

**OAKPORT JOINT POWERS BOARD
SPECIAL MEETING MINUTES
WEDNESDAY, OCTOBER 1, 2008 — 7:30 A.M.
BASEMENT EAST CONFERENCE ROOM, MOORHEAD CITY HALL**

1. CALL TO ORDER/ROLL CALL

Chair Campbell called the meeting to order.

Members Present: (6) Kevin Campbell, Carolyn Kastella, Greg Anderson, Mike McCarthy, Nancy Otto, and Dan Bohmer

Member Absent: None

Others Present:

Debra Martzahn	City Planner
Amy Thorpe	Program Assistant
Mark Hintermeyer	City Council
Tim Magnuson	Clay County
Diane Hasse	Applicant
Randy Hasse	Applicant
Julie Letourneau	Neighbor to Hasse
Terrance Nefzger	Applicant

2. APPROVAL OF MINUTES

Action taken: McCarthy moved, seconded by Kastella, to approve the May 28, 2008, and August 27, 2008, regular meeting minutes. Motion carried by unanimous vote.

3. CITIZENS TO BE HEARD

None.

4. AGENDA AMENDMENT

None.

5. PUBLIC HEARING

A. Request of Diane and Randy Hasse for a conditional use permit (Section 10f(iv)) to allow a private stable for up to two horses at 5705 Broadway Street.

Action taken: McCarthy moved, seconded by Otto, to open the public hearing. Motion carried by unanimous voice vote.

Martzahn reviewed with the board the Eighth Amendment, which allows owners to apply for a condition use permits (CUPs) to keep horses under specified conditions. Martzahn reported that a letter was sent in 1994 inviting Oakport residents to apply

for CUPs, if they had facilities that were in existence in 1990 and wanted to keep horses. At that time, the Oakport Joint Powers Board reviewed 20 applications; records do not show that Hasse submitted an application or attended the meeting. Martzahn stated that the code does not preclude them from applying for a conditional use permit at this time.

Martzahn referred to the building located on the property that would be used to shelter the horses, which according to the applicants had been used by prior owners for that purpose. Martzahn said that the code states the number of horses allowed should be based on the size of the fenced area, but it does not state a specific ratio of land to horse. Martzahn said that she had reviewed the twenty CUPs granted in 1994 and all but three required one acre of fenced land per horse. Martzahn suggested that the board consider this standard for the Hasse's application.

Martzahn recommended approval of the conditional use permit with the following conditions:

1. Owner shall provide a minimum of one acre of fenced pasture per horse
2. Enclosure for horse may be no closer than 130 feet from the neighboring residences
3. Manure is managed in a manner consistent with the requirements of Clay County and MPCA.

Otto asked if this was a case of being "grandfathered" in or was if this was considered a new request. Martzahn stated that the code treats this as a conditional use permit and one of the conditions of the permit is that in order to apply for a permit they had to have had horse keeping facilities as of 1990. According to the applicants, they did have horse keeping facilities at that time, which makes them eligible to apply, but it does not guarantee a CUP.

Anderson asked if the permits and horses stay with the land when Oakport is annexed into the City of Moorhead. Martzahn responded that the conditional use permit typically runs with the land. She added that would be a legal question to be determined during the annexation process.

Board members discussed the removal of manure. Magnuson stated there were no set county regulations, but recommended removal on a monthly basis.

Hasse invited her neighbor, Julie Letourneau, who was in attendance, to voice her questions or concerns. Thorpe reported that a citizen caller was concerned that the size of the stable and the amount of space the horses would have in the stable would not be adequate. The caller felt the horses, not having enough room in the stable, would spend the majority of their time outside and therefore the amount of land available to the horses also would be inadequate. Julie Letourneau, neighbor to Hasse, stated that the caller was her husband and that she agreed with his assessment. She voiced concern with the impact of flooding on pasture space and about manure entering the river. She continued that she had communicated with the former owner of their property, who had occupied the property when horses had been kept on the property years ago. She stated that, at the time, there was a barn on the property that had since been destroyed by a flood and removed. Letourneau added that the previous owner reported an issue with smell and flies because of the manure.

Otto suggested that the monthly removal of manure be made part of the conditions of the permit. She stated that although this standard may not have been set in the past, it is certainly a standard that could be set now. Composting of the manure was discussed as well, but it was ultimately agreed that removal was the only option for this property. Additional discussion regarded conditions such as enforcement, stable space, amount of land available to fence, the distance of the enclosure to the neighboring residences, and the number of horses to be allowed. The Board discussed that staff's proposed standard of one acre of fenced pasture per horse would not allow the applicants to keep two horses, which they had requested.

Action taken: McCarthy, seconded by Otto, to close the public hearing. Motion carried by unanimous voice vote.

Action taken: Bohmer moved to approve the request for a conditional use permit, seconded by McCarthy, with the following conditions:

Conditions:

1. Owner shall provide a minimum of one acre of fenced pasture.
2. Enclosure for horse may be no closer than 130 feet from the neighboring residences.
3. Manure is managed in a manner consistent with the requirements of Clay County and MPCA but shall be removed monthly at minimum; and
4. There shall be a maximum of two (2) horses allowed on this property.

Motion carried by unanimous voice vote.

- B. Request of Terrance and Amber Nefzger for a variance from Section 10i of the Oakport Joint Powers Agreement Eighth Amendment to allow a proposed deck at 5901 Elm Street North to encroach more than 15 feet into the required side yard.

Action taken: Anderson moved, seconded by Otto, to open the public hearing. Motion carried by unanimous voice vote.

Martzahn briefed the board on the proposal to construct a deck on the side of applicant's house. Because the house currently extends 10 feet into the required side yard, the proposed deck would exceed both options for side yard exceptions offered by the code. Martzahn suggested including the following conditions, if the board chose to approve the variance:

Conditions:

1. Deck shall be no closer than 16 feet from the east property line and no closer than 50 feet from the front property line
2. Deck shall have no roof and not exceed the height of the floor of the first story of the building to which it is attached, except for the railings not exceeding 42 inches in height
3. Screening shall be planted and maintained, as needed and approved by the city planner, to buffer the encroachment from neighbors
4. All required local, state, and federal permits must be obtained

Campbell gave a bit of historical background regarding the properties in this area, their proximity to the road and future road development. He stated that allowing the deck to be built so close to the road may not be good if the road were to be expanded, but that it did not appear to be a problem at this time. Anderson agreed. McCarthy asked the applicant if he could agree to the conditions as set forth. Applicant indicated he could agree and abide to the conditions.

Action taken: Anderson moved, seconded by Kastella, to close the public hearing. Motion carried by unanimous voice vote.

Action taken: Anderson moved to approve the request with the stated conditions set forth above, with the following conditions, as amended to exclude screening:

Conditions:

1. Deck shall be no closer than 16 feet from the east property line and no closer than 50 feet from the front property line
2. Deck shall have no roof and not exceed the height of the floor of the first story of the building to which it is attached, except for the railings not exceeding 42 inches in height
3. All required local, state, and federal permits must be obtained

Bohmer seconded the motion, which carried by unanimous voice vote.

6. OLD BUSINESS

Campbell requested an update on the "Horse CUPs" and whether they had all been signed. Martzahn replied that the majority, if not all had been signed. Anderson offered to come to the office to help with completing them.

7. NEW BUSINESS

Campbell expressed his disappointment that he was notified by mail of the meeting regarding North Moorhead GAP/AUAR scheduled for October 7 and that as a board member and representative, he felt that he should be been given more notice, so that he could have made plans to attend. Martzahn summarized for board members the intent and purpose of the meeting, and offered to delay the meeting, if necessary. Board members discussed questions they had regarding the plan.

8. ADJOURNMENT

Chair Campbell adjourned the meeting.

Respectfully submitted:
Greg Anderson, Secretary
Oakport Joint Powers Board