

LINN COUNTY BOARD OF ADJUSTMENT

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

MINUTES

Wednesday, February 26, 2020

I. QUORUM DETERMINED:

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

PRESENT: Sabrina Grace, Chair 12/31/21
Ron Hoover, Vice-Chair 12/31/22
Michael Martin 12/31/24
Rebecca Palmer 12/31/23

ABSENT: Dave Machacek 12/31/20

STAFF: Les Beck, Director
Heidi Carmer, Assistant County Attorney
Charlie Nichols, Planning & Zoning Division Manager
Luke Maloney, Building Official
Mike Tertinger, Planner II
Stephanie Lientz, Senior Planner
Ryan Sampica, Recording Secretary

See attendance sheet for community sign in.

II. OLD BUSINESS

III. ELECTION OF 2020 OFFICERS

Hoover nominated Grace for Chairperson for 2020. Palmer seconded, all members present voted Aye. Grace nominated Hoover for Vice Chairperson for 2020. Palmer seconded, all members present voted Aye

IV. NEW BUSINESS

JC20-0001 Mike Tertinger Anthony Ball & Carrie Ball- Ohlendorf, Owners Conditional Use Home Occupation Micro Wedding Venue

Tertinger presented the staff report. The applicant is requesting a Conditional Use Home Occupation Permit for a micro-wedding business. The applicant proposes to use an existing 600 square foot, one-story barn and 400 square feet of outdoor yard space (1,000 total square feet) to host small wedding ceremonies of twenty or fewer guests including the couple to be married. The petitioner will have no non-resident employees and the property will not be open to the public except during events. The applicant proposes to host a maximum of one event per week from April 1 through October 31, plus one event on nine annual holiday weekends. The subject property is zoned AG (Agricultural).

A Conditional Home Occupation allows the applicant to use up to 1,000 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.

Martin asked about for clarification about the number of guests. Tertinger answer that maximum would be 20 people. Martin also asked if there was any feedback from the neighbors to the East. Tertinger said that they have received a letter from one of the neighbors in approval and another neighbor who just had questions.

Palmer asked if lighting is proposed, and if food or liquor will be served on site. Tertinger said that the applicant will need to answer the lighting question but there will be no liquor on site.

Carrie Ball, 8604 Spanish Road and applicant, spoke in reference to her desire to start this micro-wedding venue and confirmed what Tertinger had said. She mentioned that there will be no outdoor lighting, except for some twinkle, Christmas style lights.

Martin asked if Ball was OK with the farming operation next door. Ball said that she is, and that she had a good discussion with that neighbor. She also said that in her mind it adds to ambiance of the venue.

Grace asked if there was going to be a retail flower operation out of this location that is separate from the wedding venue. Ball answered that she is going to grow flowers and will possibly have a farm stand, which is allowable by the zoning on her property.

Janice Phillip, 8608 Spanish Road, asked because of the farm stand could that create more cars, more people etc. Tertinger answered that farm stands are allowed on AG-zoned properties, and would be separate from the wedding venue.

Palmer asked if there will be a website with a calendar of when the events are going to be for communication. Ball said yes but she is waiting for outcome of this case before she moves forward with anything.

Motion by Hoover 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 JC20-0001, and to approve case JC20-0001. Second by Palmer.

Hoover	Aye
Machacek	Absent
Martin	Aye
Palmer	Aye
Grace	Aye

JC20-0002 Charlie Nichols

Linn County, Owner
Prospect Meadows, Petitioner

Conditional Use -
Paint Ball Park

Nichols presented the staff report. This applicant is requesting a Conditional Use Permit to operate a paintball course on approximately 10 acres of land. The proposed paint ball park is part of a larger 121-acre area leased by the applicant from Linn County, south and east of the Linn County Secondary Road Department office. The lease area includes the Prospect Meadows sports complex. When completed, this complex will include eight baseball fields, one Miracle Field, eight softball fields, and an indoor baseball practice facility, in addition to the proposed paintball course.

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 Linn County Unified Development Code. The proposal **meets the parking standards found in Article V, Section 107-93, § (e).**

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

Palmer asked what the initial intended use for this area was. Nichols said this was initially for an indoor basketball court.

Palmer then asked how do the people leaving the facility head to the south on Hwy 13. Nichols stated they would need to leave through the exit near County Home Rd, head west and then head south on Hwy 13.

Brent Jackman, Hall & Hall Engineers, 1860 Boyson Road, spoke to the fact that he will be the civil engineer on this project and changing this from an indoor basketball court to outside paintball fields will disrupt the ground substantially less and with the netting around the field they are preserving the nearby wetland and stream.

Troy McLelland, 1850 Prospect Dr., spoke to how this fits perfectly in with Prospect Meadows vision of being a sports complex. He said they have actively planned and looked at how to best use and expand this site and this idea works really with what they would like to accomplish.

Paul Ruffalo, 4225 Turkey Ridge Ln., gave background on the proposed paintball course, and how he came to propose this idea to Prospect Meadows.

Palmer asked if there will be any training involved before someone were to play. Ruffalo stated that yes, there will be training in the form of an orientation video for anyone that hasn't played on that field within the previous year. There will also be a barrel blocker on the gun to prevent inadvertent firings of the gun. The 16' high netting is for insurance reasons and there are actually two types of paintballs that are used. There will be a 50 caliber paintball for kids and a 68 caliber for older participants.

Palmer asked if there will be lighting on the fields. McLelland stated that the current north baseball quad does have existing lighting but there is no plan at this time to put lights on the paintball fields.

Motion by Palmer to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use case JC20-0002, and to approve case JC20-0002. Second by Hoover.

Palmer	Aye
Machacek	Absent
Hoover	Aye
Martin	Aye
Grace	Aye

**JV20-0001 Charlie Nichols Paul Mocon & Brian Otey, Variance
Owners Accessory Building Size**

Nichols presented the staff report. The applicant is requesting a variance to the allowable size limits for an accessory structure located in front of a principal structure. The 3,200 square foot accessory structure was built without permits, and is over four times larger than the 720 square foot maximum allowable for accessory structures located in front of a primary structure in the (USR) Urban Services Residential zoning district. Because this accessory structure sits in front of the primary structure on the property, the maximum allowable size is 720 square feet. A Minor Boundary Change to move the line between Lot 2 and Lot 3 to the north so that the accessory structure lies entirely on Lot 2 (with the principal structure) is running concurrently with this case.

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. There are no special topographic or other conditions related to the property that necessitate the construction of a larger-than-allowable accessory structure. The property has a reasonable economic use if used in compliance with the regulations, and therefore there is no “practical confiscation” of the property without the Variance. Any perceived hardship is a direct result of actions of the applicant and not from provision of the ordinance.

Hoover asked what the limit of an accessory structure is if it is not in front of the dwelling. Nichols said it varies from property to property but for this property the limit would be 1,800 sq. ft. Hoover then asked could they have more than one building of that size, or is an aggregate of all of the buildings combined. Nichols answered that they can have more than one building of that size and it not an aggregate of all of the buildings.

Brian Otey, 2 Cottage Grove Woods and applicant for the variance, stated that he apologizes for the mess he has gotten everyone else in and he just wants to know a path forward from here. He also states that his vision for this building was to make the property look nicer, to help out the neighborhood and teach his grandkids how to fix a car someday.

The following persons spoke in favor of granting the variance: Hope Mocon, 2 Cottage Grove Woods; Paul Mocon, 2 Cottage Grove Woods; Bob Toborg, 15 Cottage Grove Woods,

representing the homeowners association; Tom Gentner, 12 Cottage Grove Woods; Jacob Korbakes, 4020 Cottage Grove Ave. SE; and Andy Johnson, 1 Cottage Grove Woods.

Hope Mocon re-approached the Board and asked to show pictures with the old tennis court and new building. She described the pictures.

Nichols stated in closing that the staff sympathizes with everyone involved, and that the staff has worked hard both before and after the building was constructed to offer solutions. In the end, according to the standards for approval, this does not meet the standards for approval for the Board to grant the variance.

Dave Schneider, land survey for the project, stated there are still options out there and if this variance doesn't get approved they will figure out a way forward.

Martin asked if there are any other options for this building and this situation. Nichols stated that the staff has examined every possible option for this situation and this option is the only option that would work.

Palmer wanted to clarify that the variance is only for the size of the building. Nichols said yes that is correct.

Hoover asked for another point of clarification on if there is another option to move the lot line and create living quarters in the structure therefore making it a principal structure. Nichols stated that yes that is an option.

Tom Gentner, 12 Cottage Grove Woods, asked the board if they have the authority to grant this variance anyway. Hoover states that they do have the authority to grant the variance if they can meet all of the criteria.

Palmer asked staff to review the criteria for granting a Variance. Nichols reviewed the criteria.

Grace asked if this was happening because of the building being built without permits. Nichols said that is correct.

Martin asked what happens if this is denied. Nichols stated that they have the option to install living quarters & move the lot line, or the building will need to come down or reduced in size in some way, or they can appeal the decision to the District Court.

Palmer moved to deny the variance and no one seconded her motion therefore the motion died.

Grace closed the public portion of the meeting and the Board begins deliberation of the case.

Hoover states that for criteria 1 it is prohibitive because if the variance is denied they will need to tear down the building.

Hoover stated for criteria 3 a hardship does exist because there are topographical issues on this site. It is a hard site to build on and the only place they could have built this building is exactly where it is. Hoover also stated that the ordinance is arbitrary because it the size of the structure is capped but not the number of structures.

Finally, Hoover states that the purpose of the code is to not build a structure that is offensive to the neighborhood and this is something that is not offensive.

Motion by Hoover to accept the Findings of Fact, Conclusions of Law, and Decision & Order as amended by Board of Adjustment for the Variance case JV20-0001, and to approve case JV20-0001. Second by Martin.

Grace	Aye
Palmer	Abstain
Machacek	Absent
Martin	Aye
Hoover	Aye

V. OTHER BUSINESS

VI. APPROVAL OF MINUTES

The minutes of November 25, 2020 Board of Adjustment meeting were approved as submitted.

VII. ADJOURNMENT

The meeting was adjourned at 8:42 p.m.

Respectfully submitted,

Sabrina Grace, Chair

Ryan Sampica, Recording Secretary