

LINN COUNTY BOARD OF ADJUSTMENT

Jean Oxley Public Service Center
935 2nd Street SW, Cedar Rapids, Iowa

MINUTES
Wednesday, September 28, 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 2nd Street SW, Cedar Rapids, Iowa.

PRESENT: Brandy Meisheid, Chair 12/31/23
Sara Alden, Vice-Chair 12/31/25
Michael Martin 12/31/24
Brian Price 12/31/26

ABSENT: Ron Hoover 12/31/22

STAFF: Elena Wolford, Assistant County Attorney
Stephanie Lientz, Planning & Zoning Division Manager
Mike Tertinger, Senior Planner
Jessie Black, Recording Secretary

See attendance sheet for community sign in.

II. OLD BUSINESS

III. NEW BUSINESS

JSE22-0003 Mike Tertinger Special Exception from Rear Yard Setbacks William Rogan, Owner

Mike Tertinger presented the staff report.

The applicant is requesting a special exception from the 50-foot rear yard setback requirement in an AG (Agricultural) zoning district. The applicant constructed a block foundation and moved a manufactured home to the site prior to receiving the required Building and Zoning permits. Upon examination by Planning & Development staff, it was determined that the single-family dwelling had been placed 35’ from the rear property line at its closet point.

A demonstration of a practical difficulty has not been shown in this case, in that there are no circumstances unique to the property that would have caused a practical difficulty in adhering to the 50-foot rear yard setback. Unique circumstances may include: topographical conditions, surrounding, size and shape of the property, location of utilities, and other extraordinary situations. In this case, it appears that no unique circumstance has been demonstrated.

Staff recommends denial as it does not appear that a practical difficulty has been demonstrated.

Tertinger said he’s received one phone call in opposition to the proposed special exception.

William Rogan, applicant, provided images to the Board members. He apologized for the misunderstandings that led to constructing the house without proper permits. He explained that the only suitable site for the house, in relation to the

septic system and topography, is exactly where it currently stands. Rogan said he was under the impression that he was exempt from zoning codes because his parcel was zoned AG. He argued that the setback requirement was unnecessary, as his closest neighbor is more than 1000 ft. away.

Price asked why the building permits had not yet been obtained. Rogan said he applied for permits immediately upon learning the contractor had not.

The Board deliberated the case.

Price stated his approval of the special exception request.

Meisheid stated concerns of setting a precedent if the Board approves the special exception.

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order, subject to conditions in the staff report for Special Exception case JSE22-0003, and to approve case JSE22-0003. Second by Price.

Martin	Aye
Meisheid	Aye
Alden	Aye
Price	Aye
Hoover	Absent

JC22-0007 Stephanie Lientz Conditional Use Minor Modification – Temporary Lighting

Stephanie Lientz presented the staff report.

The applicant is requesting to add temporary lighting to two fields at the Tuma Soccer Complex for an event on November 12 and 13, 2022. The outdoor recreation and entertainment soccer field use has existing at this location since 1995. The property is zoned AG (Agricultural). The outdoor recreation and entertainment soccer field use was a permitted use in the AG zoning district prior to January 1, 2006, when it changed to a conditional use. Per Article V, Section 107-93, § (a) of the Unified Development Code (UDC) staff has determined that the existing soccer field is considered to be a lawful conditional use which may continue indefinitely. Per Article IV, Section 107-73, § (6)(b), minor modifications to approved conditional uses are permissible with the approval of the Board of Adjustment after review by the Technical Review Committee. A modification is minor if it has no substantial impact on neighboring properties, the general public, or those intended to use the development.

A condition of the original case (M-02-95) approving the soccer field use prohibited any lighting on the property except for security lighting; therefore, the proposal for temporary lighting must considered through the Conditional Use – Minor Modification process.

The outdoor recreation and entertainment soccer field use is allowed as a Conditional Use in the AG (Agricultural) zoning district per Table 107-147-1 in Article VII of UDC. It appears that the proposal meets all of the standards for approval for Conditional Use Permits in Article IV, Section 107-73, § (4) of the UDC. The proposal must meet the parking standards found in Article V, Section 107-93, § (e) of the UDC. The use appears to be compatible with surrounding property uses and adequate measures can be taken to minimize any potential adverse impacts on adjoining property.

Staff recommends approval subject to the conditions of the staff report.

Mitch Ahrends, Cedar Rapids Parks Superintendent, said the proposed lighting is temporary, but they may install permanent lighting in the future.

Edwin Burrell, 3242 C Ave Extension, spoke in opposition. He said the vegetative screening surrounding the park has not been properly maintained. Burrell suggested that some type of setback from surrounding properties needs to be implemented to avoid unnecessary nuisance.

The Board deliberated the case.

Price, Martin & Meisheid indicated their approval of the proposal.

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for Conditional Use Minor Modification case JC22-0007, and to approve case JC22-0007. Second by Alden.

Price	Aye
Martin	Aye
Alden	Aye
Hoover	Absent
Meisheid	Aye

JSE22-0004 Stephanie Lientz Special Exception from Buffer Requirements

Stephanie Lientz presented the staff report.

The applicant is requesting 23 feet of relief from the required buffer of 50 feet between commercial and non-commercial uses found in Article VI, Section 107-93, subsection (d) of the Linn County Unified Development Code (UDC). The applicant is proposing to construct a 7,500 square foot expansion east of the existing animal shelter facility 27 feet from the east property line. A 6,850 square foot expansion is under construction to the west of the existing facility.

A Conditional Use – Minor Modification case (JC22-0006) for the proposed expansion of the facility to the east is running concurrently with this case.

A demonstration of a practical difficulty appears to have been shown in this case due to site constraints including: drainage, existing mature trees, septic and well locations, and the existing facility design/location.

Staff recommends approval of this application, as it appears that a practical difficulty has been demonstrated.

Brent Jackman, Hall & Hall Engineers, offered to answer questions.

Alden asked how the current design creates a practical difficulty, triggering the special exception request. Jackman said the functionality, layout and programming of the building are less than ideal. The proposal reflects the most efficient operation of the business.

Becky Madsen, 1584 Forest Grove Rd, spoke in opposition to the proposal. Madsen presented a list of signatures from surrounding property owners who were also in opposition of the expansion. She requested a written timeline of tree cleanup from the applicant. Madsen expressed concerns about noise, septic system sizing, and the increase in animal intake due to the expansion.

Randy Dvorak, 7449 Mt. Vernon Rd, also spoke in opposition. He expressed concerns about noise, increase in traffic, and the negative impacts on surrounding properties.

Lonnie Viner, Executive Direct of Cedar Valley Humane Society, said this was the first time she'd heard complaints from surrounding properties. Viner said the current facility was built in 1968, with no major updates since 1986. She said the current facility is not equipped to handle the number of dogs that are being brought in, specifically those that are injured or ill. The proposed expansion will allow for the adequate space, ventilation, and functionality to properly care for the animals.

Martin asked if Viner would address the concerns mentioned about tree cleanup. Viner said, as a non-profit organization, tree cleanup was not high on their priority list, but they will work on it. She added that vegetative screening will be installed once construction is complete.

Price asked what time of day the noise was the worst, and if there was any way to mitigate it. Dvorak said noise is the worst during the day.

Alden asked how many dogs are currently kept at the facility. Viner said there are 39 kennels, but the expansion will allow for 20 more. The new construction includes indoor kennels, rather than outdoor, so noise would be mitigated. The only time dogs will be outside is when they are meeting a potential adopter, or on a walk with a staff member.

Price asked how the expansion would be funded. Viner said community support.

Lientz stated that she's received two phone calls in opposition to the proposal.

The Board deliberated the case. Several members discussed applying conditions on clean up, buffering and the enforcement process. It was agreed that conditions to be added included: 1) The applicant must clean up downed trees/tree debris south of the existing/new buildings prior to issuance of a building permit, and; 2) The applicant shall install screening along the eastern property line from the northeast corner for 400 feet to the south, ending at the southernmost part of the proposed animal run.

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report with added conditions related to tree clean-up and screening as discussed during Board deliberation for Special Exception case JSE22-0004, and to approve case JSE22-0004. Second by Alden.

Meisheid	Aye
Alden	Aye
Hoover	Absent
Martin	Aye
Price	Aye

JC22-0006 Stephanie Lientz Conditional Use Minor Modification – CVHS Expansion

Stephanie Lientz presented the staff report.

This applicant is proposing the expansion of an existing animal shelter use on the 7.73-acre subject property, which is zoned AG (Agricultural). This proposed expansion would involve the construction of an addition to the east of the existing structure, adding 7,500 sq. ft. of floor area. This expansion would approximately double the existing capacity of the facility, providing additional space for dog and cat kennels, new adoption space, animal care areas, adoption counseling, storage, and office/lobby space. The animal shelter use has existed on this property since 1968. The existing

building is 6,850 sq. ft. in size, and a Conditional Use Permit (case # JC21-0019) was approved in November 2021 to allow for a 4,940 sq. ft. expansion of the facility to the west of the existing building. That expansion is currently under construction, and when completed, will provide space for the shelter to hold Board meetings, vaccination clinics, and obedience classes, as well as provide overflow space to house additional cats and dogs, if needed.

The applicant estimates that this expansion may add 20 to 30 vehicle trips to the facility per day. An additional 30 parking spaces are proposed, for a total of 77 spaces.

Per Article IV, Section 107-73, § (6)(b), minor modifications to approved conditional uses are permissible with the approval of the Board of Adjustment after review by the Technical Review Committee. A modification is minor if it has no substantial impact on neighboring properties, the general public, or those intended to use the development.

A Special Exception case, JSE22-0004, requesting 23 feet of relief from the 50-foot commercial buffer requirement is running concurrently with this case.

The animal shelter use is allowed with a Conditional Use Permit in the AG (Agricultural) zoning district. The proposal must meet all of the standards for approval for Conditional Use Permits in Article IV, Section 107-73, § (4) of the Linn County Unified Development Code (UDC), as well as the standards for animal shelters in Article VI, Section 107-115, § (b). The proposal must meet the parking standards found in Article V, Section 107-93, § (e) of the UDC; the use is classified as Retail, Service, and Commercial, and as such, 4 spaces must be provided for every 1,000 sq. ft. of building area. All necessary local, state, and federal permits must be maintained.

Staff recommends approval subject to the conditions of the staff report

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report, and amended by the Board, for Conditional Use Minor Modification case JC22-0006, and to approve case JC22-0006. Second by Price.

Alden	Aye
Price	Aye
Hoover	Absent
Meisheid	Aye
Martin	Aye

IV. OTHER BUSINESS

Meisheid said that she, Martin, and Price would not be able to attend the regularly scheduled October Board of Adjustment meeting.

V. BOARD COMMENTS

VI. STAFF COMMENTS

VII. PUBLIC COMMENTS

VIII. APPROVAL OF MINUTES

The minutes of August 31, 2022, Board of Adjustment meeting were approved as submitted.

IX. ADJOURNMENT

The meeting was adjourned at 8:28 p.m.

Respectfully submitted,

Brandy Meisheid, Chair

Jessica Black, Recording Secretary