



City of Afton
PLANNING COMMISSION AGENDA

June 3, 2024

7:00 pm

Afton City Council Chambers
3033 St. Croix Trail
Afton, MN 55001

Please Note: This meeting will be held in-person, as well as remotely using the Zoom video conference application.

Instructions for Participating in the Meeting Remotely Via Zoom

Options for Joining the Zoom Meeting:

- **RECOMMENDED:** Use your computer, tablet or smart phone to join the meeting by logging on to <https://us02web.zoom.us/j/84982484254?pwd=ZUpVNmRjMmtoajlwWGEzMmRwSzBnQT09>
- (Meeting ID: 849 8248 4254)
Passcode: 227759
- Dial-in Number (to call in to the meeting) +1 312 626 6799
When prompted, enter Meeting ID: 849 8248 4254

AGENDA

- 1. CALL TO ORDER –**
 - 2. PLEDGE OF ALLEGIANCE –**
 - 3. ROLL CALL -**
 - a) Sally Doherty
 - b) Kris Kopitzke (Chair)
 - c) Jim Langan
 - d) Justin Sykora
 - e) Christian Dawson
 - f) Doug Parker
 - g) Kuchen Hale
 - h) Marc Porupsky
 - i) Jacob Edwards
 - 4. APPROVAL OF AGENDA –**
 - 5. APPROVAL OF MINUTES –**
 - A. May 6, 2024 Meeting Minutes
 - 6. REPORTS AND PRESENTATIONS – None**
 - 7. PUBLIC HEARINGS –**
 - A. John Galles Variance Application at 14252 15th Street South
 - B. Ordinance Amending the Home Occupation Ordinance to Allow Limited Retail Sales of Food as Allowed by the Cottage Food Law – **Ordinance 03-2024**
 - 8. NEW BUSINESS – None**
 - 9. OLD BUSINESS -**
 - A. Update on City Council Actions – Council Highlights from the May 21, 2024 Council meeting - attached.
 - 10. ADJOURN –**
- A quorum of the City Council or Other Commissions may be present to receive information.**

CITY OF AFTON
DRAFT PLANNING COMMISSION MINUTES
May 6, 2024

The meeting was held in-person, with participation via Zoom also available.

1. **CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:00 pm.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL** – Present: Kris Kopitzke, Justin Sykora, Doug Parker, Marc Porupsky, James Langan, Christian Dawson, Kuchen Hale, Sally Doherty A quorum was present. Absent was Jacob Edwards.
ALSO IN ATTENDANCE – City Administrator Ron Moore, City Council member Stan Ross
4. **APPROVAL OF AGENDA** –
Motion/Second Hale/Parker to approve the agenda for the May 6, 2024 Planning Commission meeting.
Passed 8-0.
Sykora will abstain from item 7a
5. **APPROVAL OF MINUTES** –
Motion/Second Doherty/Dawson to approve the minutes of the February 5, 2024 Planning Commission meeting. Passed 8-0.
The March & April Planning Commission meetings were cancelled due to lack of agenda items.
6. **REPORTS AND PRESENTATIONS** none
7. **PUBLIC HEARINGS**
 - A. Belwin Conservancy Conditional Use Permit Application to Document and Recognize as a Nature Center Use the Activities Across the Belwin Properties with the Following Addresses: 14020 Valley Creek Trl. S., 2176 Stagecoach Trl. S., the following PID#'s near 2176 Stagecoach Trl. S.: 16.028.20.11.0009, 15.028.20.23.0006, 15.028.20.24.0004, 15.028.20.24.0001, 15.028.20.24.0003, 15.028.20.31.0001, 15.028.20.13.0001, 2612 St. Croix Trl. S., 2398 St. Croix Trl. S., 1553 Stagecoach Trl. S., 825 Stagecoach Trl. S., 795 Indian Trl. S., 15551 Division St., the following PID#'s near 15551 Division St.: 03.028.20.13.0001, 03.028.20.24.0001, 03.028.20.21.0001, 03.028.20.12.0002, 03.028.20.11.0002 and 105 Stagecoach Trl. S.
Chair Kopitzke opened the public hearing opened at 7:04 pm.
Administrator Moore provided a summary of the application. The Belwin Conservancy (Belwin) owns, conserves, protects, restores and manages a large number of parcels in Afton for a variety of activities. In order to document the various parcels and activities in an organized manner, Belwin has organized the properties into eight general sites, with descriptions of activities and maps for each site. These are reflected in the attached materials, which are very helpful in understanding and visualizing the uses and locations of the Belwin property sites. Belwin has prepared this information within the context of a Conditional Use Permit application to enable the various activities across the Belwin properties to be documented and recognized broadly as a Nature Center use.
Katie Bloome, Belwin Executive Director, summarized current uses of the property and proposed new building and activities.
Barb Ronningen, 11th St S, asked about nature center definition.
Chair Kopitzke stated that when is was developed, they stressed the protection and educational aspects.
Barb Ronningen expressed concern over maintenance, the too large deer herd, and concerns over garlic mustard which is spreading off their property.
Katie Bloome acknowledged the deer population is becoming a problem.
Unknown meeting attendee asked how this designation helps or what is the difference.
Katie Bloome stated Belwin currently does not have a CUP with Afton; they would like to do the right thing and be officially recognized and transparent.

55 Unknown meeting attendee expressed concern that the focus of Belwin seems to be changing from a focus on
56 preserving land to a focus on bringing more people to the properties and to be more inclusive. Questioned
57 how the larger number of people will be managed.

58 Hugh Huelster, 2132 Stagecoach Tr, stated he was thrilled to hear about new building upgrade to allow access
59 for special needs students.

60 Katie Bloome stated that Belwin evaluated needs and more schools were asking for space for environmental
61 programing. Belwin has opened more of its land for hiking, and is working to make their land, facilities and
62 activities accessible to a broad range of people, with a focus on those with disabilities.

63 Jennifer, Afton resident, stated she feels that Belwin is what makes Afton a special place to live.

64 No other comments were received.

65 **Motion/Second Hale/Parker to close public hearing. Passed 7-0 (Sykora abstain)**

66 Public hearing closed at 7:30pm.

67 Porupsky asked if Belwin grows in the future do they need to amend the CUP - for example if they acquire
68 more land or expand buildings. Also stated he has some tax base concerns.

69 Doherty stated a CUP would be amended based on use.

70 Parker stated the use has to stay consistent with the CUP.

71 Questions were raised regarding whether the definition of Nature Center was well reviewed when it was
72 adopted. The definition was discussed and revised multiple times and the City Attorney reviewed and
73 commented on the definition and revisions.

74 Doherty noted that two years ago the ordinance had no definition for Belwin's use. Now we have a description
75 of what they do.

76 **Motion/Second Doherty/Hale to recommend approval of the Belwin Conservancy application for a
77 Conditional Use Permit to document and recognize as a Nature Center Use the activities across the
78 Belwin Property.**

79 Langan asked if there is any change in operations that will come with this designation, would like legal advice.

80 Dawson stated the city benefits by having a definition.

81 **Motion vote: Passed 5-2-1 (2 nay Porupsky, Langan), 1 abstain (Sykora)**

82

83 B. Chris Erdman Variance Application for an Attached Garage at 12671 10th Street South

84 Chair Kopitzke opened the public hearing at 7:53 pm.

85 Administrator Moorse provided background on the variance which originally was to allow a 2,000 sq. ft.
86 accessory building to be located 50 feet from the east property line vs the required 100 feet. At that time, it
87 was determined that if Mr. Erdman attached the accessory building to the existing house, it would only need a
88 setback of 50 feet, so a variance was not required. (The house is located approximately 70 feet from the east
89 property line.) However, Mr. Erdman subsequently advised the City that the 50 foot setback was actually to
90 the east property line of a very long 16 foot wide driveway portion of a larger parcel to the east and south of
91 the Erdman property, and that the proposed accessory building would meet only a 34 foot sideyard setback to
92 the Erdman's east property line. Mr. Erdman has suggested that because both the 16 foot wide driveway
93 parcel and the 50 foot wide driveway parcel are between his property and the nearest property to the east with
94 a house, allowing the 34 foot setback would still provide a 50 foot setback from the garage to the property
95 line of the nearest property with a house.

96 Chris Erdman, applicant, was present for questions. He stated he is in the process of acquiring the 16 foot
97 wide driveway parcel which would provide a setback of approximately 47- 48 feet from the garage to the east
98 side property line. The acquisition process requires a survey of his property to enable a subdivision for a lot
99 line rearrangement. He would like to be able to move forward with the attached garage while the acquisition
100 is in-process.

101 No other comments were received.

102 **Motion/Second Hale/Parker to close public hearing. Passed 8-0.**

103 Public hearing closed at 8:04 pm.

104 Sykora stated that since the survey isn't done yet we don't know exactly what variance to give

105 Doherty suggested granting the variance on condition that the 16' parcel is purchased, and grant setback of 5
106 feet.

107 **Motion/Second Doherty/Hale to recommend approval of the Chris Erdman variance with additional**
108 **conditions: that the 16' parcel to the east be purchased and to allow a setback of a minimum of 45 feet**
109 **for the attached garage. Passed 8-0**

110
111

112 **8. NEW BUSINESS**

113 A. Election of Officers

114 **Motion/Second Porupsky/Doherty to elect Justin Sykora for Vice-Chair. Passed 8-0.**

115 **Motion/Second Porupsky/Doherty to elect Kris Kopitzke for Chair. Passed 8-0.**

116 **Motion/Second Porupsky/Doherty to elect Doug Parker for Secretary. Passed 8-0.**

117

118 **9. OLD BUSINESS -**

119 A. Update on City Council Actions

120 Council member Ross provided a summary of the April 16, 2024 Council meeting.

121

122 **10. ADJOURN –**

123 **Motion/Second Sykora/Doherty to adjourn. Passed 8-0.**

124 Meeting adjourned at 8:35 PM

125

126

127

128 Respectfully submitted by:

129

130

131 _____
Julie Yoho, City Clerk

132

133

134 To be approved on

135 June 3, 2024 as (check one): Presented: _____ or Amended: _____

136

137

To: City of Afton Planning Commission
CC: Ron Moorese, City Administrator
From: Claire Stickler, Planner
Date: May 28th, 2024
Re: Variance Application for 14252 15th St. South, Afton MN 55001 (PID # 0902820310013)



Summary of Request and Review

Mr. Galles has submitted a variance to build a 988 square foot detached garage at 14252 15th St. South, Afton MN 55001. The proposal requires 2 variances: a 50-foot variance from the 150-foot front yard setback, and a 24-foot variance from the 50-foot rear yard setback. This is a variance request from section 153.051 of the Afton City Code. An accessory structure of this kind is permitted in the Rural Residential district, but district regulations would not allow for any site placement based on the layout of this parcel.

The property is zoned Rural Residential and is 4.2 acres with an existing single-family home. The lot is abnormally shaped due to its position on a curved street and is significantly wider than it is in length. The range of land where a structure would be permissible is far from the property's driveway and is too narrow to fit the size of the requested structure. Other locations would likely require a secondary driveway which is not preferred by the City.

Lot Topography

According to the applicant's request, the only feasible location for the proposed garage is outside of the minimums set by the required 150-foot front yard and 50-foot rear yard setback. The proposed site appears to not require any mature tree removal. There is significant heavy tree cover throughout the property and the City's tree preservation and cutting ordinance prevents significant removal of mature trees.

Draft Findings of Fact

The draft Findings of Fact shall be amended to reflect concerns conveyed at the meeting and public hearing and should specify the facts and reasons that are the basis of the determination. In granting a variance, the City of Afton may impose conditions directly related to, and bearing a rough proportionality with, the impact(s) created by the variance.

1. The property is 4.2 acres.
2. The parcel is in the Rural Residential district. The purpose of RR is primarily to accommodate non-farming and residential uses due to the area's soil conditions, rock formation, and other physical features. The proposed accessory structure would allow for the property to be further utilized as a full-time residence within this district.
3. The Rural Residential zoning district allows for one accessory structure up to 1,500 square feet under this lot size's current setback constraints. The proposed garage is 988 square feet.
4. The proposed structure would be located 100 feet from the front property line, which is 50 feet closer than allowed.

5. The proposed structure would be located 26 feet from the rear property line, which is 24 feet closer than allowed.
6. There is an existing home on the property with a two-car attached garage.
7. The existing home was built in 1967, so is legally nonconforming.
8. The lot contains considerable coverage by heavy wooded vegetation. The boundaries of the property are heavily wooded which will provide screening on the proposed structure.
9. Afton's 2040 Comprehensive Plan does not directly address the applicant's situation, but it appears that the proposed accessory structure will not interrupt the rural residential character of the area, which is supported by the Comprehensive Plan.
10. The proposed accessory building appears to be located in one of the only areas on the property without mature vegetation.
11. The proposed encroachment into the road centerline or side yard setback does not appear injurious to the use and enjoyment of properties in the immediate vicinity for uses already permitted, nor would it substantially diminish and impair property values in the immediate vicinity.
12. The use appears harmonious with the established uses in the vicinity.
13. The proposed project will not impact public welfare or safety.
14. The proposed accessory structure appears to meet all other development standards of the City of Afton, pending other applications, and does not appear incompatible with adjacent land uses.
15. The proposed accessory structure does not impair an adequate supply of light and air to adjacent properties, increase the congestion in the public rights-of-way, increase the danger of fire or endanger the public safety, cause an unreasonable strain upon existing City facilities and services, or have a negative direct and indirect fiscal impact on the City, County, or School District.

It has been demonstrated that the granting of the variance will keep with the spirit and intent of the Zoning Ordinance and is consistent with the Comprehensive Plan. Properties within the Rural Residential district are permitted one, one-story accessory building and used or intended for the storage of motor-driven passenger vehicles, hobby tools, garden equipment, workshop equipment and so forth (Definition from the Afton City Code). Should the City Council decide that variances from setback minimums are acceptable, the proposed location appears to be the most compliant position for a detached garage.

Draft Conditions of Approval

If the City Council recommends approval of the variance, the following are suggested conditions of approval. The City Council may revise or add to the conditions of approval.

1. Existing vegetation that provides screening of the building shall be protected and preserved.

Staff Recommendation

Staff is recommending that the City of Afton:

- Adopt the staff report into the record;
- Accept the application, testimony, exhibits, and other evidence presented into the record; and
- Recommend the Planning Commission recommend approval to the City Council for the 50-foot variance from the 150-foot road frontage setback and the 24-foot variance from the 50-foot rear yard setback requirement in the Rural Residential District.

Additional Alternatives

- The City Council deny of the variance request and change the findings of fact; or
- The City Council could table the application and request additional information.

Variance Standards

153.026 Appeals and Variances

To hear requests for variances from the literal provisions of the ordinances in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and to grant variances only when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the Comprehensive Plan. Practical difficulties, as used in connection with the granting of a variance, includes a three-factor test, all three of which must be met in order for a variance to be granted.

1. The property owner proposes to use the property in a reasonable manner not permitted by this chapter.
 2. The plight of the landowners is due to circumstances unique to the property not created by the landowner.
 3. The variance, if granted, will not alter the essential character of the locality.
- (2) Economic considerations alone shall not constitute practical difficulties if reasonable use for the property exists under the terms of the ordinance. Practical difficulties also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- (3) The Board of Adjustments and Appeals may not permit as a variance any use that is not permitted under the provisions for property in the zone where the affected person's land is located. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subdivision 14, as it may be amended from time to time, when in harmony with these provisions.
- (4) The Board may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Attachments

1. Site Plan
2. Application and Variance Questionnaire

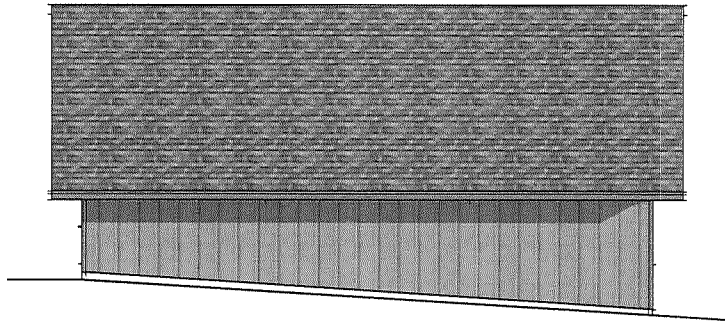


Galle's Garage

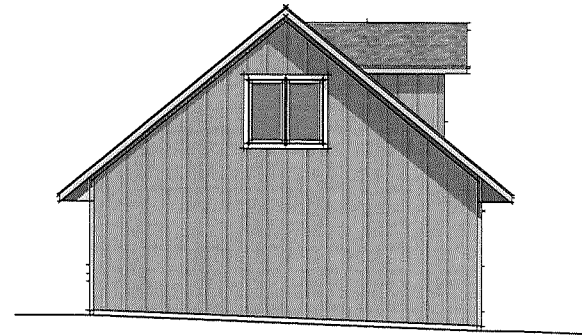
14252 15th Street Afton, MN 55001

Site
Diagram

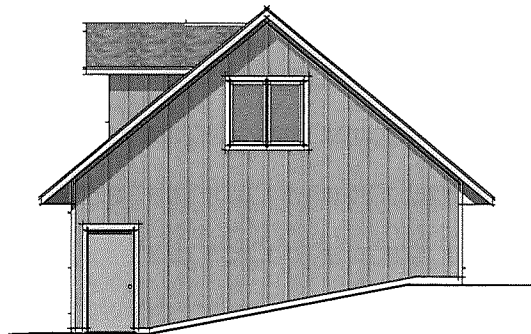
1" = 70'



Northwest Elevation



Southwest Elevation



Northeast Elevation



Southeast Elevation

Vermeland
Architects

651-998-1022

May 23, 2024

Galles Garage
14252 15th Street Afton, MN 55001

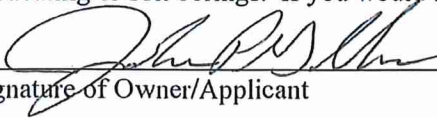
Exterior
Elevations

1/8" = 1'-0"

2

**CITY OF AFTON
VARIANCE APPLICATION**

(Reference Sections: 12-55, 12-77, 12-328 12-835, 12-1020, 12-1266, 12-1955, 12-2228)

Owner	Address	City	State	Zip	Phone
<u>JOHN GALLES</u>	<u>14252 15TH ST. S</u>	<u>AFTON</u>	<u>MN</u>	<u>55001</u>	<u>6514429926</u>
Applicant (if different than owner)	Address	City	State	Zip	Phone
<u>SAME AS ABOVE</u>					
Project Address		<u>AFTON</u>	<u>MN</u>	<u>55001</u>	
Zoning Classification	Existing Use of Property	PID# or Legal Description			
<u>RURAL RES</u>	<u>RESIDENTIAL</u>				
Please list the section(s) of the code from which the variance(s) are requested.					
Description of Request					
<u>WOULD LIKE VARIANCE TO CONSTRUCT GARAGE</u> <u>(DETACHED) WITHIN CLOSER THAN 150 FROM</u> <u>CENTER LINE OF 15TH ST. S.</u>					
By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.					
Signature of Owner/Applicant			Date		
			<u>5-23-2024</u>		
Make checks payable to: City of Afton					
If multiple variances are necessary from the applicant only <u>one</u> fee is required. However, the deposit fee must be multiplied by the number of variances sought.					
FEES:		ESCROWS:			
Variance	\$250	\$600	TOTAL: <u>\$850</u>		
Renewal/Extension	\$250	\$350	DATE PAID: <u>5/21/24</u>		
			CHECK #: <u>7129</u>		
			RECVD BY: <u>[Signature]</u>		

15th Street South

Criteria #1 *The requested use, must be a reasonable use in order to receive a variance.* **Applicant -**

Please explain why the proposed use which requires a variance is a reasonable use for this property?

The property is zoned Rural Residential and is in a neighborhood of single-family homes. Adding a detached garage to the property results in the common and reasonable situation of a lot containing a house and a garage.

Criteria #2 *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the property owner, since enactment of this Ordinance, have had no control.* **Applicant -**

What exceptional or extraordinary circumstances related to the property do not apply generally to other properties in the same zone or vicinity?

Extraordinary circumstances would include lot size, irregular lot shape or topography. Are there other circumstances over which you, as the property owner, have no control?

The extraordinary circumstances related to our property over which we have no control include the following –

- The lot is long and narrow, with the long side parallel to 15th Street. As a result, the setback of 150 feet from the centerline of 15th Street has a huge impact on the entire lot. When the 25-foot rear yard setback is factored in, the buildable area on the west side of the house is reduced to an area too small for a garage.

- The area to the east of the house contains both the drain field and the well and is about 15 feet lower than the house, making this area an impractical location for the new garage. In addition, the front entry to the house is on the northwest side of the house and the main view from the house faces southeast, placing a garage in this area in the main view.
- The existing driveway is located on the far west end of the lot, at the very highest point that the lot can be accessed from 15th Street. Moving the driveway to the east is impractical because of the steep grade coming down from 15th Street. Extending the existing driveway to a garage located to the east of the house would add considerable impervious surface to the lot.

Criteria #3 *That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

Applicant - How does the literal interpretation of the provisions of the Afton ordinance (from which you are requesting a variance) deprive you of rights commonly enjoyed by other properties in the same zoning district?

A literal interpretation of the Ordinance would not allow us to have a detached garage in a reasonable location on the property. We feel that being able to have a garage on our lot in the Rural Residential zoning district is an assumed right enjoyed by other properties in the RR district.

Criteria #4 *The special conditions or circumstances do not result from actions of the applicant.*

Applicant - How did these exceptional circumstances related to the property come about? Did actions by you create these circumstances?

The exceptional circumstances related to the property came about when the lot was created and when the existing house was

about when the lot was created and when the existing house was built in its location on the lot. We had no part in either of those actions.

Criteria #5 *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.*

Applicant - Will the granting of the requested variance confer on you, the applicant, any special privilege that is denied by this ordinance to owners of other lands, structures, or buildings in the same zoning district?

No, we will not be granted any special privilege as a result of this variance. A four to five acre lot with a house and a garage is a typical situation for this zoning district.

Criteria #6 *The variance requested is the minimum variance which would alleviate the hardship.*

Applicant - Is the variance you are requesting the minimum variance which would alleviate the practical difficulty or hardship for your property?

We feel that it is. The front yard setback could be reduced a bit if the proposed garage was rotated 45 degrees clockwise and pushed to the north, however, because of the topography, that would result in a steep driveway in front of the garage, with much more difficult and less safe vehicle access in and out of the garage. Rotating the current design would also impact the neighbor to the north, placing more of the long wall of the garage closer to their property, impacting their light and view.

Criteria #7 *The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.* **Applicant (Optional)** - Will the variance be materially detrimental to the purposes of this Ordinance, or to property in the same zone?

How would the use of the property, if allowed by the variance, affect other properties in the vicinity?

We don't see how the granting of this ordinance would be detrimental to either the purposes of the Ordinance or to any other properties.

Criteria #8 *Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.* **Applicant -** Is the requested variance for economic reasons?

We are not requesting this variance for economic reasons, but so that we can add a garage to the most appropriate location on our property.

Criteria #9 *In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.* **Applicant (optional), PC -** Is the property in a Flood Plain District?

The property is not in a Flood Plain District.

Criteria #10 *Variances shall be granted for earth-sheltered construction by state statutes when in harmony with this Ordinance.* **Applicant -** Is the variance for earth-sheltered construction?
The variance is not for earth-sheltered construction.

Criteria #11 *Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance.* **Applicant (Optional), PC -** Is the requested variance in harmony with the Afton ordinances and code? How will this variance if granted (and the

affect the essential character of the area?

We feel that the requested variance is in harmony with the intent of the ordinance and with the essential character of Afton. If granted, our property will consist of a house along with a detached garage which shares the simple shape of a farm building. Our two buildings will be organized around a "dooryard", like many farms. We feel this is appropriate for Afton, much more so than the suburban norm, which is a house with an attached garage.

Criteria #12 *Variances shall only be permitted when they are in harmony with the general purposes and intent of the Afton Comprehensive Plan.* **Applicant (Optional), PC** - Is the requested variance in harmony with the Afton comprehensive plan?

Yes, it is. Like almost all of the housing in Afton, the property is single-unit detached, and this variance will not change that. Adding the garage just makes it more livable for our family. The Comprehensive Plan describes Afton as a rural sanctuary, which is exactly how we think of our own small piece of it.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: June 3, 2024

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moore, City Administrator

Date: May 29, 2024

Re: Amendment to the Home Occupation Ordinance to Allow Limited Retail Sales of Food as Allowed Under the Cottage Food Law – **Ordinance 03-2024 – Public Hearing**

The Council, at its April 25, 2024 work session, discussed a proposal from an Afton resident to bake and sell bread in his home under the Cottage Food law. (See the Cottage Food Law Summary Below). While the baking of bread within the requirements of the Cottage Food law would be allowed under the City's Home Occupation ordinance, the selling of the bread at the home is not allowed under the Home Occupation ordinance due to the ordinance's prohibition of retail sales. The Council requested staff to draft an ordinance to allow retail sales of food prepared under the Cottage Food law with an administrative permit and if the gross annual sales are within the Tier 1 sales limit that is currently \$7,665. The Council provided feedback regarding the draft ordinance at its May 21, 2024 meeting. The Council also referred the ordinance, with revisions to reflect the Council's feedback, to the Planning Commission for a public hearing and recommendation. The ordinance is attached.

Summary of Ordinance Amendment

The following is a summary of the proposed ordinance amendment.

- There shall be no retail sales of goods allowed as part of any home occupation, with the exception of limited retail sales of food items as allowed under the Cottage Food law.
- The volume of sales must be under the Tier 1 sales cap of the Cottage Food law (\$7665 gross annual sales).
- The individual must be registered with the Minnesota Department of Agriculture before beginning cottage food sales.
- The individual shall provide to the City documentation of the initial cottage food registration, as well as documentation of each annual renewal of the registration.
- An administrative permit must be obtained from the City for the Cottage Food sales.
- The administrative permit may be revoked if the cottage food use does not meet City Code requirements or the Cottage Food law requirements.

Cottage Food Law

In 2015, the state Cottage Food law was adopted. The Cottage Food law allows for individuals to make and sell certain non-potentially hazardous food and canned goods in Minnesota without a license. The key requirements of the law are outlined below.

Cottage Food Law Summary

1. Prepare and sell only non-potentially hazardous food (such as baked goods, certain jams and jellies) and/or home canned pickles, vegetables, or fruits with a pH of 4.6 or lower OR a water activity of 0.85 or less.
2. Deliver food directly to the ultimate consumer. The cottage food producer or their employee must be physically present during product sale or delivery.
3. Sell from a private home, farmers' market, community event, or on the internet. Check with your local city, county, or township regarding business licensing or sales prohibitions due to zoning requirements.
4. The statute created two tiers of cottage food sales, each of which have different training and registration requirements. Tier 1 is up to \$7665 gross annual sales. Tier 2 is up to \$78,000 gross annual sales.

5. All individuals who want to make and sell foods described in the Cottage Food Law need to register with the Minnesota Department of Agriculture (MDA) before selling food. The registration expires on December 31 of each year and must be renewed in order to continue to sell food under the Cottage Food Law. There is no licensing required.

Planning Commission Recommendation Requested:

Motion regarding a recommendation concerning the ordinance amending the Home Occupation Ordinance to allow limited retail sales of food as allowed under the Cottage Food law.

ORDINANCE NO. 03-2024

CITY OF AFTON

AN ORDINANCE AMENDING SECTION 153.113 OF THE CITY CODE REGARDING HOME OCCUPATIONS TO ALLOW LIMITED RETAIL SALES OF FOOD ITEMS ALLOWED UNDER THE STATE COTTAGE FOOD LAW

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA DOES HEREBY ORDAIN:

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language.

§ 153.113 HOME OCCUPATIONS.

Requirements for home occupations are as follows.

(A) There shall be no outward indication that the residence is anything other than a single-family residential dwelling unit.

(B) Each permitted home occupation must be conducted within the principal dwelling unit and shall not be conducted in an accessory building.

(C) No exterior storage of equipment or materials used in a home occupation shall be permitted.

(D) Uses which are otherwise permitted by conditional use permit or administrative permit shall not be considered home occupations but shall be subject to the requirements of § [153.053](#) of this code.

(E) No home occupation shall be permitted that creates the need for more than three parking spaces at any given time in addition to the parking spaces required by the occupants.

(F) There shall be no signage visible from outside the dwelling other than those otherwise permitted in the zoning district in which the dwelling is located.

(G) The home occupation shall not produce light, glare, noise, fumes, smoke, dust, heat, odors or vibration detectable to the normal senses off the property, or traffic. Pollutants and toxic wastes of any nature are not allowed.

(H) No equipment shall be permitted to be used in the home occupation, which may create electromagnetic interference to surrounding property.

(I) There shall be no retail sales of goods allowed as part of any home occupation, **with the exception of limited retail sales of food items as allowed under the Cottage Food law, if the sales are under the Tier 1 sales cap of the Cottage Food law, the individual is registered for cottage food sales, and an administrative permit is obtained from the City for the Cottage Food sales.**

1) The individual shall provide documentation of the initial cottage food registration, as well as documentation of each annual renewal of the registration.

2) The administrative permit may be revoked if the cottage food use does not meet City Code requirements or the Cottage Food law requirements.

(J) Any interior or exterior alterations resulting from home occupations shall be prohibited, except those customarily found in a single-family dwelling.

This Ordinance shall be in full force and effect upon passage by the City Council.

Adopted this XX day of X, 2024, by the City of Afton City Council.

CITY OF AFTON

Bill Palmquist
Mayor

Attest:

Ron Moorse
City
Administrator

May 21, 2024 City Council Meeting Highlights

The Council:

- Approved the Belwin Conservancy Conditional Use Permit to document and recognize their activities as a nature center use.
- Approved a landscaping plan for Town Square Park and authorized the Parks Committee to obtain price quotes for fence and bench removal and landscaping.
- Approved the addition of an Agricultural Resources page to the City website.
- Approved expansion of the levee natural vegetation planting project.