

## LINN COUNTY BOARD OF ADJUSTMENT

Jean Oxley Public Service Center  
935 2<sup>nd</sup> Street SW, Cedar Rapids, Iowa

### MINUTES

Wednesday, June 29, 2022

#### I. QUORUM DETERMINED:

The Linn County Board of Adjustment meeting was called to order at 6:30 p.m. by Chair, Brandy Meisheid. The meeting was held in the Jean Oxley Public Service Center, 935 2<sup>nd</sup> Street SW, Cedar Rapids, Iowa.

**PRESENT:** Brandy Meisheid, Chair 12/31/23  
Sara Alden, Vice-Chair 12/31/25  
Michael Martin 12/31/24

**ABSENT:** Brian Price 12/31/26  
Ron Hoover 12/31/22

**STAFF:** Charlie Nichols, Planning & Development Director  
Ryan Sampica, Recording Secretary

See attendance sheet for community sign in.

#### II. OLD BUSINESS

#### III. NEW BUSINESS

**JC21-0015 Conditional Use Minor Modification - Utility Substation Expansion CIPCO, Owner**

Charlie Nichols presented the staff report.

Brian Fagan, attorney from Simons Perrine Moyer Bergman, representing his client, CIPCO, discussed their concerns in not meeting all conditions by the specified deadlines previously outlined when the Board approved this case. He stated that CIPCO has been denied access to neighboring property that would be necessary to meet the conditions as written, and asks for relief from the Board. Fagan requested an extension of the deadline to complete conditions relating to repairing tile, and proposed a different location to tie the drainage tile from the CIPCO site into the existing tile line that serves adjacent property.

Fagan reviewed a new proposal from engineering firm Anderson-Bogert to tie the drainage tile on the substation site to tile south of the road instead of the previously identified location that is south of the substation site, and is located on another owners' property (Robinsons).

Meisheid asks if the new proposed plan impacts the Robinson's property and asked if there was a proposed timeline. Alden then asked if this new proposal would accomplish the same thing as the original proposal

Fagan responded to these questions by stating that it could impact the neighbor's property but would be designed in such a way as it could but hopefully not be a negative impact and would achieve the same result as the original proposal.

Martin and Alden both asked who would be responsible if water backed up on the Robinson's property with this new proposal and whether the previously established bond would cover it. Nichols said the bond would cover that eventuality, and reviewed the terms and conditions of the bond.

Greg Gerdes, attorney representing the neighboring property owner (Robinsons), presented the history of the property regarding the substation and the breaking of the tile line.

Laura Robinson, 2094 Linn Delaware Rd, Coggon, IA, spoke in opposition, stating there were no drainage problems on surrounding property until the CIPCO substation was expanded, and mentioned the existing drainage easement on the property.

Martin asked if there is an easement on the property. Nichols said to his knowledge there is no platted easement on the property.

Paula Robinson, 1127 Linn Delaware Rd, Coggon, IA, spoke in general about their lawful right to a legal easement, no functioning tile as of now and their property rights.

Tom Robinson, 2094 Linn Delaware Rd, Coggon, IA, described easements by prescription.

Robinson entered photos of the area on their property with the issues into the record. He then discussed the pictures and history of drainage issues on their property.

Nichols reminded the Board that the question before the Board tonight is the request to alter one of the original conditions of the case. Nichols said staff would not make a recommendation, but would let the Board decide based on available information.

Alden asked Nichols if there are other issues like this go on within the County. Nichols said that none that come through this Board. Generally, these types of issues would be addressed and handled as civil matters through the district court.

Martin asked what happens if this proposal is denied. Nichols said that if this proposal is denied then after Aug 1<sup>st</sup>. CIPCO will be in violation of their conditional use permit if they were unable to meet the deadline previously outlined in the staff report conditions. Nichols then described several scenarios that could happen at that point.

Alden asked if these problems persist what could happen. Nichols reiterated his previous response. If the neighboring property owners contact Linn County to report an issue, Linn County would then contact CIPCO to see if the issue can be resolved. It could go back and forth much like now and could end up at before this Board again.

Fagan presented his closing statement, reviewing the alternative they are proposing. Meisheid asked how the lawsuit and the BOA's decision co-exist. Nichols and Fagan said that the Court decision would be the superior decision.

Alden asked how much time was needed for the requested extension. Fagan said 30 to 45 days

The Board closed the public hearing and deliberated. The Board discussed the requested extension.

Extension will be 3 months from August 1<sup>st</sup> to November 1<sup>st</sup> and assurances have been met that CIPCO is doing what they said they would do. The Conditions of the staff report are to be amended as follows:

9. Applicant shall supply Linn County with a performance bond meeting the following conditions:

- Bond Holder
  - Linn County Planning and Development
- The performance bond is to cover
  1. The investigation and fixing/improvement of any current potential drainage issues, and
  2. To repair subsurface drainage lines in a timely fashion in the event they are damaged during construction
- Conditions/Terms of the bond
  - CIPCO is to investigate the current drainage situation by 03/31/2022 and to make any improvements suggested by a third party engineer by ~~8/1/2022~~-11/1/2022
  - If CIPCO does not make the suggested improvements by ~~8/1/2022~~-11/1/2022, Linn County Planning and Development is able to redeem the bond.

**Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report and with the deadline investigating drainage tile to be extended from 8/1/2022 to 11/1/2022 as discussed , for the Conditional Use Minor Modification case JC21-0015, and to approve case JC21-0015, second by Alden.**

Martin	Aye	
Price	Absent	
Meisheid	Aye	
Hoover		Absent
Alden	Aye	

#### IV. OTHER BUSINESS

#### V. APPROVAL OF MINUTES

The minutes of the May 25, 2022 Board of Adjustment meeting were approved as submitted.

#### VI. ADJOURNMENT

The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

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Brandy Meisheid, Chair

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Ryan Sampica, Recording Secretary