

# LINN COUNTY BOARD OF ADJUSTMENT

## MINUTES

Wednesday, July 29, 2020

### I. QUORUM DETERMINED:

The Linn County Board of Adjustment meeting was called to order at 6:40 p.m. by Chair, Ron Hoover. The meeting was held electronically, via GoToMeeting

**PRESENT:** Ron Hoover, Chair 12/31/22  
Michael Martin, Vice-Chair 12/31/24  
Dave Machacek 12/31/20  
Brandy Meisheid 12/31/23  
Margaret Burns 12/31/21

### ABSENT:

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

Special Statement: in accordance with Iowa Code Chapter 21.8, and to comply with current local Public Health guidelines limiting public gatherings, this meeting will be held electronically. Information on how to access this meeting has been provided on the meeting agenda, posted on our website.

### II. OLD BUSINESS

### III. NEW BUSINESS

JC20-0013 Mike Tertinger Edwin Morris , Owner Conditional Use Home Occupation -  
Julia Wittnebel , Applicant Private swimming lessons

Tertinger presented the staff report. The petitioner is requesting a Conditional Home Occupation Permit for a private swim lesson business. The proposal includes utilizing 2,294 sq. ft. of a 4,953 sq. ft. residence for the home occupation business. The residence includes two indoor pools (720 sq. ft. & 128 sq. ft.) and an associated bathroom/changing room. However, during the COVID -19 pandemic, clients will be asked to change their swimwear at home. The petitioner will have a maximum of 3 non-resident employees and the use is proposed to occur entirely within the residence. The proposal indicates a maximum of 60 hours of swim instruction per month, per pool, during the hours of 6am to 8:30pm, 7 days per week, year round. Each appointment is approximately 30-45 minutes with a maximum of 4 students per appointment, but will typically consists 1-on-1 instruction. The proposal indicates a maximum of 60 customers, including students, friends and relatives, coming to the site per week and includes space for six or more dedicated parking spaces. The petitioner also included locations for two business signs with the proposal.

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 requires a Conditional Use Permit for a Home Occupation in the USR (Urban Service Residential) 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. The applicant must also register the pools as “Residential Pool Used for Commercial Purposes” with the Iowa Department of Public Health (IDPH), meet the requirements of IDPH 641-15.4(6)(n) and is subject to an initial, and annual inspections, by the Linn County Public Health Department.

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

Tertinger informed the Board that he received a few phone calls from concerned neighbors. Martin wondered what the main concerns were. Tertinger said additional traffic created by the Conditional Use, and concerns about putting a commercial business in a residential neighborhood.

Burns wondered if the proposed signage would be lit. Tertinger said the current proposal does not include lighted signage, but the Board could add a specific condition explicitly stating the signage could not be lit if they wish.

Julia Wittnebel, applicant, explained her passion for swimming and educating youth about water safety skills.

Palwasha Khan Afridi, 171 Abbotsford Rd, said Wittnebel taught her five daughters to swim and she fully supported the Wittnebel proposal.

Mary Bonine, 1807 5<sup>th</sup> Avenue, former colleague of Wittnebel, spoke in support.

Paula LaGrange, 5240 Elderton Drive, expressed concerns about additional traffic.

**Motion by Machacek to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report , but to include an additional condition restricting any lighted signage for the Conditional Use Home Occupation case JC20-001 3, and to approve case JC20-001 3. Second by Martin.**

Hoover	Aye
Burns	Aye
Machacek	Aye
Martin	Aye
Meisheid	Aye

JC20-0012	Charlie Nichols	Jay Kluesner, Owner	<b>Conditional Use - Landscape business equipment storage &amp; break room</b>
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Nichols presented the staff report. This applicant is requesting a conditional use permit for a lawn, garden and yard maintenance business on the subject property. The applicant has no full-time or part-time employees, and customers would visit the site by appointment only. Business activity will take place within the 3,600 square foot building present on the property. Approximately 5 tons of gravel will be stored outside.

Lawn, garden and yard maintenance services are an allowed use in the AG (Agricultural) zoning district with a Conditional Use Permit. 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 (UDC). The proposal also appears to meet the standards for lawn, garden and yard maintenance uses in Article VI, Section 107-115 § (k) of the UDC. North Marion Road must be hard-surfaced from the facility entrance to County Home Road.

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

No questions from the board or public. No comment from the applicant.

**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 case JC20-0012 , and to approve case JC20-0012. Second by Machacek .**

Martin	Aye	
Meisheid	Aye	
Hoover		Aye
Burns	Aye	
Machacek	Aye	

**JSE20-0004 Rachael Schaefer Scott & Wendy Draper, Owners Special Exception - Side yard setbacks**

Schaefer presented the staff report. The applicant is requesting a special exception from the 10' side yard setback required in the USR (Urban Services Residential) zoning district. The applicant is proposing to construct a 1,380 square foot attached garage between 5' and 6' (structure not parallel to the property line) from the south property line.

A demonstration of a practical difficulty appears to have been shown in this case due to topography, drainage, and building design constraints.

Staff recommends approval of this application as it appears that a practical difficulty has been demonstrated.

Meisheid wondered if the adjoining property with solar panels would be sold with the property in question in the future. Lientz stated the parcels could be sold separately, but the solar panels serve the house, so she saw no reason for separation. Lientz added that the adjoining property with solar panels was a non-buildable outlot.

**Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception case JSE20-0004 , and to approve case JSE20-0004. Second by Machacek .**

Machacek	Aye	
Burns	Aye	
Hoover		Aye
Meisheid	Aye	
Martin	Aye	

#### **IV. WELCOME NEW MEMBERS**

Beck welcomed the new members and gave a brief recap of HF2512.

#### **V. OTHER BUSINESS**

#### **VI. BOARD COMMENTS**

#### **VII. STAFF COMMENTS**

## **VIII. PUBLIC COMMENTS**

### **IX. APPROVAL OF MINUTES**

The minutes of June 24, 2020 Board of Adjustment meeting were approved as submitted.

### **X. ADJOURNMENT**

The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

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Ron Hoover, Chair

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Jessie Black, Recording Secretary