

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, JANUARY 28, 2020
MTG ROOM B, CLAY COUNTY COURTHOUSE

Members Present: Perry Bushaw, Paul Krabbenhoft, Ezra Baer

Members Absent: Amos Baer, Greg Anderson

Others Present: Matt Jacobson, Emma Notermann, Rita Rueckert, Brian Melton, Jean Fuchs, Kevin Hayer, Justin Demmer

The meeting was called to order at 5:30 PM by Perry Bushaw, standing in as chair in absence of Amos Baer. Roll call was taken.

On motion by Ezra Baer, seconded by Paul Krabbenhoft, and unanimously carried, the Board approved the meeting Agenda.

On motion by Paul Krabbenhoft, seconded by Ezra Baer, and unanimously carried, the Board approved the Minutes from November 19, 2019.

PUBLIC HEARING(S):

KEVIN HAYER AND JEAN FUCHS – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the setback distances in the Clay County Land Development Code to allow a barn less than 2,000 feet from an existing feedlot, in part of the Southwest Quarter, Section 13, Township 138 North, Range 44 West, parcel 24.013.3800, Parke Township.

On motion by Ezra Baer, seconded by Paul Krabbenhoft, and unanimously carried, the Board opened the public hearing.

Matt Jacobson, Planning & Zoning Director, states Applicant is requesting Variance to 8-6-1 to the Clay County Land Development Code stating that all other structures are required to be 2000 from a feedlot. This request is unusual as the Ordinance states that a residence setback is 1320 feet (a quarter-mile) and for all other buildings the setback is 2000 feet, meaning that the setback for an outbuilding is more restrictive than the setback for a residence. While this would make sense for a school, business or similar structure, it doesn't necessarily make sense for an outbuilding used for cold storage. Matt Jacobson spoke with Bruce Bang of the Parke Township Board and he understands and supports this request. Staff recommendation is that this request be approved with the following conditions: The first condition is that they not be closer than 1000 feet; and the second condition is that this structure never contain living quarters. There was discussion of increasing this setback to 1320 feet.

Ezra Baer asked what is considered as "living quarters". Matt Jacobson states that Clay County definition is vague but it is ordinarily considered to define "living quarters" as a structure containing a kitchen, bedroom and bathroom.

There is currently no structure on the property; however, Applicant is in the process of building a residence beyond the 1320-foot feedlot setback.

Perry Bushaw clarified that they can have a structure that does not have living quarters but they can have water, sewer or power within that structure. Matt Jacobson confirmed that is correct. A permit would be required for any septic system but there are no restrictions of setbacks from a feedlot. The current building permit is only for cold storage; however, there will be a hydrant automatic water for the horses. Matt Jacobson states that this building will be 1600 feet away from the feedlot in question.

There is a Subcommittee currently reviewing conflicting items within the Development Code; however, they haven't reached this particular issue within the Development Code yet.

Jean Fuchs indicated that the barn will be 1,600 feet from the feedlot. They have received a building permit for the house but have not yet started on the construction. The structure will be cold storage on one end with gravel floor, an area with a shop approximately 16 feet wide, and then another area approximately 16 feet wide for hay storage, and then another area 16x36 for the horse barn. They are restricted for the placement due to a previously buried structure foundation on the property. The house they are building is at approximately 1700 feet from the feedlot.

Justin Demmer, a neighbor, states that he wants to be a good neighbor and feels 2000 feet for an outbuilding seems excessive. He would personally like to see a setback of 1320 feet. Mr. Demmer owns the feedlot in question.

On motion by Ezra Baer, seconded by Paul Krabbenhoft, and unanimously carried, the public hearing was closed.

Paul Krabbenhoft believes the setback should not be less than 1320 feet. The Applicant states that their setback is currently 1600 feet from the feedlot.

The Findings of Fact and Order were addressed by the Board of Adjustment as they pertain to the requested permit. All of the items can be addressed without conditions and none of them warranted further discussion.

On motion by Paul Krabbenhoft, seconded by Ezra Baer, and unanimously carried, the Board of Adjustment *GRANTED* a Variance with the following conditions:

- **Setback of the storage building/barn not less than 1320 feet from the feedlot, and;**
- **This structure must not contain living quarters.**

Practical difficulty: Unable to move structure farther back to meet the 2000 foot setback.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

- **ELECTION OF NEW PLANNING COMMISSION CHAIR IN FEBRUARY 2020**

Matt Jacobson advised that in February the Planning Commission will elect a new Chair and that person will resume duties of the Chair of the Board of Adjustment.

Matt Jacobson also shared that Steve Lindaas was recently appointed by the Moorhead City Council to serve on the Planning Commission. Steve Lindaas begins his new term at the Planning Commission this date.

- **SUBCOMMITTEE PROGRESS UPDATE ON REVIEW OF CLAY COUNTY LAND DEVELOPMENT ORDINANCE**

Matt Jacobson shared that the Subcommittee has made it through Chapters 1, 2, 3 and 4. The next meeting will they will review Chapters 5 and 6. The names of the Subcommittee members were shared with the Board of Adjustment members.

Perry Bushaw asked about the setbacks regarding Ordinary High Water Level (OHWL) where Clay County Ordinance is more restrictive than the DNR standards. This item has not yet been reviewed by Subcommittee. Paul Krabbenhoft asked about road setback discrepancies in hopes these items would also be reviewed by Subcommittee.

On motion by Ezra Baer, and seconded by Paul Krabbenhoft, the meeting was adjourned at 6:00 PM.



Amos Baer, Chair
Clay County Planning Commission