

City of Marine on St. Croix  
Planning Commission Meeting  
Tuesday, May 27, 2008

The meeting was called to order by Chairman Willenbring at 7:32 pm. Warren, Brenner, Krahn and Forster present. Dochniak and Fernstrum absent

Citizens Present: Kathy Harker, Curt Moe, Robin Brooksbank,  
and Mandy Hathaway (Country Messenger)

**Agenda:**

1. Call to Order
2. Public Hearing -Curtis Moe/Kathleen Harker – Property Line Setback for Horse corral
3. Old/New Business
4. Approval of Minutes
5. Adjournment

Chairman Willenbring stated that Mike Goldner had resigned from the Planning Commission as of May 27, 2008. There is now a position open on the Planning Commission

**Public Hearing: Moe/Harker -1011 Nason Hill Rd –**

Chairman Willenbring called to order the Public Hearing at 7:32pm. Chairman Willenbring postponed the public hearing until the applicants arrived.

Public Hearing reopened at 7:35 pm: Kathy Harker and Curtis Moe were in attendance to request variances to construct an accessory structure for housing animals in front of their principle structure and a Conditional Use Permit for horse boarding.

Stuart Krahn outlined the applicants proposal to fence an area and construct a single story, 12 by 24 (288 SF) or 12 by 36 (432 SF) accessory building to be used for hay storage and as a “run-in” horse shelter. The smaller sized building would be constructed to accommodate a single horse and the larger sized building would be constructed to accommodate two horses. The applicant has indicated the desire to have two horses in the future. Krahn also went over the Findings and Facts and suggested three options the Planning Commission could consider.

Krahn confirmed the total number of acres for the property at 4.46 per the Washington County Assessors office. The calculated area minus the 18% slope would be 2.33 acres of property. Harker and Moe agreed with Krahn’s calculations..

The Planning Commission discussed how the definitions of the Development Code are written regarding horse boarding, pasturing, and corralling. There were several concerns of interpretation. Jack Warren was present when the Horse Boarding Code was written. The Planning Commission's thoughts at that time were they were more concerned that Marine on St. Croix was undeveloped and more residential and not agricultural. The Planning Commission felt the need for a large separation between neighbors with horses due to their size. Warren believed that the Planning Commission at that time was only thinking of residential development concerns. After a long discussion of the current definition of horse boarding and reviewing the applicant's lot size the Planning Commission decided to move forward with a Conditional Use Permit.

Willenbring suggested a Public Hearing to modify the code and to address the clarification to what is a corral and sub pasture, and also how do we deal with the existing horse properties? The Planning Commission will meet on June 24, 2008 to clarify and make changes they believe will better define the Horse Boarding, pasturing and corralling codes in hopes of a Public Hearing at the July 10, 2008 City Council Meeting. Warren questioned if there were modifications made in the code would the variance requirements change. Willenbring stated they would be grandfathered in.

All Planning Commission members agreed on this process.

*Brenner moved and Warren seconded to recommend approval of a Conditional Use Permit Planning Case 52708-01 subject to the variances that we have outlined here in the first four but not the 504.5(1)(g) and also subject to a couple of conditions that the proposed accessory building will have exterior building materials, colored roof line and architectural style that is similar and complimentary with the principle building. And that the applicants obtain a letter from adjoining residential property owners to the east stating the approval of the proposed fence line location and structure location. The proposed fence and structure layout are in accordance with the drawing submitted May 27, 2008 per finding and fact 15 finding 15 Motion passed unanimously.*

Willenbring closed the Public Hearing at 8:42pm

This proposal will go before the City Council on June 12, 2008.

**Horse Boarding Definition** The Planning Commission has decided to review the Zoning Codes for a clearer understanding and recommend changes to the City Council for approval. Definition of a corral will also be reviewed along with setbacks.

**Old/New Business** – The Planning Commission would like the Minutes posted on the City Web site. The Planning Commission would also like the variance requests, fact and findings, and conditions attached to the Planning Commission Minutes.

Brooksbank thanked the Planning Commission for their hard work.

**Approval of Minutes** – *Krahn moved and Forster seconded to approve the April 29<sup>th</sup> Minutes. Motion passed unanimously.*

**Adjournment** – *Warren moved and Forster seconded to adjourn at 8:50pm. Motion passed unanimously.*

Minutes taken by Mary Tomnitz, Assistant City Clerk



The proposed structure is to be located on the flatter area to the left of the parked cars.



Picture shows sloping topography between proposed structure and Nason Hill Road.

Kathy Harker  
1011 Nason Hill Road  
Marine on St. Croix, MN 55047

## **Variance Request**

Planning Case Application No. 52708-01

### **Introduction**

The applicant proposes to fence an area and construct a single story, 12 by 24 (288 SF) or 12 by 36 (432 SF) accessory building to be used for hay storage and as a “run-in” horse shelter. The smaller sized building would be constructed to accommodate a single horse and the larger sized building would be constructed to accommodate two horses. The applicant has indicated the desire to have two horses in the future.

### **Findings of Fact**

1. The parcel is not being proposed for subdivision; it is an existing, previously created lot.
2. The parcel is located in the Single Family Rural (SFR) District.
3. The subject property consists of a primary residential structure with an attached garage.
4. The parcel size is 4.46 acres in size per the Washington County Assessors website.
5. The parcel has approximately 2.33 acres of “farmland” as defined by the Code, which excludes areas with slopes in excess of eighteen (18) percent, wetlands, wetland transition areas, and floodplains. Farmland figure attached as exhibit.
6. The topography, based on aerial photographic data from the Washington County Survey and Land management Division, varies across the parcel from elevation 918.9 to the northwest of the primary residence to 832 at the SE corner of the property. The property is unique in that level areas are nearly nonexistent. Areas with grades of less than 18% are generally forward of the primary structure.
7. The proposed accessory building will approximately 96 feet (for the larger 36’ long building) from the side (East) property line;
  - a. meeting the requirements of Section 402.3(3)(a) which requires a 20’ setback in the SFR District.
  - b. Conflicting with the requirements 504.5(1)(g), use of the accessory building housing animals which would be within 200 feet of the property line.
8. **Found not to be relevant.** The following address conditions which must be met when seeking an administrative permit for locating the accessory building forward of the principal building:
  - a. In addition to having steeper topography, the area to the rear of the primary structure is occupied by the on-site septic treatment system and deciduous woodlands. This combination of factors prevents the accessory building from being located behind the front building line of the principal structure, meeting the requirements of **Section 402.3(3)(b)(i)**.
  - b. The maximum size of the proposed accessory building is 432 SF, which is less than the maximum size allowed by **Section 402.3(3)(b)(ii)**.

- c. The proposed accessory building is oriented parallel to the street, with the opening facing a side lot line as required by **Section 402.3(3)(b)(iii)**.
- d. The proposed accessory building is approximately **135** feet from the CSAH 7 (Nason Hill Road) right of way (**Section 402.3(3)(b)(iv) requires 30 feet and not obstructing total view of the principal building**) and (**Section 402.3(3)(a) requires 40 feet**). **SEE REQUIREMENTS FOR FACILITIES HOUSING ANIMALS.**
- e. The proposed accessory building will comply with the architectural standards of Section 402.
- f. The proposed access doors and openings are less than ten (10) feet in height, meeting the requirements of **Section 402.3(3)(vi) and Section 402.3(3)(i)**.
9. The proposed accessory building will be a single story with a shed roof, sloping upward toward the south. The accessory building will be shorter than the principal building, meeting the requirements of **Section 402.3(3)(e)**.
10. The proposed detached accessory building is 432 SF or less, meeting the requirements of **Section 402.3(3)(g)(i) and (ii)**.
11. The proposed accessory building will have exterior building materials, color, roof line, and architectural style that is similar and complementary with the principal building (cedar and standing seam metal), and have a suitable foundation (frost footings), meeting the requirements of **Section 402.3(3)(h)**.
12. The proposed accessory building will be positioned adjacent to the driveway turnaround, with a floor elevation several feet below the elevation of the primary structure. It is the minimum manufacturer's recommended size for the number of horses proposed.
13. Properties with similar topographic conditions have accessory structures forward of the primary structure. Examples can be seen along Nason Hill Road, Oak Knoll, and St. Croix Trail.
14. No corral is proposed
15. The proposed fence and structure layout proposed drawing excepted by Planning Commission dated May 27, 2008.
16. Applicants are proposing two horses to be boarded and that there will be an alternative feed brought into supplement the grazing area.

### **Considerations/Discussion**

One question for the Planning Commission to discuss is whether the proposed use, having a horse or horses in a fenced area on a property with a shelter for the horse or horses, is an activity that constitutes "horse boarding" as defined by the Code.

The Code defines horse boarding as follows:

"Horse Boarding – Those uses commonly associated with the raising, maintaining, and training of horses for riding, racing, or breeding."

- A. If the Planning Commission determines that this proposed use does constitute horse boarding as defined in the Code, then there are at least two options.

**Option 1:** Consider the application for a conditional use permit and make a recommendation to the Council as to whether or not a conditional use permit should be granted to the applicant, and with what variances. Variances would be required for the location of the accessory building relative to the primary residential structure and the property line, the location of the corral relative to the property line, and (if two horses are to be permitted) the number of animals per acre of farmland.

**Option 2:** In addition to pursuing Option 1, the Planning Commission could make a recommendation that the Council:

- a) determine whether horse boarding should be a permitted accessory use within the SFR District rather than a conditional use;
- b) describe the standards or requirements that must be met for horse boarding as an accessory use within the SFR District in terms of the total allowable number and density of animals, dimensional setbacks for facilities, etc.; and,
- c) revise the Code as required.

If Option 1 is not pursued in conjunction with Option 2, the Planning Commission should request that the applicant either withdraw their application for a conditional use permit, or waive the 60 day rule in writing.

- B. If the Planning Commission determines that this use does not constitute horse boarding as defined in the Code, then the Commission appears to only be considering a variance request for the location of the accessory building. This creates the conditions for Option 3.

**Option 3:** Have the applicant withdraw the application for a conditional use permit and evaluate an application for required variances for the accessory building in the SRF district. Under this option, the Planning Commission would not be considering the setbacks for corrals or facilities housing animals that are required under the conditional use permit.

### **Option 1: Conditional Use Permit Required for Horse Boarding in SFR District**

Per **Section 504.5(1)**, horse boarding is a conditional use in the SFR district, subject to conditions (a) through (g).

#### **Variances are requested from:**

**Section 504.8(4)(a)(1)** – detached accessory buildings shall be located behind the rear-most building line of the principal structure. Section 504 Single Family Rural.

**Section 402.3(3)(b)** – No accessory building shall be located nearer the front property line than the principal structure. Section 402 Accessory Buildings.

**Section 504.5(1)(f)** – Maximum of 1 horse per 2 acres of farmland. Section 504 Single Family Rural.

**Section 504.5(1)(g)** – Facilities for housing animals shall be located a minimum distance of two hundred (200) feet from any property line. Section 504 Single Family Rural.

### **Recommendation for Option 1**

Based on the assumption that a conditional use is an allowable use in the SFR District, that the application for conditional use be granted with the previously identified variances.

Based on the relevant findings of fact, the Planning Commission finds that the applicant's request for relief from:

- Section 504.8(4)(a)(1)
- Section 402.3(3)(b)
- Section 504.5(1)(f)
- Section 504.5(1)(g)

reasonably meets the criteria for granting a variance as follows.

1. Exceptional and extraordinary circumstances apply per findings 6.
2. Literal interpretation would deprive the applicant's rights commonly enjoyed by neighbors per finding **13**.
3. The special conditions do not result from the actions of the applicants per finding **1 and 13**.
4. The variances confer no special privileges per findings **9, 10, and 11**.
5. The variances requested are the minimum variances which would alleviate the hardships supported by findings **6, and 12**.
6. The variances would not be materially detrimental to the purposes of this Ordinance or to other property in the same zone per findings **2, 6, 9, 11, and 12**.
7. Granting these variances will not alter light, air, or diminish or impair property values within the neighborhood, etc., per findings **4, 7, and 12**.

**STATE OF MINNESOTA**

**CITY COUNCIL**

**COUNTY OF WASHINGTON**

**VARIANCE REQUEST**

**CITY OF MARINE ON ST. CROIX**

**In the matter of Planning Case: 52708-01**

**1011 Nason Hill Road**

**REQUESTED BY:**

**Kathy Harker**

The above entitled matter came to be heard before the Marine on St. Croix City Council the 12<sup>th</sup> day of May, 2008, a request for a Variance at 1011 Nason Hill Road, Marine on St. Croix.

**Variance Request**

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**Findings of Fact**

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8. Conflicting with the requirements 504.5(1)(g), use of the accessory building housing animals which would be within 200 feet of the property line.
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16. Applicants are proposing two horses to be boarded and that there will be an alternative feed brought into supplement the grazing area.

### **Conditional Use Permit Required for Horse Boarding in SFR District**

Per **Section 504.5(1)**, horse boarding is a conditional use in the SFR district, subject to conditions (a) through (g).

#### **Variations are requested from:**

**Section 504.8(4)(a)(1)** – detached accessory buildings shall be located behind the rear-most building line of the principal structure. Section 504 Single Family Rural.

**Section 402.3(3)(b)** – No accessory building shall be located nearer the front property line than the principal structure. Section 402 Accessory Buildings.

**Section 504.5(1)(f)** – Maximum of 1 horse per 2 acres of farmland. Section 504 Single Family Rural.

**Section 504.5(1)(g)** – Facilities for housing animals shall be located a minimum distance of two hundred (200) feet from any property line. Section 504 Single Family Rural.

### **Recommendation**

Based on the assumption that a conditional use is an allowable use in the SFR District that the application for conditional use be granted with the previously identified variances.

Based on the relevant findings of fact, the Planning Commission finds that the applicant's request for relief from:

- Section 504.8(4)(a)(1)
- Section 402.3(3)(b)
- Section 504.5(1)(f)
- Section 504.5(1)(g)

reasonably meets the criteria for granting a variance as follows.

17. Exceptional and extraordinary circumstances apply per findings 6.
18. Literal interpretation would deprive the applicant's rights commonly enjoyed by neighbors per finding **13**.
19. The special conditions do not result from the actions of the applicants per finding **1 and 13**.
20. The variances confer no special privileges per findings **9, 10, and 11**.
21. The variances requested are the minimum variances which would alleviate the hardships supported by findings **6, and 12**.
22. The variances would not be materially detrimental to the purposes of this Ordinance or to other property in the same zone per findings **2, 6, 9, 11, and 12**.
23. Granting these variances will not alter light, air, or diminish or impair property values within the neighborhood, etc., per findings **4, 7, and 12**.