

**LINN COUNTY BOARD OF ADJUSTMENT**

**MINUTES**

**Wednesday, May 26, 2021**

**I. QUORUM DETERMINED:**

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

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

**ABSENT:**

**STAFF:** Charlie Nichols, Director  
Elena Wolford, Assistant County Attorney  
Stephanie Lientz, Senior Planner  
Cathy Coppess, Recording Secretary

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**

**JV21-0003      Stephanie Lientz                      Steven Dirks, Owners                      Variance – side yard setback**

Stephanie Lientz presented the staff report.

The applicant is requesting an eight (8) foot variance from the ten (10) foot side-yard setback requirement. The applicant is proposing to replace an existing 1,478 square foot attached garage with a 2,304 square foot attached garage on the subject property, which would be located approximately two (2) feet from the side property line.

The required side yard setback in the USR (Urban Services Residential) zoning district is ten (10) feet per Article VII, Section 107-137, §(e)(3)(b) of the Linn County Unified Development Code (UDC). 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 by the applicant

Staff recommends denial. There are no special topographic or other conditions related to the property that necessitate the encroachment of the proposed structure into the side yard setback. The existing structure could be replaced with a structure of the same size in the same location while meeting the required side-yard setback; this request appears to merely serve as a convenience to the applicant to allow for the construction of a larger attached garage. 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 was not created by the provisions of the ordinance.

Lientz went over the Variance Standards for Approval.

Steven Dirks stated he has talked to his neighbors; they are not opposed to his proposed garage. Dirks also stated the steep bank next to the garage and cement pad is difficult to maintain without going into the neighbor's property. The design of the garage is following the roofline of the existing house and garage and he is asking that the garage go 2½ feet into the setback.

Dirks made a closing statement thanking the board and staff for their time. He has never applied for a variance or special exception; he would like to make the grade of land better for himself as well as his neighbor. Also stated if a 50% special exception would fit better he is not opposed requesting a special exception.

Hoover said he believed it was not a hardship case, Martin agreed. Burns suggested landscaping or other alternatives to alleviate the struggle to maintain that area, Meisheid agreed.

**Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for Conditional Use case JV21-0003 and to deny case JV21-0003. Second by Burns.**

<b>Meisheid</b>	<b>Aye</b>
<b>Burns</b>	<b>Aye</b>
<b>Hoover</b>	<b>Aye</b>
<b>Martin</b>	<b>Aye</b>

**JV21-0004      Stephanie Lientz                      Linn County, Owner      Variance – Floodplain Regulations**

Charlie Nichols presented the staff report.

The applicant is requesting a variance to construct a 12' x 9' handicapped accessible restroom in the Floodway (Overlay) District on a parcel owned by Linn County, IA and managed by the Linn County Conservation Department. The property is a public river access, picnic area, trail access, and access point for Iowa Department of Natural Resources (IDNR) property.

Structures accessory to open space uses are allowed within the Floodway District, provided the structure meets the Floodway District performance standards in Article VII, Section 107-144, §(g)(3) of the Linn County Unified Development Code (UDC). Non-residential structures must be elevated a minimum of two feet above the base flood elevation (BFE). Because placing fill in the Floodway is not allowable, this structure will not meet the two feet above BFE requirement. Per Article VII, Section 107-144, §(e)(3) of the UDC, 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. The applicant must demonstrate that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

Staff recommends approval. In this case, the entirety of the county property is located within the Floodway District, making it impossible to place a restroom outside of the Floodway. This park has been served by a restroom in the past, and a denial of the variance would remove the only available restroom option for this area. This would substantially harm the viability of this park and the public's ability to enjoy it.

Hoover asked about the restroom connection to the sewer system. Nichols answered it does require a special septic system to protect from flooding.

Nichols made a closing statement apologizing for the miscommunication between our office and conservation. Conservation assumed that since there was already a restroom in that location, making changes to comply with ADA would not need to go through a variance procedure.

**Motion by Martin to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for Conditional Use case JV21-0004 and to approve case JV21-0004. Second by Hoover.**

<b>Martin</b>	<b>Aye</b>
<b>Burns</b>	<b>Aye</b>
<b>Meisheid</b>	<b>Aye</b>
<b>Hoover</b>	<b>Aye</b>

#### **IV. OTHER BUSINESS**

#### **V. BOARD COMMENTS**

#### **VI. STAFF COMMENTS**

Nichols let the board know that the Public Service Center building is set to open June 7<sup>th</sup>, so next month the meeting will be in person. Nichols also announced Stephanie Lientz is now the Planning & Zoning Manager. Nichols and Lientz discussed a potential member to fill the vacancy on the Board.

#### **VII. PUBLIC COMMENTS**

#### **X. APPROVAL OF MINUTES**

The minutes of April 28, 2021 Board of Adjustment meeting were approved with the correction of Brandy Meisheid as Vice Chair.

#### **XI. ADJOURNMENT**

The meeting was adjourned at 7:19 p.m.

Respectfully submitted,

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Ron Hoover, Chair

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Cathy Coppess, Recording Secretary