

LINN COUNTY BOARD OF ADJUSTMENT

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

MINUTES Wednesday, August 28, 2024

CALL TO ORDER

The Linn County Board of Adjustment meeting was called to order at 6:02 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
Michael Martin 12/31/24
Ron Hoover 12/31/27

ABSENT: Sara Alden 12/31/25
Brandy Meisheid, Vice-Chair 12/31/28

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 July 31, 2024, Board of Adjustment meeting were approved as submitted.

REGULAR AGENDA

PC24-0006	Mike Tertinger	Cope Agricultural Investments LLC, Owner Devin LeBeau, Petitioner	Conditional Use - Home Occupation Lawn Care & Landscaping Business
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The applicant is requesting a Conditional Home Occupation to run a small lawn care company on the 37.94-acre property. The applicant requests utilizing part of an existing 2,800 square foot pole building: 400 square feet will be used for personal items, while the remaining 2,400 square feet is proposed to be used for the small lawn care service business. Additionally, a 100 sq foot outdoor storage site is proposed. The petitioner will have 3-5 non-resident employees, and the use is proposed to occur primarily within the accessory building.

A Conditional Home Occupation allows the applicant to use up to 2,500 square feet for the home occupation business on a parcel of this size. A home occupation with one or more nonresident employees or that will use part of an accessory structure for the business requires a Conditional Use Permit for a Home Occupation in the

AG (Agricultural) zoning district. The proposal conforms to the standards for approval in Article IV, Section 107-73, § (4) and Article VI, Section 107-113, § (h) of the Linn County Unified Development Code.

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

Dustin LeBeau came to the podium to answer any questions. There were none.

Jason Morgan, 3126 Jordans Grove Road, came to the podium and spoke against the Home Occupation. He stated that there are more than 5 non-resident employees, and that they are using all 3 buildings for their business. He said they are retailing product on the site. He also noted that they are dumping yard waste very close to the Morgan's property line.

Hoover asked if outside storage is included in the Conditional Use permit. Lientz responded that it is up to the Board of Adjustment whether the applicant is allowed outside storage.

Price asked how much outside storage is being requested, Tertinger said 100 sq. ft. Tertinger also stated that the applicant would need to return to the BOA to increase the outside storage.

Devin LeBeau came to the podium. He stated that the outdoor storage pile is comprised of 50% personal and 50% business related items. He explained the contents of the storage and when it was deposited there.

Price asked why the storage is closer to the neighboring property than it is to the business. Martin asked if there was a better place to locate the dump pile. The Board discussed moving the current outside storage to the north section of the property, away from the neighboring lot line, which they felt would be more appropriate. LeBeau offered to burn the pile. Martin indicated that he should get ride of it. Price stated he felt the business pile should be separate from the personal pile

The public portion of the hearing was closed.

Hoover stated he felt the Board shouldn't be making decisions for business owners. Martin agreed but stated that it would appease the neighbor.

Price proposed 100 sq. ft. of business storage, and that it be moved to the north of the property, away from the neighbor.

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 Home Occupation case PC24-0006 and modified to allow outside storage and remove the screening requirement, and to approve case PC24-0006. Second by Hoover.

Alden	Absent
Price	Aye
Meisheid	Absent
Hoover	Aye
Martin	Aye

PAP24-0005 Stephanie Lientz

**GLA farms,
Owners
Growthland Farm
Management Firm,
Petitioner**

**Appeal of Zoning Administrator's Denial
of an Agricultural Exemption**

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/factory-built home measuring less than 22' on any side on the subject parcel. Per Assessor's records, a single-family dwelling was constructed on the property around 1900 but was removed in 2018 per aerial photography. Public health records indicate the original house was destroyed by fire.

In May 2024, Linn County Public Health was investigating a complaint regarding aboveground septage dumping at this site. No evidence of dumping was found, however, Public Health found that a factory-built home was moved onto the site sometime in 2019 without septic or building permits and notified Planning & Development about the violation. Planning & Development contacted the property management representative to advise that no principal dwelling is allowed measuring 22 feet or less on any side without an approved agricultural exemption. The agricultural request for determination was submitted, but it was confirmed that the occupant of the factory-built home is not engaged in agricultural production on the agricultural unit, and the exemption request was denied.

The subject parcel contains approximately 39 acres. The exemption determination form indicates there are 140 acres comprising the agricultural unit and 100% is used for commercial agricultural crop production, but the form and a later email confirm that the occupant of the factory-built home is not engaged in agricultural production on the agricultural unit.

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 factory-built home cannot be considered a "farm house" because the occupant is 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.

Applicant John Airy came to the podium. He stated that he has been managing that site since 2018. The home on the property burned in 2017. The owners of the property do not live on site, and wanted someone to live on the site for its protection. He stated the tenant is responsible for keeping an eye on the property, helping with repairs to grain and shop buildings, and has assisted the owners in various tasks in order to receive rent relief or payment.

Price asked why the Ag Exemption was applied for. Lientz responded that Linn County code doesn't allow single-wide trailers anywhere but in a trailer park, and so, if not agriculturally exempt, the trailer would need to be removed from the property. Martin asked the size of the trailer. Airy stated the trailer is 16' x 80'.

Hoover stated that the tenant is doing maintenance on the property and is therefore a farmer. Airy said that there is more to farming than driving a trailer.

Lientz read from an email in which Airy stated that the tenants were not involved in the farming operation. Hoover responded that he believes they are involved in the activities of farming.

Price asked what the other options would be for the property to come into compliance. Lientz stated that the owners could add to the trailer size or replace it. She reminded the Board that Planning & Development would work with the owners to come into compliance, and that the Department does not want to kick anyone out of their home in 30 days or place undue hardship on the tenants.

Price stated everyone is looking for a solution to the problem, and that an Ag Exemption is the easiest solution. Hoover stated he believed that the tenants were Ag Exempt.

Motion by Hoover to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Appeal PAP24-0005, and to reverse the Administrator's Decision in case PAP24-0005. Second by Martin.

Price	Aye
Meisheid	Absent
Hoover	Aye
Martin	Aye
Alden	Absent

OTHER BUSINESS

BOARD COMMENTS

STAFF COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

The meeting was adjourned at 7:13 p.m.

Respectfully submitted,



Brian Price, Chair



Sue Bennett, Recording Secretary