

**LINN COUNTY BOARD OF ADJUSTMENT**

Jean Oxley Public Service Center  
935 2<sup>nd</sup> Street SW, Cedar Rapids, Iowa

**MINUTES**  
**Wednesday, October 24, 2018**

**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 2<sup>nd</sup> Street SW, Cedar Rapids, Iowa.

**PRESENT:** Herb Stone, Chair 12/31/18  
Pat Harstad, Vice Chair 12/31/19 (by phone)  
Sabrina Grace 12/31/21

**ABSENT:** Dave Machacek 12/31/22  
Ron Hoover 12/31/22

**STAFF:** Les Beck, Director  
Heidi Carmer, Assistant County Attorney  
Stephanie Lientz, Planner II  
Mike Tertinger, Planner I  
Sue Bennett, Recording Secretary

See attendance sheet for community sign in.

**II. OLD BUSINESS**

**III. NEW BUSINESS**

<b>JC18-0010</b>	<b>Stephanie Lientz</b>	<b>Jeff Rogers , Owner</b>	<b>Conditional Use</b>
		<b>Jewel Howard, Applicant</b>	<b>Home Occupation -</b>
			<b>Commercial Kitchen</b>

Lientz presented the staff report.

The applicant is requesting a Conditional Use Permit for a Home Occupation for a commercial kitchen, to be used for cooking classes and meal preparation. The applicant will be using an existing 880 square foot accessory structure for the home occupation; an approximately 120 square foot walk-in cooler and freezer is stored outside the building. The applicant indicated that approximately 30 customers will come to the site each week, and is anticipating up to 2 deliveries per week. The petitioner will have 2 non-resident employees and the use is proposed to occur within the accessory building.

A Conditional Home Occupation allows the applicant to use up to 1,000 square feet for the home occupation business on a parcel of this size. A home occupation with one or more nonresident employees or that will use part of an accessory structure for the business requires a Conditional Use Permit for a Home Occupation in the AG (Agricultural) zoning district. The proposal conforms to the standards for approval in Article IV, Section 107-173, § (4) and Article VI, Section 107-113, § (h) of the Linn County Unified Development Code.

Harstad asked for square footage clarification. Lientz replied that the limit is 1,000 square feet. This Conditional Use will use 880 square feet inside and 120 square feet in outside freezer.

Jewel Howard, 3425 N Alburnett Road, applicant, offered to answer any questions. The Board did not have any questions for her.

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

**Motion by Grace to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use Home Occupation JC18-0010 , and to approve case JC18-0010. Second by Stone.**

Hoover	Absent
Machacek	Absent
Harstad	Aye
Grace	Aye
Stone	Aye

JC18-0011	Mike Tertinger	Terry Ely, Owner	Conditional Use Home Occupation - Wine Production
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Tertinger presented the staff report.

The applicant is requesting a Conditional Home Occupation for a wine production business. The applicant is proposing to use 728 square feet of a 2,160 square foot accessory structure for the home occupation. The remaining 1,432 square feet will be used for personal storage. The applicant has stated that no customers will come to the site and there will be up to two non-resident employees. The use is proposed to occur entirely within the accessory building. No business sign is proposed with this application.

A Conditional Home Occupation allows the applicant to use up to 1000 square feet for the home occupation business on a parcel of this size. A home occupation with one or more nonresident employees or that will use part of an accessory structure for the business requires a Conditional Use Permit for a Home Occupation in the USR (Urban Services 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. All applicable local, state and federal permits

for wine production and sales shall be required as a condition of approval. All applicable local permits for well and septic systems related to wine production shall be required as a condition of approval.

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

The applicant, Terry Ely, 3600 Otis Road, stated that he is supplying a spot for his friend to make wine. He stated that the production output will be no more than 100 gallons a year. This is just a startup spot, and will be a small operation.

**Motion by Stone to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use Home Occupation JC18-0011, and to approve case JC18-0011 . Second by Grace.**

<b>Harstad</b>	<b>Aye</b>
<b>Hoover</b>	<b>Absent</b>
<b>Stone</b>	<b>Aye</b>
<b>Grace</b>	<b>Aye</b>
<b>Machacek</b>	<b>Absent</b>

**JC18-0013 Stephanie Lientz HSI Leasing, Owner  
Modification -  
Business,**

**Conditional Use , Minor  
Landscape**

**Remove Outdoor Storage**

Lientz presented the staff report.

The applicant is proposing to modify an existing contractor's yard with outdoor storage on the subject property. A Conditional Use Permit (JC16-0003) was granted in 2016 for a construction business and self-service outdoor storage rental facility for recreational vehicles and boats. The applicant is proposing to remove the outdoor storage rental use within one (1) year, and to construct a new 3,888 square foot building for a landscaping business.

The proposed uses of contractor's yard or outdoor storage, and lawn, garden, and yard maintenance services, are allowed with a Conditional Use Permit in the HC (Highway Commercial) zoning district. 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), as well as the standards for lawn, garden, and yard maintenance services in Article VI, Section 107-115, § (k). More than one commercial use may be established on a single lot per Article V, Section 107-94, § (a). The proposal meets the parking standards found in Article V, Section 107-93, § (e) of the UDC.

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

Curt Richey, applicant, 4372 Pintail Drive, and Doug Brain, surveyor, 1540 Midland Court NE, came to the podium to answer questions. Brain stated that there should not be any impact on the

stormwater run off on the site with the addition of the building, because the area where it is being constructed is already hard surfaced.

**Motion by Grace to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use Home Occupation JC18-001 3, and to approve case JC18-001 3. Second by Harstad .**

Grace	Aye
Harstad	Aye
Hoover	Absent
Machacek	Absent
Stone	Aye

JSE18-0006	Mike Tertinger	Rae Jeanne Kilberger , Owner	Special Exception - Side Yard Setback
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Tertinger presented the staff report.

The applicant is requesting a special exception from the 10' side yard setback requirement for a principal structure in an RR1 (Rural Residential 1-Acre) zoning district. The dwelling and attached garage, constructed in 1957, were destroyed by fire in 2018. The applicant is proposing to rebuild the dwelling and garage on the original foundation. Currently, the foundation is 6' from the side yard property line at its closest point. The proposed dwelling and attached garage will begin at 6' from the side yard property line, and will not encroach any further.

A demonstration of a practical difficulty appears to have been shown in this case due to the location of the original dwelling foundation in proximity to the side yard property line.

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

Rae Jeanne Kilburger, owner, 6300 Ellis Blvd, stated that she has owned the property since 1956. Her tenant's boyfriend told her he was going to burn the house down, and then he did.

**Motion by Stone to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use Home Occupation JSE18-0006 , and to approve case JSE18-0006. Second by Grace.**

Stone	Aye
Grace	Aye
Hoover	Absent
Harstad	Aye
Machacek	Absent

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

#### **V. APPROVAL OF MINUTES**

The minutes of September 26, 2018 Board of Adjustment meeting were approved as submitted.

#### **VI. ADJOURNMENT**

The meeting was adjourned at 7:24 p.m.

Respectfully submitted,

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Herb Stone, Chair

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Sue Bennett, Recording Secretary