

LINN COUNTY BOARD OF ADJUSTMENT

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

MINUTES Wednesday, May 29, 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 2nd Street SW, Cedar Rapids, Iowa.

PRESENT:	Brian Price, Chair	12/31/26
	Brandy Meisheid, Vice-Chair	12/31/28
	Ron Hoover	12/31/27
	Michael Martin	12/31/24

ABSENT:	Sara Alden	12/31/25
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STAFF:	Stephanie Lientz, Planning & Zoning Division Manager
	Mike Tertinger, Senior Planner
	Matt Ruff, Senior Combination Inspector
	Sue Bennett, Recording Secretary
	Amy Speed, Permit Specialist
	Benjamin Schmidt, Planning Intern

See attendance sheet for community sign in.

APPROVAL OF MINUTES

The minutes of April 24, 2024 Board of Adjustment meeting were approved as submitted.

REGULAR AGENDA

PSE24-0003	Mike Tertinger	Joshua Cannon,	Special Exception
		Owner	rear yard setback

The applicant is requesting a special exception from the 50-foot rear yard setback requirement for a principal structure in the AG (Agricultural) zoning district. The applicant is currently constructing a detached accessory garage in the same general location as a recently demolished attached garage and relocated carport. The new detached garage would be approximately 32.5 feet from the rear property line at its closet point. The rear yard setback requirement for a detached garage is 3 feet and the current detached garage plan meets the required setback.

However, the applicant would prefer to modify the plan and attach the new garage to the mudroom of the existing dwelling thereby changing the rear yard setback requirement from 3 feet to 50 feet as it is now considered part of the principal dwelling. The applicant is therefore requesting 17.5 feet of relief from the 50-foot rear yard setback for a principal dwelling with an attached garage.

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 3-foot rear yard setback for a detached garage. A detached garage meets the current setback requirements in the AG zoning district. There are no topographical conditions, surroundings, size and shape of the property, location of utilities, or other extraordinary situations.

Staff recommends denial of the special exception request as it does not appear a practical difficulty has been demonstrated. The required detached setback is already met by the garage project currently under construction.

Public comments were made by the following:

Josh Cannon, 4197 Iowa Rd, Center Point spoke. He cited the reason to attach was for safety reasons as well as look and integrity. The land behind is owned by his father. He originally started building the garage as detached so he could get the concrete poured and not to have to wait months to get back on the concrete schedule.

Martin asked if the previous was attached. Cannon answered that yes it was a single stall attached. Meisheid asked if it was detached just to meet setbacks? Cannon said originally it was. Hoover asked what the use was and Cannon replied that it was his residence.

Jason Andrews, 1025 Iowa St, Center Point spoke. He is a neighbor to the west and has been there for several years. He is speaking today on Josh's behalf but not at his request. Mr. Andrews mentioned that the aesthetics would be greatly improved by attaching the garage. He also mentioned that the properties that surround him are unbuildable. He also said that an attached garage would raise home values thus raising the taxable value.

Hoover notes that a 50' setback is unreasonable for a 40-acre farm. Lientz stated that the decision before the Board was to review if the site characteristics warranted granting the Special Exception, and that the Board was not making changes to the Ordinance. Hoover said the Ordinance is the hardship.

The Board had a discussion about specific site characteristics that showed a practical difficulty in locating the addition elsewhere, including: existing dwelling and septic location, well location, and mature trees, therefore, all conditions for a special exception have been met.

Motion by Meisheid to accept the Findings of Fact, Conclusions of Law, and Decision & Order as developed by the Board of Adjustment for the Special Exception PSE24-0003, and to approve case PSE24-0003. Second by Martin.

Alden	Absent
Price	Yes
Meisheid	Yes
Hoover	Yes
Martin	Yes

PAP24-0004

Stephanie Lientz

**David & Brooke Gilchrist,
Owners**

**Appeal-
Ag Exemption**

The applicant is appealing the decision of the Planning & Zoning Division Manager to deny an agricultural exemption from building and zoning regulations for an above ground swimming pool on the subject parcel. The subject parcel contains approximately 37.67 acres. An exemption determination form from 2019 indicated that 101 acres of the farm unit was used for commercial agricultural crop production, with 6 angus cows raised for commercial production.

The accompanying staff report will show that although the subject property is considered part of a "farm unit," and the dwelling previously received an agricultural exemption, the above-ground pool is considered an accessory structure and is not primarily adapted for use for agricultural purposes; therefore, the pool does not qualify for an agricultural exemption from building and zoning codes.

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

Brooke Gilchrist, 3430 Lafayette Rd, Center Point spoke regarding the agricultural exemption. She stated they moved in May 2022 and the pool was moved from the former house and installed here on July 3, 2022. In January 2024, she mentioned that they never received the notification but that they also never disputed the barrier. Her intent is to keep everyone safe. The deck was approved with the agricultural exemption.

Martin asked if there was already a barrier. Gilchrist says there is one but they didn't get a permit for it.

Price mentioned that they are deciding if it is an agricultural exemption or not.

Dave Machacek, 4276 N Alburnett Rd, Alburnett voiced his opinion that a pool is part of the dwelling and he would rule in favor of the applicant.

Lientz reminded the Board that any decision made here doesn't change the code language.

Hoover stated that the pool and deck is part of the dwelling so the pool should be agricultural exempt. Price agreed with Hoover.

Meisheid stated that she believes that the state of Iowa has declared that farms should be able to operate relatively free from local restrictions and the appeal should be granted.

Motion by Meisheid to accept the Findings of Fact, Conclusions of Law, and Decision & Order as developed by the Board of Adjustment for the Special Exception PAP24-0004, to reverse the Administrator's decision, and grant the appeal for case PAP24-0004. Second by Martin.

Price	Yes
Meisheid	Yes
Hoover	Yes

Martin	Yes
Alden	Absent

OTHER BUSINESS

BOARD COMMENTS

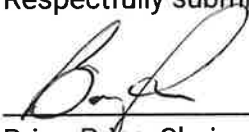
STAFF COMMENTS

PUBLIC COMMENTS

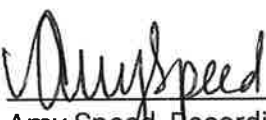
ADJOURNMENT

The meeting was adjourned at 6:49 p.m.

Respectfully submitted,



Brian Price, Chair



Amy Speed, Recording Secretary