

LINN COUNTY BOARD OF ADJUSTMENT

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

MINUTES

Wednesday, November 29, 2023

I. QUORUM DETERMINED:

The Linn County Board of Adjustment meeting was called to order at 6:00 p.m. by Chair, Sara Alden. The meeting was held in the Jean Oxley Public Service Center, 935 2nd Street SW, Cedar Rapids, Iowa.

PRESENT:	Sara Alden, Chair	12/31/25
	Brian Price, Vice-Chair	12/31/26
	Brandy Meisheid	12/31/23
	Ron Hoover	12/31/27
	Michael Martin	12/31/24

ABSENT:

STAFF: Elena Wolford, Assistant County Attorney
Charlie Nichols, Planning & Development Director
Stephanie Lientz, Planning & Zoning Division Manager
Mike Tertinger, Senior Planner
Brad Wylam, Planner II
Veronica Lujan, Code Compliance Officer
Sue Bennett, Recording Secretary

See attendance sheet for community sign in.

OLD BUSINESS

NEW BUSINESS

PV23-0010	Michael Tertinger	Trenton Holub, Owner	Variance – Accessory Building size requirement
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Tertinger presented the staff report.

The applicant is requesting a variance from the 1,200 sq. ft. accessory structure size limitation in the USR (Urban Services Residential) zoning district for lots less than 1.0 acre in size. The applicant is proposing to construct a detached accessory structure with approximately 2,016 square feet of floor area to store personal items currently stored in off-site rental space. Therefore, the applicant is requesting 816 sq ft of relief above the allowed zoning district accessory structure limit.

For a parcel of this size (less than 1.0 acre), the maximum square footage allowable for accessory structures is 1,200 sq. ft. per Article V, Section 107-94 § (c)(2)(a). A Variance may only be granted by the Board of Adjustment upon a finding that, due to special conditions, a literal enforcement of the provisions of the ordinance will result in an unnecessary hardship and amount to a "practical confiscation" of the property. The applicant must demonstrate that the hardship was created by the ordinance and not the applicant.

Staff recommends denial. The applicant did not demonstrate that the ordinance resulted in a "practical confiscation" of the property without the Variance. Any perceived hardship was not created by the provisions of the ordinance, but rather by the applicant.

Trent Holub, 1102 Pleasant View Lane, read a prepared statement. He indicated that although wanting the building to be larger is not a hardship, the idea of multiple buildings on his property is neither financially nor visually appealing. He also stated that he had spoken with his neighbors, and they had no objections to the size or location of the proposed structure. Holub indicated that he would be willing to compromise on the size of the building, and reduce the size to under 1,800 sq. ft, which would qualify this case to be considered as a Special Exception, rather than a Variance.

Tertinger explained to the Board that the case type cannot be switched to a Special Exception during the meeting, so the Board could grant the Variance for relief less than what was originally requested, but the Board would still have to apply the standards for a Variance, not for a Special Exception.

Alden asked for public comment. There was no response. The public hearing portion was closed so the Board could deliberate.

Hoover stated that the hardship is the actual Ordinance itself. He believes one building is more visually appealing than multiple buildings and would be more acceptable to the neighbors as well.

Meisheid agreed that multiple buildings could be an issue in the neighborhood.

Martin noted that it would be quite a large building for such a narrow lot. Alden agreed.

Price stated he agreed with Hoover regarding the Ordinance. He asked for clarification regarding the standards necessary to approve a Variance versus the standards necessary to approve a Special Exception. Tertinger discussed the difference between a practical difficulty and a hardship.

The Board of Adjustment spoke with Tertinger and Holub to make sure the applicant understood his options.

The Board discussed the case. Hoover reiterated that the hardship is the Ordinance, and that he felt the size limitations were arbitrary numbers.

Price said he would grant the Variance if someone else could come up with the justification for it.

Hoover stated the hardship would be the additional cost of multiple buildings and the visual impact on the neighborhood.

Alden stated she felt she might be more favorable toward the smaller sized building.

Planning & Development staff explained that the case type could not switch in the middle of the meeting from a variance to a special exception. Holub would need to withdraw the variance case and submit a new application for a special exception.

Alden asked the applicant to indicate what he wanted to do. There was discussion regarding the difference between proving a practical difficulty versus a hardship.

The applicant decided to withdraw his application for a Variance and will resubmit an application for a special exception for the January meeting.

PSE23-0002	Brad Wylam	Matthew & Kaylene Rock,	Special Exception - Accessory
		Owners	Building Size Requirement

Brad Wylam presented the staff report.

The applicant is requesting a special exception from the 2,000 square foot accessory structure size limitation in residential zoning districts for lots between 2.0 – 4.99 acres in size. The applicant is proposing to construct an addition on a detached accessory structure that will increase the structure size to approximately 2,600 square feet of floor area, including a 2-stall garage. The subject property is zoned RR1 (Rural Residential 1-Acre) and contains 2.18 acres.

A demonstration of a practical difficulty appears not to have been shown in this case, in that there are no circumstances unique to the property that would cause a practical difficulty in adhering to the 2,000 square foot size limitation in Article V, Section 107-94 § (c)(2). 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 of this application, as it appears that a practical difficulty has not been demonstrated.

Matt Rock, 4174 Pikeview, is the applicant in this case. He clarified that the requested 600 feet of additional space consisted of a 168 square foot addition to the building, and the rest of the square footage is an 8' overhang around two sides of the building.

Alden asked for public comment. There was no response. The public hearing portion was closed so the Board could deliberate.

Hoover stated he was for granting the Special Exception, and again stated that he felt the Ordinance is the problem in this situation.

Alden asked for clarification on the overhang. Wylam responded that anything over a 2' overhang counts towards building square footage, so the applicant is asking for an additional 6'.

Meisheid stated that she believed the property value would be increased with the requested addition.

Alden stated she felt the additional space is not enclosed, so it wouldn't be as visually disruptive.

Motion by Meisheid to accept the Findings of Fact, Conclusions of Law, and Decision & Order as developed by the Board of Adjustment for Special Exception case PSE23-0002, and to approve case PSE23-0002. Second by Hoover.

Price	Aye
Meisheid	Aye
Hoover	Aye
Martin	Aye
Alden	Aye

PC23-0013	Stephanie Lientz	Dan Sherman Enterprises	Conditional Use – Contractor's Yard & Outside Storage
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Stephanie Lientz presented the staff report.

The applicant is proposing to operate a contractor's yard with outdoor storage on the subject property. The applicant is proposing to construct two (2) buildings, 7,200 and 2100 sq. ft. in size, with an outdoor storage area shown on the site plan. The subject property is zoned HC (Highway Commercial) and has a land use designation of AA (Agricultural Area).

A final plat case (PFP23-0009) is running concurrently with this case. Once the plat is recorded the subject property will be legally described as Lot 1 of Sherman's 3rd Addition, containing approximately 2.01 acres.

The proposed use of contractor's yard or outdoor storage is allowed with a Conditional Use Permit in the HC (Highway Commercial) zoning district. It appears that the proposal is able to 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). Other development standards found in Article IV, Section 107-115, § (z) must be met, including requirements for a major site plan, and a

requirement for access to be from a hard-surface road. Additional requirements found in Article VI, Section 107-93 must be met including buffer distance and type, and requirements related to parking and loading. No septic or well are shown on the site plan, and these should be added if needed.

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

Steve Scott, Scott Survey, 3426 Standlea Road, stated he would answer any questions the Board had, and that the applicant, Dan Sherman, was there as well.

Dan Sherman, applicant, 160 3rd St Alburnett, stated the main location for his business is in Alburnett, but the business has expanded to such a degree that he needs additional storage at this site.

Alden asked Sherman to respond to the neighbors' concerns about the materials that had been stored on the subject property. Sherman stated that he thought that he wasn't allowed to work on the site without this Conditional Use Permit, so he had left everything there. He stated that he has since removed all the asphalt and the concrete from the property.

Alden asked what he intended to store on-site in the future. Sherman replied he would be storing construction equipment, landscaping equipment & materials, trees, firewood, compost and wood chips. He also stated that he has no problem unplugging the back-up beeper on the skid loader to reduce the noise levels.

James Weighton, 4427 Rath Road, spoke against the proposal. He stated that he lives with his wife, 2 daughters and 2 horses in the area of the subject property. He said Highway Commercial zoning is intended to support businesses that either support agriculture, benefit the traveling public, or provide essential services to the rural residents, and that a contractor's yard doesn't fit into any of those areas. He stated that the business will be within a quarter mile of 8 residences, and it is not compatible with residential development. He noted that the intersection of Rath Road and Highway 13 is difficult to navigate currently and will be worse with the additional dump truck traffic. He stated that this area is the right before the fairgrounds and Central City. He also stated that it is not aesthetically pleasing to live near a junkyard, and the noise of the business will limit his enjoyment of his property and his horses. He requests the Board deny the proposal. He asked if the Board does approve it, that they limit the hours of operation on the weekdays, and 8-12 on Saturday, with no work done on Sunday.

Ruthann Weighton, 4427 Rath Road, spoke against the proposal. She stated she was also representing neighbors who could not attend this meeting. She is disappointed in the Planning & Zoning Commission. She said no amount of screening will hide this business. She said that she and her husband had hoped to pass their property down to their children, but no one wants to raise children near a contractor's yard, so they will have to sell. She very much feels that this is not in accordance with intention of the Linn County code.

Alden asked for closing statements from staff or the applicant. Lientz discussed the zoning district as outlined in the code and explained that the section referred to is generally intended to restrict where new commercial zoning districts may be located, but does not address properties previously zoned as commercial. Lientz explained how staff uses the Unified Development Code to determine what uses may be located in different zoning districts, whether the use is Conditional, Permitted, or not allowed, and what standards/conditions to apply for that use if it is allowed.

Sherman stated that he intended to comply with all the conditions of the staff report and reiterated that the main location of the business was inside the city limits of Alburnett.

Price asked Sherman to address the concerns of the neighborhood. Sherman responded that he wanted to be a good neighbor. He said it was easy to disconnect the back-up beepers on the equipment and that he would do so to prevent further noise. He also said that no one in the neighborhood had approached him about the noise, or with any other concerns about the business.

Meisheid asked, after construction of the storage buildings, what a typical day at the site would look like. Sherman stated that trucks would come to the site and drop woodchips or whatever needed to be stored. He stated that employees might pick up and drop off the trucks from that location at the beginning and end of their shifts and that their personal vehicles might be onsite while they are on their shift.

Steve Scott, Scott Survey, provided the Board with a zoning map of Central City. He indicated that the areas on the south side of town closes to the subject property are all zoned as heavy / light industrial, or highway commercial.

Alden asked for any additional public comment. There was no response. The public hearing portion was closed so the Board could deliberate.

Meisheid questioned limiting the hours, as she didn't see how the Board could justify denying access to the applicant.

Alden stated she was sympathetic to the neighbor's concern about the noise, and wondered if the Board should eliminate the Sunday hours of operation.

The concept of limiting different types of work was discussed.

Hoover stated that the long day of work was related to the pending construction, which is different than hours of operation for the business.

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use PC23-0013, and to approve case PC23-0013. Second by Hoover.

Hoover	Aye
Alden	Nay
Price	Aye
Meisheid	Aye
Martin	Aye

OTHER BUSINESS

Lientz spoke briefly about the changes made to the Rules of Procedure.

Motion by Hoover to accept the Rules of Procedure for the Board of Adjustment as written, with corrections added from the October 25, 2023, meeting. Second by Price.

Martin	Aye
Meisheid	Aye
Alden	Aye
Price	Aye
Hoover	Aye

Nichols asked the Board to discuss the issues they struggle with regarding accessory structure size limitations found in the Unified Development Code, and possible solutions. Board members discussed the matter.

APPROVAL OF MINUTES

The minutes of October 25, 2023, Board of Adjustment meeting were approved as submitted.

ADJOURNMENT

The meeting was adjourned at 8:36 p.m.

Respectfully submitted,


Sara Alden, Chair


Sue Bennett, Recording Secretary