LINN COUNTY BOARD OF ADJUSTMENT
Jean Oxley Public Service Center
935 2nd Street SW, Cedar Rapids, Iowa

MINUTES
Wednesday, February 6th, 2019

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

PRESENT: Herb Stone, Chair 12/31/18
Ron Hoover 12/31/22
Sabrina Grace 12/31/21

ABSENT: Pat Harstad, Vice Chair 12/31/19
Dave Machacek 12/31/22

STAFF: Stephanie Lientz, Planner
Mike Tertinger, Planner
Jessie Black, Recording Secretary
Elena Wolford, Assistant County Attorney

See attendance sheet for community sign in.

II. OLD BUSINESS

III. ELECTION OF NEW OFFICERS

Motion by Hoover to hold Election of New Officers at the next Board of Adjustment meeting on February 27th, Second by Grace.

IV. NEW BUSINESS

JSE19-0001 Stephanie Lientz Scott Draper, Owner Special Exception
Moxie Solar, Applicant front yard setback

Lientz presented the staff report.

The applicant is requesting a special exception from the 25’ front yard setback requirement in the USR (Urban Services Residential) zoning district. The applicant is proposing to construct a 13.8 kW photovoltaic ground mounted solar array 13’ from the front property line. These panels will generate energy for the single-family dwelling located on the adjacent parcel to the north, at 2980 East Post Road.

Ground mounted solar panels are a permitted use on an outlot, if they are used to generate energy for the benefit of a structure on a nearby lot. A demonstration of a practical difficulty appears to have been shown in this case due to topographic constraints, and the location of mature trees on the site. Based on existing site constraints and the assertion of the applicant, an alternate location on this parcel for an appropriately sized ground mounted solar array does not appear to be feasible.
Staff recommends approval of this application as it appears that a practical difficulty has been demonstrated.

The Board had no questions for staff or the applicant.

Motion by Grace to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Special Exception JSE19-0001, and to approve case JSE19-0001, Second by Hoover.

Hoover  Aye
Machacek Absent
Harstad Absent
Stone Aye
Grace Aye

JC19-0001  Mike Tertinger  Glenn Harman, Iowa DNR, Owner  Conditional Use
Paul Berland, NE Iowa RCD, Applicant  Floodplain Permit

Tertinger presented the staff report.

The applicant is requesting a Conditional Use Floodplain Permit for excavation within the floodway. The applicant proposes to remove the low-head dam on the Wapsipinicon River at Troy Mills and replace it with rock arch rapids. The objectives of the project are to eliminate the need for repeated repairs and potential dam failure, eliminate a known drowning hazard associated with the hydraulic roller, improve passage for native fish and endangered mussel species, maintain existing upstream surface elevations, provide safer passage for water recreationalists, and improve fishing opportunities. The impacted project staging area will be reseeded, and the temporary access ramp will be removed once excavation and construction activities are complete.

The applicant is required to submit a “No-Rise” certificate, as it is important to ensure excavation activities will not cause a rise in flood heights or velocities. The applicant must obtain all relevant permits required by state and federal entities. The proposal meets all applicable standards for approval in Article VII, Section 107-144 of the Unified Development Code.

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

Paul Berland (applicant), NE Iowa RCD, offered to answer any questions from the Board or public.

James Lopata, 3300 Linn Buchanan Road, expressed concern for the water level of the river after the dam has been replaced and for the wildlife that inhabits the backwaters, wondering if draining the backwaters is necessary for dam construction.

Berland insisted that the proposed engineering will have no effect on the existing wetlands. He explained that during construction, they will create check dams in order to keep the water away from construction, but maintain existing water level behind the dam. He insisted that the new rock arch rapids will maintain almost the exact elevation as the current dam, but noted that there may be a slight decrease of approximately 4 inches at lowest levels. This difference is necessary in order to comply with a No Rise Agreement. He stated that if the current dam were to breach again, there are no funds to fix it.

Lopata understood, but insisted that if the water level were to drop after construction, he would file a lawsuit.

David Rizzo, 3206 Shore Lane, spoke in support of the rock arch rapids. He stated that he would prefer if the river channel were put back on the other side of the river, where it used to be. He also wondered if the cement that is removed during construction could be used to line his river bank.

Berland explained that the proposed design of the rock arch rapids would be to create a thalweg that would force the water flow back through the original river channel.
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 Floodplain Permit JC19-0001, and to approve case JC19-0001, Second by Grace.

Grace       Aye
Hoover      Aye
Stone       Aye
Machacek  Absent
Harstad    Absent

V. OTHER BUSINESS

VI. APPROVAL OF MINUTES
The minutes of December 26, 2018 Board of Adjustment meeting were approved as submitted.

VII. ADJOURNMENT
The meeting was adjourned at 6:59 p.m.

Respectfully submitted,

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Sabrina Grace, Chair                     Jessie Black, Recording Secretary