

**LINN COUNTY BOARD OF ADJUSTMENT**

**MINUTES**

**Wednesday, May 27, 2020**

**I. QUORUM DETERMINED:**

The Linn County Board of Adjustment meeting was called to order at 6:30 p.m. by Chair, Sabrina Grace. The meeting was held electronically, via GoToMeeting

**PRESENT:** Sabrina Grace, Chair 12/31/21  
Ron Hoover, Vice-Chair 12/31/22  
Michael Martin 12/31/24  
Rebecca Palmer 12/31/23  
Dave Machacek 12/31/20

**ABSENT:**

**STAFF:** Les Beck, Director  
Elena Wolford, Assistant County Attorney  
Charlie Nichols, Planning & Zoning Division Manager  
Mike Tertinger, Planner II  
Stephanie Lientz, Senior Planner  
Jessica Black, Recording Secretary

See attendance sheet for community sign in.

Special Statement: As a result of the ongoing COVID-19 pandemic, this meeting was held electronically. All county buildings have been closed to the public until further notice.

**II. OLD BUSINESS**

**III. NEW BUSINESS**

<b>JV20-0002</b>	<b>Charlie Nichols</b>	<b>Kevin Schwarzoff , Owner</b>	<b>Variance Size of Accessory Structure</b>
------------------	------------------------	-------------------------------------	-------------------------------------------------

Nichols presented the staff report. The applicant is requesting a variance to the allowable size limits for accessory structures. The 4,000 square foot accessory structure was built without permits, and is larger than the 2,400 square foot maximum allowable for accessory structures located in the (VR) Village Residential zoning district on a parcel of this size.

For a parcel of this size (5.00-9.99 acres), the maximum square footage allowable for accessory structures is 2,400 square feet. 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



**Martin  
Palmer  
Grace**

**Aye  
Aye  
Aye**

**JC20-0007**

**Charlie Nichols**

**Aaron's Enterprises ,  
Owner**

**Conditional Use  
Lawn & Garden Care**

Nichols presented the staff report. This applicant is requesting a conditional use permit for the operation of a lawn, garden and yard maintenance business at 3590 Mollenhauer Lane. Lawn, garden and yard maintenance services are allowed as a conditional use in the Agricultural (AG) zoning district.

Lawn, garden and yard maintenance services are allowed conditionally in the AG zoning district provided they meet the requirements of Article VI, section 107-115 and Article IV, section 107-73 of the Unified Development Code (UDC). In the AG zoning district, these uses are limited to a maximum of 10 employees on site at any time, and outdoor storage areas shall not exceed 5,000 square feet and must be screened on all sides.

Staff recommends denial. Staff does not believe this use is compatible with the surrounding land uses. Staff believes the type and frequency of traffic generated by the use creates a negative impact on the surrounding property, which consists of a single-family residential subdivision.

Palmer wondered if the applicant would be selling any kind of products or materials on site. Nichols said no.

Hoover asked what uses are permitted on this property. Nichols said agricultural or residential.

Palmer asked to see an aerial view of the property to assess nearby developments.

Sarah Finch, applicant, explained to the Board that her and her husband, Aaron, did not build the accessory structure, but when considering purchasing, agreed this property would fit the needs of their business. She confirmed they do not plan to sell product on site. Finch agreed the use of the building would not be considered agricultural by definition, but similar.

Machacek asked if the building was used for landscaping business at the time the Finch's purchased it. Nichols said no.

Palmer wondered if there was a need for 24 parking spaces with only ten employees. Nichols said Linn County code requires a certain amount of parking spaces per square footage, not number of employees.

Palmer asked if the applicants spoke with surrounding property owners about their business idea prior to purchasing the property. Finch said yes, all were supportive.

Chad Slattery, 3580 Mollenhauer Lane, spoke in support of the applicants. He confirmed that the Finch's had informed him of their intentions for the property prior to purchasing. Slattery also said he was satisfied with the up-keep of the applicants' property. Slattery does not want the proposed buffer on the north side of the property, between him and the pond.

Palmer asked Slattery if he had any concerns about noise generated by business traffic at the property. Slattery answered no.

George Mollenhauer, 3571 Mollenhauer Lane, stated his support for the Conditional Use case.

Hoover insisted the permitted uses had the potential to be much less compatible than the proposed conditional use; he spoke in favor of approving the case.

Machacek agreed with Hoover and was pleased that the surrounding property owner was supportive of the applicant. He also stated the property was well-kept. Martin agreed.

Beck asked each member voting aye to address the standards for approval for which they based their decision off of in order to prepare a Decision and Order.

Machacek stated the Conditional Use would support Linn County's Comprehensive Plan goal to diversify and expand employment opportunities in the area.

Palmer said the proposed use would be compatible with surrounding property uses because the applicant has already gained the approval of surrounding property owners. She also insisted potential adverse impacts on adjoining property would be minimized once the applicants seal coated the road, as required in their conditions.

Hoover agreed with Palmer and Machacek.

**Motion by Machacek to approve a Findings of Fact, Conclusions of Law, and Decision & Order as developed by the Board in support of the application, and to approve case JC20-0007. Second by Hoover.**

<b>Martin</b>	<b>Aye</b>	
<b>Palmer</b>		<b>Aye</b>
<b>Hoover</b>		<b>Aye</b>
<b>Grace</b>	<b>Aye</b>	
<b>Machacek</b>	<b>Aye</b>	

<b>JV20-0003</b>	<b>Charlie Nichols</b>	<b>Aaron's Enterprises , Owner</b>	<b>Variance Reduced 50' Buffer</b>
------------------	------------------------	----------------------------------------	----------------------------------------

Nichols presented the staff report. The applicant is requesting a variance to the required 50 foot buffer when commercial uses abut noncommercial uses. The applicant is requesting a buffer reduction to 18 feet on the east side of the property abutting a property containing a single-family dwelling. The buffer will be composed of an evergreen tree/shrub species.

Article VI, section 107-115 (z) states that all commercial uses must meet the buffer standards outlined in Article V, section 107-93 (d). 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.

Based on the Board approval of the associated conditional use permit, staff reversed its recommendation of denial and now recommends approval of the variance. Upon granting of the conditional use permit associated with the case (JC20-0007), the Board of Adjustment approved the location of the business within the existing building as well as the location of the proposed landscape buffer.

Hoover expressed his concern about the required vegetative buffering; he wondered if the conditions could be revised so that required buffers would be acceptable to both the applicant and adjacent property owners, Chad & Nicole Slattery. Beck said the conditions could be revised as Hoover suggested.

Aaron Finch, applicant, said the proposed buffer would be arbor vitae trees, along with some other fruit trees in open spaces. He and his neighbor, Chad Slattery, agreed on proposed buffering.

**Motion by Martin to accept the revised Findings of Fact, Conclusions of Law, and Decision & Order as developed by staff for the Variance JV20-0003, and to approve cas e JV20-000 3. Second by Hoover .**

Grace	Aye
Machacek	Aye
Martin	Aye
Palmer	Aye
Hoover	Aye

<b>JV20-0004</b>	<b>Charlie Nichols</b>	<b>Aaron’s Enterprises , Owner</b>	<b>Variance Reduced 50’ Corner Setback</b>
------------------	------------------------	----------------------------------------	------------------------------------------------

Nichols presented the staff report. This applicant is requesting a variance to the 50’ corner yard setback to 35’ on the west side of the property and 15’ on the north side for a mobile hoop (storage) building.

In AG (Agricultural) zoning districts the minimum required corner yard setback for lots with multiple frontages is 50’ from property or road right-of-way lines. 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 by not the applicant.

Staff recommends denial. There are no special topographic or other conditions related to the property that necessitate the location of the structure within the corner yard setback. This structure could be legally constructed elsewhere on the property, 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.

Palmer wondered if the proposed hoop house would be set on a pad. Nichols said no.

Sarah and Aaron Finch, applicants, explained to the Board that they were under the impression permits were not required for a temporary structure without a foundation, hence the reason the hoop house had already been constructed. The applicants insisted the hoop house was placed in the most aesthetically pleasing location on the property. Sarah said if they were to relocate the hoop house to comply with setback requirements, they would have to cut down trees that are currently being used as buffers.

Chad Slattery, 3580 Mollenhauer Lane, said he was in favor of the applicants’ placement of the hoop house.

Hoover agreed the hoop house had been located in the best possible area on the property to avoid negative visual impacts on surrounding property owners. He argued that relocating the hoop house anywhere else on the property would take away opportunities for planting trees, as the applicants intend to do. Machacek agreed.

**Motion by Hoover to approve a Findings of Fact, Conclusions of Law, and Decision & Order as developed by the Board in support of the application, and to approve cas e JV20-000 4. Second by Machacek .**

Hoover		Aye
Martin	Aye	
Machacek	Aye	
Palmer		Nay
Grace	Aye	

**IV. OTHER BUSINESS**

**V. APPROVAL OF MINUTES**

The minutes of April 29, 2020 Board of Adjustment meeting were approved as submitted.

**VI. ADJOURNMENT**

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

---

Ron Hoover, Chair

---

Jessie Black, Recording Secretary