

**City of Columbus**  
**Public Hearing – 7615 Camp 3 Road Variance (PC-14-108)**  
**(Kevin Dunaway – applicant)**  
**(Bryan and Stephanie Behn – owners)**  
**October 1, 2014**

The October 1, 2014 Public Hearing to receive testimony regarding the request for a variance at 7615 Camp 3 Road, Columbus, MN was called to order at 7:02 p.m. by Chair Garth Sternberg at the City Hall. Present were Commission members Mark Daly, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, and Recording Secretary Karen Boland.

Also in attendance were City Council members Dennis Peterson and Bill Krebs; Kevin Dunaway, Pat Preiner, Mary Preiner, and Frank Wagamon.

**Sternberg:** At this time we'll have a Public Hearing and discussion for 7615 Camp 3 Road variance application request, pages 1 through 10. And at this time I'd like to ask the recording secretary to read the notice as published.

Notice was read at this time.

**Sternberg:** Thank you very much. Can you please come forward and state your name and address for the record?

**Dunaway:** Kevin Dunaway. 17149 Notre Dame Street, Columbus, Minnesota.

**Sternberg:** Thank you, sir. Can you please tell us what it is that you're asking of us?

**Dunaway:** The house sold here in August, and the point of sale inspection found that the existing septic system didn't meet current code requirements. And so, therefore, a new system was designed by Brian Humpal of Midwest Soil Testing. And he found that there wasn't any place on the site that had 12 inches of native dry soils, so, therefore, because of some ambiguities in our ordinances, a variance is required to put a system in of 'other' design in a scenario like this, where there isn't 12 inches of dry native soils.

**Sternberg:** So, what does that mean, exactly, that there's not 12 inches of dry native soils? Does that mean that there was fill hauled in there from another location?

**Dunaway:** Well, you know, a lot of Columbus has real high water tables. And, if truth be told, today if, if a soil test went out to about 70% of the sites in Columbus, they probably wouldn't be buildable site. In the '80s and '90s, uh, you know, we were looking for a different scenario when the water tables – when we were designing septic systems. In fact, in the '90s there was a portion of the Columbus code that required a, actually a building pad be built before they'd issue a building permit. You know, you were trucking in hundreds of yards of sand to build a pad six feet tall over the natural grade. So, there are systems here in Columbus that, when the point of sale comes around, I can tell you right now, they're not going to pass. So, um, but these sites, these particular sites - they're on Camp 3 Road - probably never did have enough separation of

this dry natural soil. And, uh, you know, in an effort to get subdivision, and some building people might have fudged a little bit or, you know, or did this pad scenario, and, uh...

**Mursko:** A little bit? **(Laughter)**

**Dunaway:** Well, a lot, you know, but, um... and there's been some interpretations in that buildable site scenario, where, you know, at one point, uh, Columbus said, well, you can build a pad three feet tall and make it big enough you can put your house and your septic system in it. And, you know, that wasn't intended to make a non-buildable lot buildable, but the way the code was interpreted by a lot of people at the time, it made unbuildable lots buildable. So, um, so we have some unbuildable lots that have houses built on them, and we have to figure out how to make sure the new owners have a system that meets current code. And it's a, you know, I, you can't say that anybody really did anything wrong. They did what was required at the time or common practice at the time.

**Mursko:** I think the other issue that we have is, what is the alternative? I mean the alternative, I think, is holding tanks. And I don't know that that's really a viable alternative. So, Leon and I have talked about this, and we understand that going through the variance process is a lot of process. Obviously, we do the public hearing; we do mailings, and such. But, right now, I'm not sure that there's an alternate process, because this is really varying from what the require – today's requirements—70, 80 requirements are. And I don't know if, legally, we can bypass that. So we're going to take that issue up with the Council. But, I don't know if we can actually just say, 'Yes, we'll process them', because this truly is an exception to today's requirements.

**Dunaway:** Well, not only today, that's – the requirement's always been that. I mean, you know, State rule has always required eleven or twelve thousand square feet of 12 inches of dry native soil. That's, it's never varied in the 30-some years I've been doing this. It's a, like I say, it's been interpretation; it's been people trying to work within the system to make more property available to sell. Like I say, a lot of interpretations, a lot of, um, a lot of effort to make everybody get on the same page. And sometimes we shoot our foot, ourselves in the foot by trying to educate everybody and make us all do the same things. We took common sense out of the equation at some point, I guess.

**Sternberg:** So, this is a State code, and you have to, we have to follow the State code right? That's the minimum...

**Mursko:** Well, the Minnesota Pollution Control Agency sets, you know what I mean, the requirements, but then we have to be – then Anoka County, and I believe that Anoka County then adopts rules. And we have to adopt the County rules plus our own rules. Kind of, you know, subsequent of them. We can be more restrictive. As a matter of fact, they just sent us a letter saying that we actually have to let them know that we are as restrictive as the County and adopt the County rules and our rules. Otherwise – I don't know what the otherwise was, but there was a, 'If you don't do this, we'll do that' kind of thing in the letter. So, yes, they start out with the State requirements.

**Sternberg:** So this is pretty much the normal process for you then, really, no matter where you are? You have to file for a variance to...

**Dunaway:** Well we're seeing some varying, um, realities. Lino Lakes, for example, has given their building official the authority to allow such type systems, based on his experience, and those types of things. Well, actually, Columbus is the only one I know of that's asking for a variance to the zoning part of the requirement. Because, we're looking at two different portions here. You know, obviously, it gets confusing, because the State rule is very distinct: you have to have that 12 inches of dry native soil. And I think the question that's brought on in this part of the conversation was, is, you know, are we varying to the State law or to our zoning portion of the law? And, uh, the State portion would be - we're calling this a system of other construction. And we know from experience that the three feet of sand works, and that it creates a viable, legal system. But, the other portion of the equation is, we're, after the fact, we're making a non-buildable lot considered buildable. But, you know, somebody's already living there, so what, what can we do? You know, the holding tank question, the average person would probably, by today's prices, be pumping their tank every other week to the tune of \$300-\$400 a pumping, so there's \$600 a month to pump septage. And, uh, it gets pretty cost-prohibitive. Um, a fellow up on Linwood Lake last year worked a deal with his neighbor and bought ten feet of property from his neighbor so he could put a system on and do away with the holding tanks he was on, and he paid a real premium to buy that little piece of ground so he could get off of holding tanks. So, people who've been on a holding tank for a while, they're going to come up with a way to figure out how to treat their own sewage and get rid of that water.

**Sternberg:** So this lot, you say it was, you've, you used the word 'unbuildable' at one time.

**Dunaway:** Well, it wouldn't be, by the State rule it wouldn't have been buildable, because it didn't have the ten or twelve thousand square feet of dry native soil or natural soils.

**Sternberg:** The only reason I asked that, is 'cause I'm looking at the development to the right here, over on Williamette Street, which is pretty recent. Isn't that within the last ten years I think, or...?

**Dunaway:** Oh, the house that you're talking about now was built in '99 I believe.

**Sternberg:** Yeah, I was going to say, some of those are newer homes back there. And then this whole development on that cul de sac back there, on Williamette Street, is a newer...

**Dunaway:** Yeah, that would be the Fraley development.

**Sternberg:** Yeah, Fraley's land there.

**Dunaway:** Well, there's quite an elevation change in there, and then the land usage was different. Um, you know, the Fraleys actually planted crops and farmed their property, as I understand it. Whereas this property was more pasture land, and probably was pastures with

horses or cattle or something, so to me the thought process would be, it was low enough they couldn't farm it, but yet they could put livestock on it.

**Sternberg:** So that's probably the low area.

**Dunaway:** It is, yeah. It's kind of the low area in that...you know, in the conversation I had with the building inspector this morning is there's a, uh, a property about three houses to the west of there that we put a system in probably 15 or 20 years ago that – very similar scenario, we put in a system of 'other design' back before they were politically correct. But, you know, it was a scenario where you needed to help a property owner treat their septage, but yet, you know, I mean somewhere along the line you have to do the right thing and work within the rules.

**Sternberg:** Mm-hmm. Any other questions?

**Daly:** I've got one. Is it a little bit higher land closer to that pole barn there?

**Dunaway:** I didn't do the actual...

**Daly:** You can see that area by the pole barn. You can see where they probably have horses in that area.

**Dunaway:** I was just going to say, I didn't do the actual site evaluation. Brian Humpal did.

**Daly:** Okay.

**Dunaway:** By the nature of the vegetation, I would say to the north of that might be higher. But, I mean, you know, if you're ... You know, Brian Humpal is a very good designer, and he's very thorough. I'd have to believe he looked there. He didn't just go to the road and say, 'Let's put it here.' You know. So...

**Daly:** Sure. Elizabeth, I have one question. Is this the first time this kind of a scenario has come up in the City here?

**Mursko:** No. This is the third or fourth one that recently has come up. But, then again, recently we've had a fair amount of properties selling. And I think what you're seeing is, you know, Columbus as a whole, if you look at the census data, you see that your population is in the 50, 60, 70, even, we even had a, you know, a population of over 85 that we actually had a significant percentage of. I think what you're seeing is, you're seeing a fair amount of selling of homes of people who have lived here 25-30 years. And, this is the first time that they're having their septic tested. Because, all of the houses, um, that this scenario has come up in, they built in, it's the '70s vintage. We're not – this probably is the exception, because this was built in the '90s. So, I'm not sure what happened for this particular site, but the other three, the vintage was '70s. It was the 1970s house built. And, we all know that in that era the technology of house soil borings were done, wasn't as good as today, or maybe new techniques for today. So, you are seeing more of it - at least since I've been here. I know Kevin has talked to Leon about this, and, you know,

we're seeing this also. And I think what Leon was going to do was he was going to write a memo to the Council to see in fact if they wanted to change it, and if they could change it, was it legal to change it in our scenario? Lino Lakes has a charter, so they're not a statutory city, so I'm not sure if they have different criteria, but... We are deviating from the rule - it's just an existing condition, meaning there's an existing house there. It's not new construction. So, if that's the Council's or - I'm sorry - the Planning Commission's recommendation, that you support looking into that, then we can certainly do that after you process this one, this variance.

**Krebs:** And we are falling into a line with the State statute under the 'other' system. It's not like we're breaking any State rules. We're just applying our City ordinances to...

**Mursko:** You know, the State statute, from my understanding for existing conditions, it does give some latitude, down to, I think, nine inches of soil - which, in that gray area for existing conditions. What we're doing is giving a variance to *that*. And so it's kind of the exception to the exception for existing homes.

**Krebs:** Right. But we want to make it understood that we're still aligning with the statute under a variance - that everything is still legal. That we're doing okay.

**Mursko:** And, again, which is why we're doing the variance, and, I don't know, for legal purposes even if you're going to sell your house, you might want that variance in there, so that you know that it's legally conforming. Because, quite frankly, without the variance, someone could question why that system was put in there.

**Krebs:** Correct.

**Dunaway:** I mean, and it does fit within the rules, and the rule is written for the other systems, primary for the instance where the house is maybe 100 years old or 50 years old, and the rules weren't the same - like Elizabeth said - at that time, so, you know, you have an old house and you want to be able to stay in the house, you have to be able to treat the septage somehow, so...

**Preiner:** So, Kevin, what exactly are you going to do? What is the 'other'?

**Dunaway:** Oh, this one is just a three foot of sand underneath the rock bed. It's going to be placed parallel with Camp Three Road.

**Preiner:** On the same location?

**Dunaway:** Well, it's on the same lot, but it's, yeah, it's in a different location on the lot. The existing mound is on the east property line along a tree line. Then the future one will be parallel with Camp 3, on the south end of the lot.

**Preiner:** So you haul in a bunch of sand, build everything on top of that.

**Dunaway:** Correct.

**Preiner:** With the rock. Okay, I have another question. So, when they do their testing to see if it's in compliance, at the point of sale, is their system non-functioning now or is it working, but...what?

**Dunaway:** Well there's a couple criteria that come out of a point of sale inspection. It's either a non-compliance system, which means it probably lacks separation – doesn't have that three feet of separation to the dry soil. And the other criteria would be if it's an imminent health threat, which means that effluent is pumping out on the ground or the tank is so bad that everything comes out on the ground. And the ones that are an imminent health threat, they have to be dealt with in a matter of days. Typically a non-complying system like this is like a point of sale comes out, you know. Reality is is that existing system is still treating effluent and it's adequately treating the effluent, it just doesn't meet code.

**Mursko:** You know it looks, Kevin, it looks like, Kevin, that they built the house on the 910 and a good majority of their lot is 906.

**Dunaway:** Right. So they built their pad, put the house on the pad like they were supposed to, but, the pad probably wasn't big enough to include the septic system. And, of course, as time had changed also, a lot of people built the pad as part of the subdivision, and then when the lot sold, the builder or the person building the house put the house where they thought it was supposed to be and – no longer a place to put the septic system.

**Sternberg:** I have a question for you. What's the purpose of the pad?

**Dunaway:** Well, you know, we have the three foot of separation below your lowest finished floor here in Columbus, which, as a homeowner is huge. It's great. It's probably one of the better things we ever did with our code. I think national code only requires one foot between seasonal saturation and your floor. And, if you've ever had a basement that gets damp and the floor gets shiny during July and August when there's high humidity and your basement's cool and damp, that's kind of the outcome of having that water table so close to your floor. So having three feet, uh, we have people with a lot drier basements than some of our neighbors.

**Sternberg:** So you're like a proponent of that. You said it was a good, a good thing.

**Dunaway:** Yeah. That's one thing that I preach to my customers when they want me to do soil borings for a house – even an outbuilding. You know, maybe a pole barn's not so critical, but, even some people calling their pole barn a machine storage shed, if they have one foot of separation, they come back in the spring and the wheels on their tractor sunk down to the axle. You know, it's, that separation and dry soils is a good thing.

**Mursko:** If you've been at the counter this year, you know why we fill three feet above dry soil.

**Preiner:** This was the test year?

**Sternberg:** Fill us in. What happened at the counter?

**Mursko:** I'm sorry?

**Sternberg:** Fill us in. What happened at the counter?

**Mursko:** You know, come to any Council meeting and you'll see all the drainage issues we've had this year with water. Where people, they've got sump pumps are running, they don't want water in the yard, water's never been in the yard before...just overall drainage issues in certain parts of the City, and then looking to the City to resolve them.

**Sternberg:** Yeah, I have noticed that. I mean, we do have a lot of water issues. I mean, at the last meeting there was another, a whole other neighborhood there.

**Mursko:** And people get, they're angry at the counter, because they feel like 'You should be fixing the driveway culvert, and the ditches, and everything else, and making the water go away.' And, you know, with the amount of rain that we got, there wasn't, the water wasn't going anywhere. And, we had a two-hour meeting at the last Council meeting, and, the five people that showed up were all the people who have water issues. The other people didn't, and from that neighborhood meeting, because they didn't have water issues - the water actually flowed through their property - didn't come. But we're trying to resolve the other people's problems, and, every single one of them said, 'I don't want your water on my property, so I'm not going to clean the ditch,' and 'I'm not going to clean my ditch, because I don't want your water on my...' I mean, it was like, nobody wanted the extra water, but everybody wanted the water to go away. So, we have people sandbagging on their property so the next door neighbor upstream doesn't go through...I mean, it's just, it's kind of one of those things where...and, of course, the one person that the water is six inches from their door, is the one that's at my counter practically crying, saying, 'What do I got to do? Do I have to hire a lawyer? I'm going to have water in my basement, because nobody will let the water through.' And then we're sitting there, saying, 'We can't help you.' And he ended up sandbagging. Between pumping and sandbagging, that's what he ended up having to do. So, and that's in two different locations that the homeowner had to buy sandbags. And I had one homeowner come and say, 'Please, do you have anybody that...I can't afford it. Can you please have someone fill some sandbags for me?' I didn't have people to fill sandbags. It's a good thing Forest Lake Contracting was open that day, because they did.

**Sternberg:** Yeah. Any more questions? Anyone? Okay, at this time I'd like to open the meeting to the public. Anybody from the public here to speak on the matter? Okay, at this time, I'll close the meeting with the right to reopen if it becomes necessary.

Hearing closed at 7:23 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary