

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, John Simmermon, Chairman, presiding.

Members Present: Chairman – John Simmermon, Vice Chairman – Curt Stephenson, Jerry Stamm, and Lisa Hobbs

Members Absent: Cory Bohlander

Staff Present: Stacey Hinton and Jeff Graham

CURRENT BUSINESS

1. Prayer – John Simmermon
2. Pledge of Allegiance
3. Roll Call – 4 present and 2 absent (Cory Bohlander and Brad Newman)
4. Election of Officers (Chairman, Vice Chairman and Secretary)

Attorney Graham asked for nominations for Chairman of the BZA. Member Stephenson nominated John Simmermon. Seconded by Member Stamm. Roll call vote taken and was unanimous. **John Simmermon elected 2022 BZA Chairman.**

Attorney Graham asked for nominations for Vice Chairman of the BZA. Member Simmermon nominated Curt Stephenson. Seconded by Member Stamm. Roll call vote was unanimous. **Curt Stephenson elected 2022 BZA Vice Chairman.**

Attorney Graham asked for nominations for BZA Secretary. Member Hobbs nominated Stacey Hinton. Seconded by Member Stamm. Roll call vote taken and was unanimous. **Stacey Hinton elected 2022 BZA Secretary.**

5. Approval of November 23rd, 2021 BZA Board Minutes -
Member Stamm made a motion to accept the November 23rd, 2021 BZA Board Minutes. Seconded by Member Stephenson. Roll call vote taken. 2 – Yes and 2 – Abstained (Lisa Hobbs and John Simmermon). Motion requires majority vote, which we did not meet. Will need to be held over to the next meeting date. **Motion Tabled**

NEW BUSINESS

Attorney Graham indicated that Planning Director Brad Newman is ill and hasn't been in the office for quite some time now and is not expected back in the short term while he recovers from his illness. As such the board does not have in front of them the Staff Report, Proposed Findings of Fact, etc. Attorney Graham's recommendation is that all the petitions be open and heard today. Petitioners have shown up, sent out notices and the board could hear both evidence for and against and would have the ability to provide

provisional approvals or provisional denials pending a drafting of Findings of Fact. State Law and County Ordinance requires us to make Findings of Fact. The board could either recess or work through them during the meeting itself but absent the things that Brad puts in front the board that we sometimes amend. In order to follow the law, we do need those [Findings of Fact] in front of us. We need to adopt those [Findings of Fact] at the time we either accept or deny a petition. This does not stop the board from hearing or opening the petition and if the board cannot make a final ruling today, then we can continue them until the next meeting. The provisional approval would not have the full legal effect until the next meeting and the Findings of Fact are put together for review at the next meeting. Board Secretary indicated that the Planning Office has supplied board members with North, East, South and West views along with an ariel view of the proposed properties.

1. Petition: 2021-V-021
 Address: 3108 West 950 South, Pendleton
 Location: Fall Creek Township, District 1 Commissioner
 Petitioner: Kris Kail
 Landowners: Kris Kail
 Zoning: AG
 Request: A Variance to allow an Accessory Structure in front of a Primary Structure in the Agriculture (AG) Zone District

Petitioner, Kris Kail, was present and spoke to the board. No remonstrators were present. After discussion was had among board members and Attorney Graham, Attorney Graham provided the board with Findings of Fact that the board could choose to adopt. Member Stamm made a motion to approve Petition 2021-V-021 per adopted Staff Findings of Fact. Seconded by Member Stephenson. Roll Call vote taken and was unanimous.

Petition 2021-V-021 Approved

FINDINGS of FACT for VARIANCE

1. *Will the approval be injurious to the public health, safety, morals, and general welfare of the community?*

No. Evidence has been heard and the proposed structure as presented will not be injurious to the public health, safety, morals, and general welfare of the community and will be harmonious with surrounding neighborhoods.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?*

No. Evidence has been presented by petitioner and a nearby neighbor that it would not be affected in a substantially adverse manner.

3. *Will the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?*

Yes. Owing to other county ordinances the existence of a wetland and the existence of a wooded area, Petitioner would be unable build the structure without the approval of this variance.

2. Petition: 2021-SU-009
 Address: 8971 West Old Fort Road, Fortville
 Location: Green Township, District 2 Commissioner
 Petitioner: Tracy Underwood
 Landowners: Tracy Underwood
 Zoning: CR
 Request: A Special Use to allow a Dog boarding, grooming and Daycare Facility in the Conservation Residential (CR) Zone District

Petitioner spoke to board members explaining their plan is for a boarding daycare and grooming facility for dogs. Petitioner will be connecting to city sewer, and they will be using well water. The city has no future plans for connection to city water for this location. Petitioner also stated that along the back part of the barn there is an existing fence that they plan to add on to that is 8 feet in height. Petitioner also plans to build an additional building as a reception area in the future that will require a building permit. Board Secretary indicated to board members and Petitioner that the ordinance states that fencing cannot be higher than 6 feet tall. If they intend to be higher than the 6-foot allowance, Petitioners will need to file for an exception to allow the fence to be taller than the 6-foot allowance. Member Simmermon stated that if the Petitioner does decide to go with the 8-foot fencing, that the board could approve up to an 8-foot height allowance for the fence. No Remonstrators were present.

After discussion was had among board members, Member Hobbs made a motion to approve Petition 2021-SU-009 per adopted Staff Findings of Fact and Condition for the fence. Seconded by Member Stamm. Roll Call vote taken and was unanimous. **Petition 2021-SU-009 Approved with Conditions**

FINDINGS of FACT for SPECIAL USE

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*

No. The drawing presented by the Petitioner addresses the concerns for granting the special use. If the conditions are observed on the drawing provided the business and activities will be sufficiently distant from surrounding properties.

2. *Will the requirements and development standards set forth in the district for such exception be met?*

Yes. If they follow their drawing and construct everything exactly as described, then they will not violate any development standards contained in our ordinance.

3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*

No. Through their drawing, we have evidence that they will not subvert or permanently injure other property or uses because of they have taken into account the vicinity of neighboring properties. The condition of the land overall is not extremely close to a residential area.

4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*

Yes. The special use does not alter the characteristics of the zoning district of this particular parcel. When the ordinance was adopted, they considered this type of business could be put in if conditions were met. The

condition of compliance with the drawing provided, the character of the zoning district where it's currently at is maintained and preserved. The conditions would be that the Petitioner would have to comply with the drawing that has been provided. With regard to the fence, up to 8 feet in height would be permissible as described in the petitioner's presentation.

- 3. Petition: 2021-SU-0010
 Address: O East 200 North, Anderson
 Location: Union Township, District 1 Commissioner
 Petitioner: Arnulfo Rodriguez
 Landowners: Arnulfo Rodriguez
 Zoning: AG
 Request: A Special Use to build an Accessory Structure before a Primary
 Structure in the Agriculture (AG) Zone District

Chairman Simmermon stated that in the past people have built pole barn on a property and not build the house later. That is why they are in front of the board for the Special Exception. Daphne Holtzleiter with Mustin Builders who spoke on behalf of the Petitioner stated that the Rodriguez family wasn't aware they couldn't do the pole barn before the house and that they had already bought materials for the barn to be built. The house will be started 30 – 60 days after the barn has been finished. Remonstrators were present and spoke.

After discussion was had among board members, builder and petitioner, Member Stamm made a motion to approve Petition 2021-SU-0010 per proposed Staff Findings of Fact and proposed Condition of 1 year from today's date to start the build of the house. Seconded by Member Hobbs. Roll Call vote taken and was unanimous. **Petition 2021-SU-0010 Approved**

FINDINGS of FACT for SPECIAL USE

- 1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*

 No. Based on the evidence and testimony provided by the Petitioner and Petitioners agent, it would not interfere with the affirmation of concerns.
- 2. *Will the requirements and development standards set forth in the district for such exception be met?*

 Yes. Based on evidence presented by the Petitioner and Petitioners agent, requirements and standards will be met. Petitioner will have 1 year from the date of the meeting for the new home to be started.
- 3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*

 No. If condition is met and conditions based on the drawings are met, it will not change the characteristic of the surrounding vicinity.
- 4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*

 Yes. The petition will be consistent with the characteristic of the Agricultural use and will be a farming structure.

4. Petition: 2021-V-022
 Address: 4947 North State Road 9, Alexandria
 Location: Lafayette Township, District 3 Commissioner
 Petitioner: Hutchison Sign Company
 Landowners: SCI Alexandria 3 LLC
 Zoning: GC
 Request: A Variance for sign height in the General Commercial (GC) Zone District

Chairman Simmermon indicated that the petition is for a variance for sign height restriction and the petitioners is Hutchinson Sign Company. The required height is 15 feet, and the Petitioner would like to have an additional 5 feet making the sign 20 feet in height. The site plan indicates that the sign will be right at the entrance of the Dollar General. No Remonstrators were present.

After discussion was had among board members, Attorney Graham and Petitioner, Member Stamm made a motion to approve Petition 2021-V-022 per adopted Staff Findings of Fact. Seconded by Member Hobbs. Roll Call vote taken and was unanimous.
Petition 2021-V-022 Approved

FINDINGS of FACT for VARIANCE

1. *Will the approval be injurious to the public health, safety, morals, and general welfare of the community?*

No. Testimony has been heard by the Petitioner that the proposed sign with its setback and its location and overall condition will not be injurious to the public health, safety, morals, and general welfare of the community.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?*

No. This is a General Commercial area and is accustomed to commercial signs of this nature. The extra 5 feet will not make a substantial difference to any of the properties around as it will fit it with the past practice of the property and an anticipated use for the future.

3. *Will the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?*

Yes. If the county keeps them at the 15 feet requirement, it could adversely affect the business by a smaller sign.

Question was asked by Pete McNamee who was at the meeting if Fidel Lopez had been added to the agenda. Secretary Hinton indicated that she was not made aware they were to be on the agenda. Chairman Simmermon asked if they [Pete McNamee & Mr. Lopez] would wait until they heard the last petition so they could discuss it.

6. Petition: 2021-V-023
 Address: 9350 Fall Creek Drive, Pendleton
 Location: Green Township, District 2 Commissioner
 Petitioner: Ray Hilbert
 Landowners: Ray Hilbert
 Zoning: CR
 Request: A Variance for front yard setback relief from 50 feet to 30 feet in the Conservation Residential (CR) Zone District

Petition was pulled by the Petitioner – Neighbor was at the meeting and wanting to know what the petition was for. Secretary Hinton explained to them and the board what the situation was regarding the driveway and why they were asking for the front yard setback relief.

5. Petition: 2021-SU-011
 Address: 405 South Park Ave, Alexandria
 Location: Monroe Township, District 3 Commissioner
 Petitioner: Daniel Byerly
 Landowners: Daniel Byerly
 Zoning: GC
 Request: A Special Use to add an additional storage building in the General Commercial (GC) Zone District

Chairman Simmermon indicated that this petition was for an additional Storage Building in the GC Zoning and indicated that any additional buildings would have to go in front of the board for approval. Discussion was had with the Petitioner and board members regarding the petition and the last petition that was heard by the board. There were issues with the drainage, the pond, water and state design releases.

After discussion was had among board members, Attorney Graham and Petitioner, Member Stephenson made a motion to table Petition 2021-SU-011 until more information is provided to board members regarding what was stated at the last meeting. Seconded by Member Hobbs. Roll Call vote taken and was unanimous. **Petition 2021-SU-011 Tabled until February**

Miscellaneous

Chairman Simmermon asked for Pete McNamee to speak regarding the Fidel Lopez and the petition he filed for. Discussion was had among regarding how the house would be built. Pete McNamee stated that the Rezone has been approved and Brad Newman told him to be at this month's meeting. Planning Office was not made aware of the approval of the Rezone and that they were to be put on the agenda. Attorney Graham stated that we need to properly advertise in order to properly vote on this petition. Secretary Hinton read the Variance decision from October regarding the petition being discussed.

After discussion was had among board members and Pete McNamee, Member Hobbs made a motion to table the discussion until the February 22, 2022 meeting date per recommendation by Attorney Graham for proper notification and the County Inspector, Tom Whitesell, can make a site visit and take pictures to verify they are in compliance. This petition would also be first on the agenda. Seconded by Member Stamm. Voice vote taken and was unanimous. **Motion Approved to table till February 22, 22 meeting date.**


Member Hobbs asked Attorney Graham if there is a way to do the mailings where they have notice that they were served but not be as expensive for certified cards . Attorney Graham said yes that we would have to change our internal rules so that it would reflect that. The internal rules for BZA states that it should be sent certificate return receipt and we could change that to proof of mailing and that it would still meet state statue. We would need to add it to the agenda for next months meeting.

Secretary Hinton asked Attorney Graham how the Planning Office could go about getting Petty Cash for the office. Attorney Graham said he would work with the Commissioners on getting that for us.

Chairman Simmermon asked Attorney Graham if he could put together the Findings of Fact for our next meeting. Attorney Graham indicated that he is hopeful that we will have an Interim Planning Director by our next meeting date. Until then he will put together an outline that might work and the board can edit from there.

Adjournment

Chairman Simmermon asked for a motion to adjourn. Member Hobbs made a motion to adjourn the meeting, seconded by Member Stamm. **Meeting adjourned - 10:35:35 AM**



John Simmermon, Chairman



Stacey Hinton, Board Secretary