Article V – Farm Animals**

Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

This item will go before the City Council on July 13, 2020.

6.0 Public Hearing – Variance for Reduction of setback for an accessory structure -21720 East Bethel Blvd.

This item was pulled from the agenda.

7.0 Public Hearing – Variance for Reduction of setback to Coon Lake for a deck – 19315 East Front Blvd. NE

Background Information:

This property is located within the Shoreland Overlay District, and the property is located on Coon Lake. The property is 0.45 acres, is located within a R-1 Single Family Residential District, PID #25-33-23-13-0052. The property owner is proposing a deck, and this deck will encroach upon the 75' Ordinary High Water (herein referred to as OHW) setback requirement by 12 feet. The existing home is a legal nonconforming structure with a 40-foot setback from Coon Lake.

The maximum allowable impervious surface on properties within the Shoreland Overlay District is 25%. This will not be affected by the deck, as stated in the definition of Impervious Surface as found in City Code Appendix A – Section 57-5. Impervious surface. The area of a lot (above the ordinary high-water level) covered with buildings including all appurtenances, driveways and sidewalks, and similar impervious materials. For the purpose of this section, driveways that have a gravel base shall be considered impervious. Decks that allow drainage through the decking and that do not have a plastic weed barrier or some other material that would impede drainage into the ground and swimming pool water surface area shall not be considered impervious.

The deck plans submitted depict the western edge of the deck abutting the chimney, which is approximately 73 feet from the OHW. The proposed deck measures 10 feet by 10 feet with a 4 by 4 foot landing on the southern edge of the deck, making the variance request for a 12-foot reduction to the 75 foot setback for a total of a 63-foot setback to the OHW for the placement of the deck.

Consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable. In this case:
 - o Applicant's Response: The house has never had a door on the South side to access the largest part of our yard. Because of the property configuration and the hill on that side of the house, the homeowner needs a deck to access the yard from the porch area safely. It would not be practical to put a door anywhere else on the South side of the house, because the fireplace, two sets of interior stairs and a bedroom make up the remainder of the South wall. The deck being proposed is less than 75 feet from Coon Lake's water edge, which is why we need a variance. The proposed deck would be 60-65 feet from the water. The house is closer to the water, at approximately 50 feet, so the new deck will not be as close to the water as the house.
- The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees. In this case:

o Applicant's Response: The majority of the yard is to the South of our house and yet, the homeowner has never had access directly to that side of the yard. The deck is needed because of the slope and drop off of the landscaping around the house that has been here for many years. Steps out of that side would not be safe because of the severe drop and slope of the hill. This is the only safe alternative.

• The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area. In this case:

o Applicant's Response: This small deck will not change the character of the locality because it is not as close to the water as the house. It is a completely permeable surface so will not affect drainage and we are not changing any landscaping or removing any trees. The natural character of the property is being preserved. It will not affect the character or beauty of the lake. This structure is also permitted under MN DNR rules.

Vice Chair Terry opened the public hearing at 7:26 pm. Hearing no comments, the public hearing was closed.

Commissioners Lawrence and Allenspach both said it makes sense to approve this variance because the deck is being built on the property and not toward the lake.

Commissioner Allenspach moved and Chair McLaurin seconded to recommend approval to the City Council for the setback reduction for the construction of a deck with the following conditions:

- 1. No weed barrier may be placed under the deck without an impervious surface calculation done by a licensed surveyor, confirming that the property does not exceed the Impervious Surface Requirements established in City Code Appendix A – Zoning, Section 57-10B.1 Specific Standards.**
- 2. Property owner must obtain a building permit and complete all necessary inspections of the deck as required by the Minnesota Uniform Building Code.**

Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

This item will go before the City Council on July 13, 2020.

8.0 Public Hearing – Variance for Reduction of sideyard setback for drainfield – 167 Juniper St. NE

Background Information:

Due to the size of drainfield necessary to meet the Minnesota Septic Code requirements for the existing home, the setback variance from the residence for the holding tank, as well as from the property line for the drainfield is required for installation of a compliant system. The setbacks for drainfields is established in City Code Chapter 74- Utilities, Section 74-44 – Setback requirements, which refers the reader to Minnesota Rules Chapter 7080.2150. Under MN Rules Chapter 7080.2150 Subpart F, it is noted that Infringement on property line setbacks must be made through accepted local procedures. This property is located within the Shoreland Overlay District for Coon Lake, and if this variance is not granted the only recourse the property owner would have to continue using this property as a residential structure would be through the application for a holding tank. Variances for holding tanks cannot be approved, per State requirements, if there is space on the property to install a compliant drainfield. Per the plans submitted by the septic contractor, this variance would allow for a drainfield.

The septic permit has been reviewed and is ready to be issued upon approval of the setback variance.

Consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.
 - o Septic systems are required for a home to be considered habitable. This variance request does not affect City of East Bethel required setbacks, but a building code requirement that septic tanks, and drainfields be placed ten feet from all property lines, and 20 feet from residential structures. The Minnesota Septic Code allows municipalities to grant variances from these setback requirements.
- The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.
 - o Due to the lot sizes within this subdivision, setback requirements from wells and residences and the high-water table in this area, the property has limited space for a drainfield. As depicted on the site plan submitted by the licensed septic contractor "Due to the small lot size, a variance will need to be obtained for the tank to encroach on the 10' house setback and the drainfield to encroach either from the 20' house setback or the 10' property line setback."
- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.
 - o This neighborhood has had a significant number of septic variances issued, due to the age of this neighborhood, as well as the small lot sizes. With a number of older systems needing to be replaced in this area, this variance request is quite common and granting this variance will not change the essential character of the Coon Lake Beach neighborhood.

Vice Chair Terry opened the public hearing at 7:26 pm. Hearing no comments, the public hearing was closed.

Chair McLaurin stated it makes sense to approve this variance as other similar variances have been approved for compliance purposes.

Commissioner Smith asked if soil borings have been done for the drain field. Ms. McDermott said yes this is part of the septic permitting process.

Chair McLaurin moved and Vice Chair Terry seconded to recommend to City Council the approval of a five (5) foot setback variance from the east property line for the installation of a drainfield, and a five (5) foot setback variance from the residential structure for the installation of a septic tank for 167 Juniper Rd NE.

Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

This item will go before the City Council on July 13, 2020.

9.0 Public Hearing – Concept Plan/Plat for SW corner of 209th Ave./Highway 65 – Stone Group LLC

Background Information:

Stone Group LLC submitted a concept plan for a plat located on the SW corner of 209th Ave NE and Hwy 65 NE. The plan consists of two (2) buildable commercial lots abutting Hwy 65 and three (3) unbuildable outlots. City code states that outlots are deemed unbuildable and no building permits will be issued for such properties unless the outlot status is removed by City Council upon demonstration that the intended use complies with the provisions in City code.

Property Zoning

The property has split zoning, as shown on attachment 2. The zoning of property specifically dictates what types of businesses/residential types are allowed. The eastern portion is zoned B2 – Central Business, which allows uses associated with general retail shopping. Exterior storage is limited and requires a conditional use permit. City code requires the following for exterior storage and outdoor display and sales:

Exterior storage is permitted with a CUP.

Approved exterior storage shall be limited to an area no more than 100 square feet of the rear yard, and shall not be allowed within the required setbacks, public right-of-way, private access easement, or within the required parking area.

Screening of the exterior storage shall be installed and maintained along all property lines. The screening shall not be less than six feet in height and shall preclude vision through the barrier. All screening shall meet the regulations in Section 23. Screening Requirements [Regulations].

All equipment and materials within the storage area shall be arranged in a neat and orderly manner.

Exterior display in B-2 Districts

- The area occupied by exterior display shall not exceed ten percent of the gross floor area of the principal building on the property.
- Exterior display and sale of merchandise shall not occur within 50 percent of the setback nearest a street.
- Additional parking spaces shall be provided based upon the exterior display and sale area.

Prohibited Storage - Accessory storage containers, as defined in Section 01. General Provisions of Administration, shall not be permitted.

The western portion of the property is zoned R2 – single family/townhome. Lot size is determined by the availability of municipal sewer and water. Without sewer and water, 1 unit per 10 acres is allowed; with sewer and water, 4 to 6 units per acre are allowed. Once the 2040 Comprehensive Plan is formally adopted, the allowable density units for the property will change to 4 to 12 units per acre with municipal sewer and water. However, staff had discussions with the Metropolitan Council and it was determined that lot size may be reduced to 1 unit per 2.5 acres without sewer and water. Staff will need to monitor approved residential plats to ensure a city-wide overall density equals 1 unit per 10 acres in area in which sewer and water is proposed in the future.

Access - The development will be directly accessed off MNDOT Highway 65; therefore, the developer is required to submit the preliminary plat to MNDOT for review and comments. The developer is required to comply with MNDOT requirements. MNDOT comments are required to be submitted to the City prior to the approval of the preliminary plat.

Lot Requirements - City code requires a lot width of 300 feet at the front yard setback. Lot 1, Block 2 appears to not meet the width requirement. The developer will need to verify a lot width of 330 feet or adjust the property line.

Next Steps - After the Commission and City Council provide informal comments to the developer, the developer will submit a preliminary plat. Information to be submitted includes but is not limited to the following: grading/drainage, erosion control, and street lighting plan. Once the review of the preliminary plat is completed, a public hearing will be scheduled.

Vice Chair Terry opened the public hearing at 7:37 pm.

Applicant is Kim Erickson, 33541 Cobalt Circle NW, Cambridge, MN 55008 was available for questions. Kyle Roddy, Engineer, has been working with Ms. Erickson and the buyer for the NE parcel.

Mr. Roddy confirmed that the NE lot will be used for a retail store and the other lot for commercial business use which lot 2 needs to be widened out to meet lot width. There are some existing easements on the property which will require approval on the preliminary plat. There is current access off Hwy 65 via 209th Street and via Johnson Street. Construction is only proposed for the 2 individual lots.

Vice Chair Terry closed the public hearing 7:40 pm.

Commissioner Eich asked if the plan is to eventually connect to the street behind Pat's Small Engine? Mr. Roddy said there is no plan to do this. Mr. Davis said there is a long-range plan to connect this road to U-Pull Auto parts and then connect back to Hwy 65 at that point. Then going north it will eventually connect to Sims Road.

Chair McLaurin asked with the types of businesses going in, what estimation of traffic is expected to be on and off Hwy 65; traffic being her main concern. MNDOT will be required to review the plan.

Ms. Erickson said the buyer for the NE parcel is the Overland Group that will be building a Dollar General Store. Ms. Erickson believes this will be a good addition to East Bethel because it needs retail with a food component. Vice Chair Terry noted that will be two Dollar General Stores in East Bethel with each drawing from different areas.

A preliminary plat will be the next step.

This item will go before the City Council on July 13, 2020.

10.0 Site Plan Review – Expansion of self-storage facility – Gopher State Storage 21217 Highway 65 Property Background Information:

Gopher State Storage is requesting a site plan review for the expansion of the self-storage facility located at 21217 Hwy 65. Two (2) buildings each at 5,700 sq/ft will be constructed to the east of the existing ones and one (1) 5,000sq/ft building to the north (to be constructed at a later date), as shown on the attached site plan. The remaining property to the north will be subdivided to create a new commercial lot at a later date.

Gopher State Storage previously proposed an expansion of the facility. On October 14, 2019, City Council denied the request. On January 13, 2020, City Council held an Administrative Hearing at the request of the applicant, in which City Council reversed the decision. Meeting minutes for each meeting are attached. The City Council made a motion to allow the expansion to the east and to split the property to the north to create an additional commercial lot. The site plan reflects the discussions and approval by City Council to move forward in the review process.

Site Plan - City staff reviewed to site plan. City Engineer comments from May 18, 2020 and the applicant's response from June 11, 2020 are attached. Staff is in the processing of completing the most recently submitted plan; at this time, City Staff supports the configuration of the site and the landscaping plan. The remaining outstanding items will not change the site plan but will need to be satisfactorily addressed prior to the issuance of a building permit.

Landscape Plan - The landscaping plan meets the requirements of city code. If the plantings are not completed by October 1, 2020, the applicant will be required to establish an escrow to ensure plantings will be completed in spring 2021. The City Engineer will establish the amount of required escrow.

Architectural Design - The two (2) buildings to the east will be constructed similar to the storage units that are in the process of being constructed at 241st and Hwy 65, with the exception that the roof will be flat to match the existing structures. Also, the colors will be similar to the existing buildings on site. The doors will face inward, away from the street. The northern building will be similar in construction to the existing building as well, with the doors facing inward, away from Highway 65.

Property owner, John Henry III was available to answer questions.

Commissioner Allenspach clarified that this plan was revised per City requests. Ms. Hanson said that is correct.

Commissioner Smith asked if the two buildings to the east are going to be lined up with the two existing buildings. Ms. Hanson said they are offset a bit because they need to comply with a 60' setback from the residential property. Mr. Smith asked if there will be space between the two sets of buildings. Yes. The trailers on the property will be removed. Two items of concern from the previous site plan review were having access off Davenport and the setback to the residential property; both have been taken care of.

Commissioner Smith asked if there will be access off of Davenport with the new buildings? Ms. Hanson said yes.

Chair McLaurin moved and Commissioner Smith seconded to recommend approval to City Council of the Site Plan Review for the Expansion of self-storage facility for Gopher State Storage 21217 Highway 65 Property with the following conditions:

- 1. City of East Bethel City Engineer comment letter, dated May 18, 2020, shall be satisfactorily addressed prior to any grading of the site. The City Engineer will determine when all items have been addressed.**
- 2. The approved site plan is dated received June 11, 2020 and is shown as Exhibit A.**
- 3. Architectural design and material of the structures must comply with Exhibit B.**
- 4. The Landscape Plan must comply with Exhibit C.**
- 5. An Operations and Maintenance Agreement for the retention pond shall be executed and filed with Anoka County prior to the commencement of site work.**
- 6. A building permit must be issued prior to the commencement of building activity on the site.**
- 7. If landscaping is not installed prior to October 1, 2020, the applicant must establish an escrow. The escrow will guarantee the installation of plantings no later than June 1, 2021. The City Engineer will determine the amount of the escrow.**
- 8. The expansion of the facilities is limited to two (2) 5,700 square foot buildings on the eastern portion of the site and one (1) 5,000 square foot building north of the existing building, as shown on the approved site plan.**

Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

This item will go before the City Council on July 13, 2020.

11.0 Updates

Ms. Hanson noted the next Planning Commission meeting will be July 28, 2020; it will be a full agenda.

Council Liaison Tim Harrington reported the following City Council actions:

- ACD rain garden has been approved for 4417 Channel Lane
- Dollar General site plan was approved by a 3:2 vote
- Preparedness Plan for City Hall was approved for reopening City Hall.
- Parks Commission CIP 2021-2025 was approved
- Approved 181st Ave. reconstruction project Joint Powers Agreement with Ham Lake
- Special meeting will be held on June 29th for EB Village Apartments Phase II

12.0 Adjournment:

Commissioner Allenspach moved and Vice Chair Terry seconded to adjourn at 7:57 pm. Roll call vote was taken. McLaurin yes, Allenspach yes, Terry yes, Eich yes, Smith yes, Lawrence yes, Johnson yes. Motion passed unanimously.

Submitted by:

Gail Gessner

Recording Secretary