

LINN COUNTY BOARD OF ADJUSTMENT

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

MINUTES

Wednesday, December 29 , 2021

I. QUORUM DETERMINED:

The Linn County Board of Adjustment meeting was called to order at 6:30 p.m. by Chair, Ron Hoover. The meeting was held in the Jean Oxley Public Service Center, 935 2nd Street SW, Cedar Rapids, Iowa.

PRESENT:

Ron Hoover, Chair	12/31/22
Brandy Meisheid, Vice-Chair	12/31/23
Sara Alden	12/31/25
Michael Martin	12/31/24
Margaret Burns	12/31/21

ABSENT:

STAFF:

Mike Tertinger, Senior Planner
Desire Irakoze, Planner I
Elena Wolford, Assistant County Attorney
Jessie Black, Recording Secretary

See attendance sheet for community sign in.

II. OLD BUSINESS

III. NEW BUSINESS

JC21-0008 Conditional Use - Gun Club & Campground Otter Creek Sportsman Club, Owner

The applicant requested this case be postponed until January 26, 2022.

JC21-0017 Conditional Use Home Occupation - Aesthetic Services Ann Leland & Christopher Murders, Owners

Mike Tertinger presented the staff report.

The applicant is requesting a Conditional Use Permit - Home Occupation for an Aesthetic Services business. The applicant has constructed a 4,800 square foot accessory building: 800 square feet will be used for the business, while the remaining 4,000 square feet is to be used as personal space. The applicant proposes a maximum of 1 non-resident employee on site and the business use is proposed to occur entirely within accessory building. The proposal indicates that 4 to 6 customers per week will be visiting the site by appointment only. The applicants also indicated that the person performing the aesthetic services is a licensed nurse practitioner in the State of Iowa.

A Conditional Home Occupation allows the applicant to use up to 1,750 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.

There were no questions from the commission or public.

Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for Conditional Use Home Occupation case JC21-001 7, and to approve case JC21-001 7, Second by Meisheid .

Meisheid	Aye	
Hoover		Aye
Martin	Aye	
Burns	Aye	
Alden	Aye	

JC21-0015 Conditional Use Minor Modification - Utility Substation

CIPCO, Owner

Charlie Nichols presented the staff report.

The applicant is proposing to expand an existing substation on the 4.87-acre subject property to accommodate area upgrades. A substation has existed at this location since at least 1950, per aerial photography. The property is zoned AG (Agricultural). Utility substations are an allowed use in the AG zoning district with an approved Conditional Use Permit. A Conditional Use Permit (C-16-13) was granted by the Linn County Board of Adjustment in 2013 to allow for proposed upgrades and expansion of the substation equipment. An accompanying final plat case (F-09-13) was approved and recorded in 2013, enlarging the subject parcel from 0.8 acres to 4.87 acres to accommodate the proposed expansion.

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 utility substation use is allowed as a Conditional Use in the AG (Agricultural) zoning district per Table 107-147-1 in Article VII of the UDC. It appears that the proposal could be able to meet all of the standards for approval for Conditional Use Permits in Article IV, Section 107-73, § (4) of the UDC. However, it appears as though past work on the substation damaged subsurface drainage tile. The applicant must address the current drainage issues, as well as submit a plan to address any drainage issues that could occur as the result of the new construction.

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

William Sondermann, Manager of Engineering at CIPCO (petitioner), confirmed that previously damaged drainage tile had been repaired in August. He said CIPCO is currently working with a third party engineer to inspect the existing tile, per neighbors' requests. The engineer will report the findings of his investigation to CIPCO and they will make all necessary repairs to drainage tile during construction of proposed expansion. Sondermann anticipates the investigation results will be submitted to CIPCO by March 2022. Sondermann said initial costs of investigation were around \$5,000, replacement of all tile estimated to be around \$3,800, for a total of \$8,800. The proposed performance bond would be more than double the total costs, at \$20,000. The intent of

this performance bond is to cover costs related to the investigation and repair of any current drainage issues, and to repair subsurface drainage lines in a timely fashion in the event they are damaged during construction. If CIPCO does not repair any future tile damage resulting from construction within three months of confirming damage, Linn County is able to redeem the bond.

Alden asked if the performance bond included labor costs for fixing damaged tile. Sondermann said yes.

Alden asked why it has taken CIPCO so long to repair damaged drainage tile. Sondermann said that CIPCO offered to reimburse the adjacent property owner for the costs of repair, but insisted they never received an invoice for the work.

Burns asked if the proposed double-wall tile was stronger than existing tile. Sondermann said yes.

Marty Robinson, Windsor, Colorado, asked if CIPCO had any question regarding the legality of prescribed easement on Robinson's property. He also asked how much information, if any, about this proposal has been shared with the Robinson's.

Greg Geerdes, 105 Iowa Ave, Iowa City, spoke as a legal representative for the Robinson's. He doubted the amount of the performance bond would be enough to cover potential repair/replacement costs. Geerdes suggested the amount of the performance bond be based on the engineer's final report. He insisted the solar farm that will be powered by this substation is not consistent with the Linn County Comprehensive Plan.

Marty Robinson shared several concerns; the timeline in which CIPCO has responded to the notification of drainage tile damage, the easement that's owned by the Robinson's and CIPCO's disregard for its legality, and lack of correspondence between CIPCO and Robinson's.

Laura Robinson, 2094 Linn Delaware Rd, spoke in opposition of the project. She insisted the substation was constructed illegally because the easement has been in place for decades. Robinson said the proposed expansion will put the substation 50 ft. outside of her front door. Robinson said that Tom Fitzgerald (Clenera) insisted that no further expansion would be necessary after this. However, Robinson pointed out that at the November 29th Planning & Zoning Commission meeting, Fitzgerald mentioned the potential for further expansion of the substation to the south.

Tom Robinson, 2094 Linn Delaware Rd, also spoke in opposition. He, too, indicated his belief that the substation was constructed illegally. Robinson did not think the \$20,000 performance bond was enough.

Nichols reminded the commission to base their recommendation off of the Standards for Approval & Comprehensive Plan for the rezoning case in front of them, not the separate solar farm proposal that this substation will power. Nichols said he was confident the proposed performance bond was adequate, based on two invoices he reviewed from CIPCO. He stated that the proposed amount of \$20,000 was almost three times the amount of invoices. Nichols informed the commission that there is no drainage tile under the proposed expansion.

The Public Hearing was closed, and the Board posed questions to Planning & Development staff.

Alden asked if there would be any ramifications for CIPCO not following through. Nichols explained that if CIPCO did not uphold their end of the proposal, Linn County would cash the performance bond and hire a contractor to perform work.

Martin asked if the performance bond amount could be increased. Nichols said yes, but reiterated that the proposed amount should be more than enough.

Alden asked what the conditions of the original Conditional Use permit were, adding that there should have been conditions pertaining to repair or replacement of damaged infrastructure. Nichols believed there was a condition on the original permit that was meant to address issues with drainage tile. Nichols said he has been in contact with CIPCO this year to determine the best path forward to address nearby drainage tile issues.

Alden asked if Linn County has the authority to enforce the easement. Nichols said no.

Burns asked when the expansion will be finished. Nichols said August 2022, adding that the performance bond did not expire until October 2023.

Martin asked if the bond could be doubled, and also if the case could be tabled until the engineer's report is complete regarding the drainage tile. Nichols said yes to both, and added that the case would also need to be tabled if any changes were made to the performance bond, as new signatures would be needed.

Alden asked if Nichols was privy to any information that the Robinsons don't have. Nichols said he has tried to pass along information to the Robinsons as he receives it, and has included all information he is aware of in the case staff report that was provided to the Board.

The Board deliberated. Most thought it was a good idea to table the case until the engineer's report is finalized.

Sondermann said the report should be finished soon. He hoped to have the results within the next couple of weeks.

Alden asked Sondermann if the report will be given to the Robinsons. Sondermann said yes.

Motion by Martin to table the case until the engineer hired by CIPCO has finished their investigation and reported their findings, Second by Meisheid.

Hoover	Aye
Alden	Aye
Burns	Aye
Meisheid	Aye
Martin	Aye

IV. OTHER BUSINESS

V. APPROVAL OF MINUTES

The minutes of November 22, 2021 Board of Adjustment meeting were approved as submitted.

VI. ADJOURNMENT

The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

, Chair

Jessie Black, Recording Secretary