I. QUORUM DETERMINED:

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

PRESENT: 
- Herb Stone 12/31/18 
- Pat Harstad, 12/31/19 
- Dave Machacek, Chair 12/31/17 
- Janet Manatt Pilcher, Vice Chair 12/31/16 

ABSENT: 
- Veronica Cerka 12/31/17 

STAFF: 
- Les Beck, Director 
- Bob Hruska, Assistant County Attorney 
- Stephanie Lientz, Planner 
- Ande Hendricks, Recording Secretary 

See attendance sheet for community sign in.

II. OLD BUSINESS

III. NEW BUSINESS

**JC16-0004**  
Stephanie Lientz  
Luke Horak, Owner  
Conditional Use Home Occupation - Gunsmithing & firearms sales

Lientz presented the staff report. The applicant is requesting a Conditional Use Permit for a Home Occupation to buy, sell, and modify firearms and related accessories. The applicant currently operates the business as a permitted home occupation on the subject property; however, because he is proposing to have a nonresident employee on the premises, and will use part of an accessory structure for the home occupation, he is required to obtain a Conditional Use Permit for a Home Occupation.

The applicant is proposing the construction of a 1,536 square foot accessory building; 1,418 square feet of the accessory structure will be dedicated to the home occupation business. One nonresident employee will come to the subject property on a daily basis. The applicant indicated that approximately 10 to 15 customers and 5 to 15 deliveries are
anticipated at the subject property each week. The applicant indicated that he will maintain the appropriate federal firearms license.

Staff recommends approval of application JC16-0004 subject to the conditions of the staff report.

Manatt Pilcher asked how staff came to the conclusion that the proposal is in conformance with the Comprehensive Plan goals pertaining to the prevention of human made hazards. Lientz replied that by obtaining a Conditional Use permit that sets forth conditions, such as not allowing the discharge of firearms on site, and by having proper permits and conditions such as maintaining the proper firearms permit, human made hazards can be minimized. Therefore, safety can be maintained for the adjoining property owners and the public.

Manatt Pilcher asked how goal three under Hazard Planning is relevant. Lientz stated that goal three may have been selected in error and would further research the goal.

Manatt Pilcher asked if there will be gunpowder on site. Lientz stated that is not included in the application, but it is an allowable personal use. Lientz stated if they wanted gunpowder for business use in the future, they would need to modify the Conditional Use permit if it is granted.

Machacek asked how there is such a difference in the square foot size of the building between the 1,536 square feet and the 1,418 square feet. Lientz stated the walls are 8” thick all the way around the building. Machacek asked for clarification that the thickness of the walls adds up to the 118 square foot difference. Lientz stated that, yes, that is how it was calculated.

Manatt Pilcher asked why Linn County Emergency Management had no conditions. Lientz stated information about each month’s cases is sent to them and they did not have any conditions. Lientz went on to explain that Emergency Management looks more at county-wide type emergencies and cases more like Temporary Uses where there needs to be a severe weather plan implemented.

Luke Horak, 1302 Arrowhead Road, spoke as the applicant. Horak stated he is already running this business without a Conditional Use permit because it is under the threshold requirements for a Conditional Use Permit. The main purpose of the change is to relocate the business out of the dwelling and into an outbuilding. Horak anticipates he will not exceed the three customer per day limit he is currently following.

Horak addressed the previous question regarding gunpowder. Horak stated modern smokeless powder does not explode unless it is compressed. So in the event of a fire, it would burn rather than explode. Horak stated he will not sell it at this time but if he does in the future, the ATF has additional requirements he must follow. He would also bring it back to the Board for review if required. Horak stated it is very expensive to ship gunpowder, so it is not really cost effective for him.

Horak stated his business supports local economic development since most sales are internet based. This allows money to go into the local economy.

Horak stated he is very conscientious of safety. Horak stated this business is not his main source of income, but rather a side job. Therefore, he has no intention of
jeopardizing himself financially where he could be exposed to a lawsuit of some other type of safety violation.

Harstad asked how Horak plans to do the wall construction. Horak stated it will be a standard post frame building with steel. Spray foam or some other type of air barrier will be placed on the wall, and then another layer of steel will be added.

Manatt Pilcher asked why the building could not be constructed at the 1,500 square foot requirement. Horak stated he is not going to section off any part of the building, but part of it will be for personal use. Since the building will not be sectioned, he has to apply for the Conditional Use permit for the entire building. 1,418 square feet is the interior footprint.

Stone asked if 1,536 is net or gross square footage. Beck stated 1,536 is the gross square footage and 1,418 is net square footage. The net square footage is the available, usable space and therefore what staff considers as the regulated square footage.

Machacek asked he plans to maintain twelve hour business days as required by the ATF. Horak stated the twelve-hour work days are not actual work hours; he is just required to be reached by phone during those hours. His hours are mainly by appointment only and the ATF requires to have a phone number to be reached in that twelve-hour span in the event they would need to trace a gun or something of that nature.

Manatt Pilcher asked how Horak plans to secure the building. Horak stated his house where he currently operates the business was burglarized last fall and therefore plans to have several security measures in place in the new accessory building. The only access to the storage room will be internal and the doors will open in an outward direction so they will be very difficult to kick in. Surveillance cameras will also be put in place on the building. There will be a few guns on display but most of his inventory will be locked in safes.

Manatt Pilcher asked if customers can test-fire his inventory. Horak said no, customers will not be permitted to shoot on his property.

Machacek asked where Horak tests his inventory. Horak stated he shoots his personal weapons on his property in a safe manner with a backstop. He reiterated that customers will not be allowed to shoot on his property for liability reasons.

Manatt Pilcher asked how long Horak has been in business. Horak stated five years.

Motion by Harstad to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use Home Occupation, and to approve case JC16-0004. Second by Manatt Pilcher.

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<td>Stone</td>
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<td>Machacek</td>
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Because approval requires the affirmative vote of a majority of the entire Board membership, or three affirmative votes, the application fails.

Beck asked for clarification on the "no" votes for the record. Manatt Pilcher stated she does not believe the application meets the standard of conformance to the comprehensive plan; Stone stated he does not believe the application meets the standard of compatibility with the surrounding area.

**JSE16-0001**  
Stephanie Lientz  
Cary & Michele Loehr, Owners  
Special Exception from front yard setbacks

Lientz presented the staff report. The property owners have applied for a special exception to permit construction of an addition to the existing dwelling, which the Assessor’s records show was constructed in 1900. Currently, the dwelling is thirty (30) feet from the front property line. A fifty (50) foot setback is required in the AG (Agricultural) zoning district. The proposed addition will not extend further into the front yard than the existing home.

Staff recommends approval of this application JSE16-0001 as it appears that a practical difficulty has been demonstrated.

Harstad asked which site plan drawing is accurate. Lientz stated the handdrawn site plan was submitted with the application; the computerized site plan is accurate and to scale.

**Motion by Stone to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception, and to approve case JSE16-0001. Second by Harstad.**

Manatt Pilcher  
Aye

Stone  
Aye

Harstad  
Aye

Machacek  
Aye

Cerka  
Absent

**JSE16-0002**  
Stephanie Lientz  
Mike McMurrin, Owner  
Special Exception-Corner side yard setback

Lientz presented the staff report. The applicant is requesting relief of five (5) feet from the corner side yard setback requirement, which is fifty (50) feet in the AG (Agricultural) zoning district. The proposal is to construct a 7,400 square foot (74’ X 100’) detached accessory structure on the subject parcel, south of Abbe Hills Road, forty-five (45) feet from the corner side property line.

Staff recommends denial of this application as it does not appear that a practical difficulty has been demonstrated.
Machacek asked where the sheep pen is located on the property. Lientz asked for this question to be directed toward the applicant at the appropriate time. Machacek asked where the fence is located. Lientz referred to the aerial view for the fence location.

Mike McMurrin, 914 Abbe Hills Rd, spoke as applicant. McMurrin stated his reasons for wanting the building in the requested location is because there are utilities located at that end of road and he did not want to incur the expense of having them moved. Also, the interior fence would have to be moved in order to access the building. McMurrin stated he could make the building smaller, but the requested size works best for his personal use.

Manatt Pilcher asked why the building cannot be moved five foot in one direction or the other. McMurrin stated if the building were to be moved to the south, he’d have to bring it way to the south to meet the 50 foot setback. There is also about an eight- to ten-foot elevation drop off to the south. McMurrin stated moving the building to the west would require him to move the interior fence that his sheep are currently in. McMurrin stated his plan is to have the overhead doors located on the west side to be more aesthetically pleasing to the neighbors. If he moved the building to the west, he would only be allowed 36 feet to access the inside of the building. He would not be able to make access in one turn and especially with his motorhome.

Harstad asked if he could add on to either the east or west end of the building and make it work. McMurrin stated that is what he’ll do if his request is denied.

Manatt Pilcher asked if he plans to have one door or multiple doors. McMurrin said he plans to have two doors on the west side.

Lientz stated the distance between the interior fence and the east property line is approximately 160 feet. Accounting for the 50-foot setback leaves approximately 110 feet for building. Therefore, the applicant could make it work and maintain setbacks. The Linn County Engineer stated that a second access off of Museum Road would be allowed. Therefore, the applicant could put his overhead doors on the east side of the building and there would not be an access issue.

Motion by Manatt Pilcher to accept Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception, and to deny case JSE16-0002. Second by Harstad.

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<td>Manatt Pilcher</td>
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JV16-0002  Stephanie Lientz  Collin Woodall, Owner  Variance – Maximum building size

Lientz presented the staff report. The subject property is 1.59 acres in size. The applicant is proposing to construct a 30’ X 48’ (1,440 square foot) detached accessory structure in front of the existing dwelling. The applicant is requesting a variance from the allowable building size for a detached accessory structure. Staff recommends denial of this application due to the proposal not meeting the required standards for approval within the UDC.

Theron Manson, 6811 Mount Vernon Road, stated he is the property owner to the east of this parcel and also the previous owner of this house. Manson stated he is in the process of moving from 6811 Mount Vernon Road and therefore approval would impact him financially by lowering his property value. Manson stated he cannot easily sell a property with a warehouse sitting in front of it for a business. Manson stated he does not understand how a business can be run with this type of zoning.

Motion by Harstad to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception, and to deny case JV16-0002. Second by Stone.

Stone Aye
Harstad Aye
Machacek Aye
Cerka Absent
Manatt Pilcher Aye

IV. OTHER BUSINESS

The Board discussed the cases on this evening’s agenda and how similar circumstances should be addressed going forward.

V. APPROVAL OF MINUTES

The minutes of April 27, 2016 Board of Adjustment meeting were approved as submitted.

VI. ADJOURNMENT

The meeting was adjourned at 8:14 p.m.

Respectfully submitted,

Dave Machacek, Chair  Ande Hendricks, Recording Secretary