



PLANNING AND ZONING
Cerro Gordo County Courthouse

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SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

Case No.: 23-9 **Hearing Date:** April 25, 2023

Staff Contact: John Robbins, Planning and Zoning Administrator

Applicant	Owner
John T. Jones Construction Company	Clear Lake Sanitary District
2213 7 th Avenue N	5631 235 th Street
Fargo, ND 58102	Clear Lake, IA 50428

Property Address: 5631 235th Street

Brief Legal Description: Tract of land in the NW¼ of the SE¼, Section 26, Clear Lake Township

Zoning: A-1 Agricultural

Background

The Clear Lake Sanitary District proposes to construct a 46'x42.8' biosolids thickening building and a 112.5'-diameter biosolids tank in the south-central part of its property (See Figures 1 & 2). According to the applicant, the proposed structures are necessary at the proposed location when considering process flow, site elevation, access, and operations costs and are needed to improve operations. A Special Use Permit was issued to the Sanitary District in 1994 and was silent on setback requirements at the time. As a result, since the proposed structures were not a part of the original site plan, separate Board of Adjustment review is necessary to address the setback requirement and site layout.

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
Biosolids thickening building	173.81' rear yard setback	200' setback from property lines for sewage treatment facilities (20.2-K)
Biosolid tank	125.09' rear yard setback	200' setback from property lines for sewage treatment facilities (20.2-K)

*See Figures (3 & 4)

FINDINGS OF FACT

1. The Clear Lake Sanitary District is the owner of the subject property.
2. John T. Jones Construction Company is the applicant on behalf of the owner.
3. The property is zoned A-1 Agricultural.
4. The proposed biosolids thickening building is 173.81' from the rear lot line. The proposed biosolids tank is 125.09' from the rear lot line.
5. Article 20.2(K) of the Zoning Ordinance requires that all facilities for a sewage treatment plant be at least 200' from all property lines.
6. The application was filed on March 22, 2023 with the Planning and Zoning Office.

ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

Discussion of Standards of Review

Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.

According to the applicant, the proposed structures are necessary at the proposed locations when considering process flow, site elevation, access, and operations costs and are needed to improve operations. The property is generally somewhat small for any expansion of the District's facilities beyond its existing facilities when a 200' setback from all property lines is the strict setback limitation for all facilities. The sewage treatment plant must have specific facilities in proximity to certain locations due to the practical operations of its facilities. The proposed 173.81' rear yard setback for the biosolids thickening building and 125.09' rear yard setback for the biosolids tank are further than 50 percent of the 200' required setback for sewage treatment plant facilities. The standard appears to be met.

The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.

A sewage treatment plant is a special permitted use with the grant of a Special Use Permit by the Board of Adjustment in the A-1 District. The Clear Lake Sanitary District was granted a Special Use Permit for the sewage treatment plant in 1994. Since these proposed structures were not a part of the original approved site plan at that time, separate review with current requirements are necessary. The standard appears to be met.

The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.

As a special permitted use with significant setback requirements for sewage treatment plant facilities, most new structures or facilities related to the District operations onsite necessarily will not be able to meet the strict 200' setback required from all property lines due to the relatively small size of the property for this type of use. The plant serves all of Clear Lake, Ventura, and the unincorporated south shore lake neighborhoods. These facilities are necessary for the District to maintain its operations and maintain its facilities up to state and federal standards. The standard appears to be met.

A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.

The property on which the sewage treatment plant sits is undersized in relation to the required 200' setback, and the District is limited in where it has a feasible location to place the proposed structures due to the lot size, existing facilities, and where they need to be located for proper operation. The proposed structures would not be able to be constructed without an exception otherwise. The standard appears to be met.

Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.

The District is limited in where it has a feasible location to place the proposed structures due to the lot size, existing facilities, and where they need to be located for proper operation. The standard appears to be met.

Relief can be granted in a manner that will not alter the essential character of the locality.

The proposed structures are an expansion of the existing sewage treatment plant operations and will not affect the character of the vicinity. The standard appears to be met.

Discussion of Potential Impacts to Immediate Area

The proposed structures are necessary for the continued operation of the District's operation, which serves all of Clear Lake, Ventura, and the unincorporated neighborhoods of the south shore. Denial could impede the ability of the District to provide basic sanitary sewer services. The impacts are positive for the community.

Staff Conclusions and Recommendation

All standards of review appear to be met. Staff recommends approval as requested.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
2. Grant relief less or different from the requested special exception.
3. Deny the requested special exception.

The following motions are provided for the Board's consideration:

Provided motion of approval:

- I move to adopt the staff report as the Board's findings and to approve the special exception as requested by John T. Jones Construction Company on behalf of the Clear Lake Sanitary District subject to the following conditions:
 1. All construction shall comply with the site plan submitted with the application.
 2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

- I move to adopt the staff report as the Board's findings and to deny the special exception as requested by John T. Jones Construction Company on behalf of the Clear Lake Sanitary District for the following reasons:
[STATE REASONS FOR DENIAL]

EXHIBITS

- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Aerial photo of site

Figure 1

Looking at the proposed location for the biosolids thickening building



April 5, 2023, J. Robbins

Figure 2

Looking at the proposed location for the biosolids tank



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Figure 3

Looking toward the rear lot line from the proposed location of biosolids thickening building



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Figure 4

Looking toward the rear lot line from the proposed location of biosolids tank



April 5, 2023, J. Robbins

SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 3/22/23 Date Set for Hearing 4/25/23 Case Number: 23-9

Applicant Name: John T. Jones Construction Co. **Phone:** 701-232-3358 **E-Mail:** colline@jtjconst.com

Mailing Address: 2213 7th Ave N - Fargo ND 58102

Property Owner Name: Clear Lake Sanitary District **Phone:** 641-357-2019 **E-Mail:** Mhanson@clearlakesd.o

Property Owner Address: 5631 235th St - Clear Lake IA 50428

Property Description (Not to be used on legal documents): Parcel # 052640000200 Township CLAKE

Property Address: 5631 235th St - Clear Lake IA 50428 **Zoning:** A - 1

Brief Legal Description:
E 14 AC N 20 AC NW SE 26-96-22

Project Description

Decision Date: 3/8/23

Wastewater Treatment Facility Improvements

Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)

Article 20.2(K) of the Zoning Ordinance requires that any structure that is part of a sewage treatment plant shall not be closer than 200' from any property line.

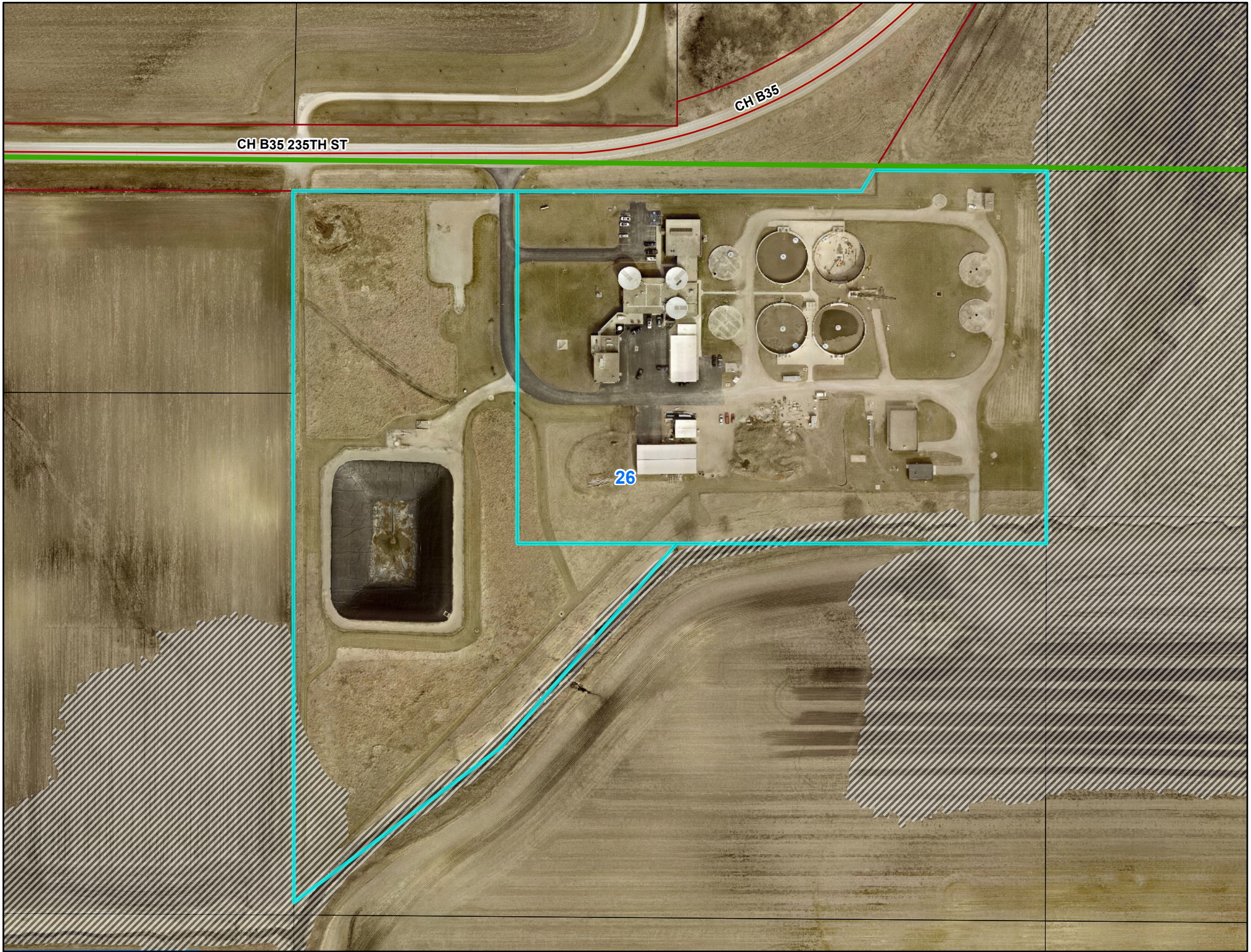
Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)

The treatment site is limited in available space to place these structures while considering location, process flow, site elevation, access, and operation costs. Existing building are between 100' and 200' from the south parcel boundary. The proposed biosolids tank and biosolids thickening building are over 100' from the parcel boundary. Clear Lake Sanitary District requests that an exception for 100' setbacks be accepted to maintain the structure locations for the reasons stated above.

I am the Owner Contract Purchaser Other (Explain) _____
_____ of the property affected.

I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; and that the information provided is true and correct and actual construction will proceed in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this Application.

Applicant Signature CPE Date 3/10/23



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26