

## **LINN COUNTY BOARD OF ADJUSTMENT**

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

### **MINUTES** **Wednesday, April 24, 2024**

#### **CALL TO ORDER**

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

**PRESENT:** Sara Alden 12/31/25  
Brian Price, Chair 12/31/26  
Brandy Meisheid, Vice-Chair 12/31/28  
Michael Martin 12/31/24

**ABSENT:** Ron Hoover 12/31/27

**STAFF:** Elena Wolford, Assistant County Attorney  
Stephanie Lientz, Planning & Zoning Division Manager  
Mike Tertinger, Senior Planner  
Brad Wylam, Planner II  
Sue Bennett, Recording Secretary

See attendance sheet for community sign in.

#### **APPROVAL OF MINUTES**

The minutes of March 27, 2024 Board of Adjustment meeting were approved as submitted.

#### **REGULAR AGENDA**

**PSE24-0002 Brad Wylam**

**Sandra Peters,  
Owner**

**Special Exception - Cumulative  
Accessory Structure Size Limitations**

The applicant is requesting a special exception from the cumulative accessory structure size limitation of 576 square feet in the Seasonal Cabin and Recreation Areas Overlay District per Article VII, Section 107-143 § (e)(7) of the Linn County Unified Development Code. The applicant is proposing to move an existing 360 square foot accessory structure onto her leased property, which will result in a total of approximately 840 square feet of accessory buildings associated with one cabin. The property is zoned REC-CNR (Seasonal Cabin and Recreation Areas Overlay District – Critical Natural Resources).

Per Article VII, Section 107-143 § (e)(7) of the Linn County Unified Development Code, accessory buildings in the Seasonal Cabin and Recreation Areas Overlay District shall have a maximum cumulative area of 576 square feet.

Staff recommends approval of the special exception request as all legal principles have been met.

***Motion by Meisheid to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception PSE24-0002, and to approve case PSE24-0002. Second by Martin.***

|          |        |
|----------|--------|
| Alden    | Aye    |
| Price    | Aye    |
| Meisheid | Aye    |
| Hoover   | Absent |
| Martin   | Aye    |

|                  |                       |                                                    |                                               |
|------------------|-----------------------|----------------------------------------------------|-----------------------------------------------|
| <b>PC24-0003</b> | <b>Mike Tertinger</b> | <b>Dharma's Sandbar<br/>Properties, LLC Owners</b> | <b>Conditional Use Minor<br/>Modification</b> |
|------------------|-----------------------|----------------------------------------------------|-----------------------------------------------|

The applicant is requesting to modify an existing (grandfathered) conditional use permit on the subject property to allow for expansion of the Aunt Dharma's Bar and Restaurant.

The retail, service and commercial bar or tavern with food service use has existed at this location since at least 1999. The property is zoned VM (Village Mixed-Use). The bar or tavern with food service use was a permitted use in the previous C-1 zoning district prior to January 1, 2006, when they changed to conditional uses in the VM district. Per Article V, Section 107-93, § (a) of the Unified Development Code (UDC) staff has determined that the existing business 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.

The applicant is combining two existing structures to allow for additional gathering space inside the bar. The existing structures are currently located on two separate parcels. As such, a concurrent Final Plat (case# PF24-0004) will combine the two parcels (Lots 1 through 4 of Irregular Survey NW ¼ SE ¼ 5-86-7) into one lot which will allow the combined structure to meet required building setbacks for the VM zoning district.

Bar or tavern that serves food to the general public is allowed as a Conditional Use in the VM (Village Mixed-Use) zoning district per Table 107-147-1 in Article VII of the Linn County Unified Development Code (UDC). The bar/restaurant use of the property was lawfully established and has been in continuous use on this site prior to the effective date of the UDC; therefore, the use is considered to be a lawful conditional use in the VM zoning district.

It appears that the proposal meets all standards for approval for Conditional Use Permits in Article IV, Section 107-73, § (4) of the UDC. A minor site plan is required for a minor modification of a Conditional Use Permit per Article IV, Section 107-73, § (4)(6) of the UDC. Recording of the Final Plat case is required as a condition of approval prior to issuance of building permits.

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

***Motion by Meisheid to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception PC24-0003, and to approve case PC24-0003. Second by Martin.***

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| Price    | Aye |
| Meisheid | Aye |

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| Hoover | Absent |
| Martin | Aye    |
| Alden  | Aye    |

|                  |                         |                                        |                                               |
|------------------|-------------------------|----------------------------------------|-----------------------------------------------|
| <b>PC24-0002</b> | <b>Stephanie Lientz</b> | <b>City of Cedar Rapids<br/>Owners</b> | <b>Conditional Use Minor<br/>Modification</b> |
|------------------|-------------------------|----------------------------------------|-----------------------------------------------|

The applicant is requesting to add temporary lighting to two fields on the east side of the Tuma Soccer Complex from April 29 through June 10 and from August 15 through October 31, 2024. The applicant indicated that increased participation in soccer at the complex has led to a need to provide increased practice time, and this proposal would allow additional practices to be held. The applicant is proposing to install 4 temporary lights per field for a total of 8 units. These lights are 23 feet tall, and each has a generator providing power.

The outdoor recreation and entertainment soccer field use has existed 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 be 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.

***Motion by Alden to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception PC24-0002, and to approve case PC24-0002. Second by Meisheid.***

|          |        |
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| Hoover   | Absent |
| Alden    | Aye    |
| Price    | Aye    |
| Martin   | Aye    |
| Meisheid | Aye    |

**PAP24-0002**

**Stephanie Lientz**

**Ryan & Jill Grekoff  
Owners**

**Appeal of Administrator's  
Decision**

The applicant is appealing the decision of the Planning & Zoning Division Manager to deny an agricultural exemption from building and zoning regulations for the dwelling on the subject parcel; specifically, the property owner is proposing to move an existing dwelling onto a new foundation, remodel said dwelling, and also to construct two (2) additions to this dwelling.

The subject parcel contains approximately 37.67 acres. The exemption determination form indicates 25 acres (66%) of the property is used for agricultural crop production, which is leased to a tenant farmer who is responsible for planting and harvesting crops.

The accompanying staff report will show that:

Iowa Code requires a farm house to be "primarily adapted" for agricultural purposes. On the basis of all available information regarding the use of the property and leasing of crop production acres to a tenant farmer, the proposed house cannot be considered to be primarily adapted for agricultural purposes.

The dwelling cannot be considered a "farm house" because the occupants are not primarily engaged in agricultural production on the agricultural unit.

Staff recommends the Board of Adjustment uphold the determination of the Zoning Administrator to deny the Agricultural Exemption.

Martin asked how long the owners would need to live on the property to be considered farmers. Lientz responded that an agricultural exemption has to do with the involvement of the applicant in the agricultural operation, and that there was no indication that the applicant was involved in the farming operation.

Alden asked what the phrase "engaged in agriculture" meant to the County. Lientz responded that the State of Iowa doesn't define the phrase clearly, but that in *Lang v BOA*, the court indicated that the county can ask about the applicant's involvement in the farming unit.

Alden stated she felt that if the land was being used for commercial agriculture, that by leasing the land to be worked by the tenant, the owner is engaged in agriculture. Lientz responded that the reason the request was denied was because the applicant had no involvement in the farming operation.

Price asked if the agricultural exemption was a blanket exemption. Lientz responded that each agricultural exemption determination is based on an individual project.

Meisheid asked if they were setting a precedent if they granted this exemption. Lientz stated no, that the Board is deciding whether or not, in this one particular case, the Zoning Administrator made an error in her determination.

Ryan Grekoff, 3366 Whittier Road, came to the podium. He said he didn't want to hire licensed sub-contractors for the electrical, mechanical or plumbing work as he intended to do the work himself. He stated that he did work with the tenant farmer on when to plant. He stated his wife, who is not employed, intends to grow asparagus and strawberries for farmer's markets in the future.

Martin stated that shows that the applicants are involved in agriculture. Alden agreed as the asparagus and strawberries would be for commercial sale.

Elena Woolford, county attorney, came to the podium and reiterated to the Board that this decision does not set a precedent, and that what they need to decide is if the applicant is engaged in the agricultural operation.

Meisheid said that "engaged in agriculture" isn't defined by the state, and that he is leasing the ground to a farmer.

Price stated he didn't feel that leasing the ground showed that the applicant was actually engaged in the agricultural operation.

Meisheid asked if that meant retired farmers wouldn't be exempt from obtaining building permits.

Woolford approached the podium and stated that the State makes provision in the code for retired farmers and that they are grandfathered in.

Alden stated she felt the owner is engaged in agriculture.

***Motion by Meisheid to reverse the Administrator's determination for the Special Exception PAP24-0002.  
Second by Martin.***

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|----------|--------|
| Price    | Nay    |
| Alden    | Aye    |
| Hoover   | Absent |
| Meisheid | Aye    |
| Martin   | Aye    |

***OTHER BUSINESS***

***BOARD COMMENTS***

***STAFF COMMENTS***

***PUBLIC COMMENTS***

***ADJOURNMENT***

The meeting was adjourned at 6:56 p.m.

Respectfully submitted,

  
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Brian Price, Chair

  
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Sue Bennett, Recording Secretary