

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

Members Present: Chairman - John Simmermon, Jerry Stamm, Cory Bohlander and Lisa Hobbs

Members Absent: Vice Chairman – Curt Stephenson,

Staff Present: Rachel Christenson- Interim Director, Stacey Hinton and Jeff Graham

CURRENT BUSINESS

1. Prayer – John Simmermon
2. Pledge of Allegiance
3. Roll Call – 4 present, 1 – absent (Vice Chairman - Curt Stephenson)
4. March 22, 2022 Minutes– Member Stamm made a motion to accept the March 22,2022 minutes. Member Stamm also stated that the date on the agenda was incorrect and to note that it should read April 26th, 2022. Motion was seconded by Member Hobbs with the correction. Voice call vote taken and was unanimous - **Motion Approved**

NEW BUSINESS

Interim Director Christenson indicated that Petition 2022-V-002 is first on our list to discuss but asked if she could talk about 2022-V-009 first instead. The board agreed.

1. Petition: 2022-V-009
Address: 10986 South 400 West, Pendleton
Location: Fall Creek Township, District 1 Commissioner
Petitioner: Matthew Collins
Landowners: Matthew Collins
Zoning: AG
Request: A Variance for a Front Yard Setback Relief in the Agriculture (AG) Zone District

Interim Director Christenson presented the staff report with a recommendation for denial. Request is for a front yard setback relief to build a barn on a corner lot. Petitioner was present and spoke to board members and explained what he is doing and that he was instructed at last months meeting he would need to file for a second petition. No remonstrators were present.

After discussion was had among board members, petitioner and Interim Dir Christenson, Member Hobbs made a motion to Deny Petition 2022-V-006 based on the Petitioner stating he could place the building in another area and encourage him to get an additional road cut and per Staff Findings of Fact. Seconded by Member Stamm. Roll Call vote taken and was unanimous. **Petition 2022-V-009 Denied.**

FINDINGS of FACT for VARIANCE

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

No. Based on the evidence provided, it will not.

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. It will not adversely affect property values.

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

No. Staff could not find any practical difficulty in the use of the property

Old Business

1. Petition: 2022-V-002 – **Petitioner Withdrew Petition**
Address: 10986 South 400 West, Pendleton
Location: Fall Creek Township, District 1 Commissioner
Petitioner: Matthew Collins
Landowners: Matthew Collins
Zoning: AG
Request: A Variance to build an Accessory Structure in front of a Primary Structure in the Agriculture (AG) Zone District

Petitioner withdrew this petition

NEW BUSINESS

2. Petition: 2022-V-007
Address: 439 East 600 North, Alexandria
Location: Richland Township, District 3 Commissioner
Petitioner: Richard Jenkins
Landowners: Richard Jenkins
Zoning: R1
Request: A Variance for Rear Yard Setback Relief in the Single- Family Residential (R1) Zone District

Interim Director Christenson presented the staff report with a recommendation for denial. Request is for a rear yard setback relief in order to put a pool in the backyard. Current rear yard setbacks for this zoning district are 25 feet and Petitioner is asking for a 10-foot rear yard setback relief which would make them 15 feet off the rear property line. Based on the fact that the Staff cannot find practical difficulty in the use of the property by not allowing the rear yard setback, the staff recommends denial. No remonstrators were present.

After discussion was had among board members and Interim Dir Christenson, Member Bohlander made a motion to approve Petition 2022-V-007 per adopted Staff Findings of Fact. Seconded by Member Stamm. Roll Call vote taken and was unanimous. **Petition 2022-V-004 Approved with adopted Findings of Fact**

FINDINGS of FACT for VARIANCE

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

No, it will not. Based on the information submitted it would not.

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. The pool will not adversely affect property values.

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. The practical difficulty is based on the decision the previous board made regarding placement of the current accessory structures.

3. Petition: 2022-V-008
 Address: 4571 West 8th Street Road, Anderson
 Location: Jackson Township, District 2 Commissioner
 Petitioner: David & Erin Milligan
 Landowners: David & Erin Milligan
 Zoning: CR
 Request: A Variance for a Side Yard Setback Relief in the Conservation Residential (CR) Zone District

Interim Director Christenson presented the staff report with a recommendation for denial. Request is for a side yard setback relief of 5 feet. Current side yard setbacks for this zoning district are 25 feet and Petitioner is asking to be at 20 feet off the side yard setbacks. Petitioners' intent is to put in an inground pool. Petitioner was present and spoke to board members. No remonstrators were present.

After discussion was had among board members, Petitioner and Interim Dir Christenson, Member Hobbs made a motion to approve Petition 2022-V-008 per adopted Staff Findings of Fact and Conditions. Seconded by Member Stamm. Roll Call vote taken and was unanimous. **Petition 2022-SU-005 Approved with adopted Findings of Fact**

FINDINGS of FACT for SPECIAL USE

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

No. The inground pool will not adversely affect the elements in any way.

- 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. The pool will not adversely affect property values.

- 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. Due to the way this lot is designed, it does cause practical difficulties.

Conditions:

Petitioners must maintain five feet between the walkway and the side yard setback for safety.

- 4. Petition: 2022-V-010
Address: 7532 Sprague Street, Anderson
Location: Adams Township, District 1 Commissioner
Petitioner: Fred & Mary Spitz
Landowners: Fred & Mary Spitz
Zoning: CR
Request: A Variance for a Side Yard Setback Relief in the Conservation Residential (CR) Zone District

Interim Director Christenson presented the staff report with a recommendation for denial. Request is a variance for a side yard setback relief. Current setbacks for a lot less than 2 acres is 10 foot off the side and 10 off the rear. Petitioner is asking to be 3 feet off the side yard. Interim Director Christenson indicated that if they were to approve the current petition, the Petitioner would also need to file an additional variance for maximum lot coverage. They currently are at 32% on lot coverage and the allotted lot coverage is 30%. With the construction of the new garage, it would put the lot coverage at 38%. Petitioner was present and spoke to the board. No remonstrators were present.

Discussion was had among Board members, Petitioner, Interim Director Christenson and Attorney Graham. After discussion was had, Member Stamm made a motion to approve Petition 2022-V-010 per adopted Staff Findings of Fact. Seconded by Member Bohlander. Roll Call vote taken and was unanimous. **Petition 2022-V-010 Approved with adopted Findings of Fact**

FINDINGS of FACT for VARIANCE

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

No. The garage will not adversely affect the elements in any way.

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. The side yard setback does not affect surrounding property in a substantially adverse manner and no evidence was present by adjacent property owners.

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. Due to the way this lot is designed, it does cause practical difficulties for any additional builds.

5. Petition: 2020-V-005
 Address: 8469 South 250 East, Markleville
 Location: Adams Township, District 1 Commissioner
 Petitioner: David Ashton
 Landowners: David Ashton
 Zoning: AG
 Request: An Amendment to the original petition to allow petitioners to live in the current home while a new home is being built in the Agriculture (AG) Zone District

Interim Director Christenson presented the staff report with recommendation of approval along with conditions. Request is for an amendment for a variance that was granted in the 2020. The variance that was granted allowed the Petitioner to build a new home while living in the current home. Due to the effects of the pandemic, Petitioner is asking for an extension of the current permit. Petitioner has modified their plans and instead of building a new home, they would like to convert the current barn to living quarters and demo the home once the new barn conversion is completed. No remonstrators were present.

After discussion was had among board members, Petitioner and Interim Dir Christenson, Member Bohlander made a motion to approve Petition 2020-V-005 with Staff Findings of Fact and Staff Recommendations. Seconded by Member Stamm. Roll Call vote taken and was unanimous. **Petition 2020-V-005 Amendment, Approved with Conditions.**

FINDINGS of FACT for VARIANCE

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

No. The barn conversion as described would not affect public health, safety, morals, and general welfare as it fits in with surrounding properties.

- 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. The variance will not adversely affect the property 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. If we were to strictly apply the zoning ordinance to this petition, it would result in practical difficulty of the use of the property.

Conditions

- 1. Petitioner must obtain a permit for construction within one year of this variance approval.
- 2. A demolition permit must be obtained in tandem with the Certificate of Occupancy being issued on the barn converted into living quarters.

- 6. Petition: 2022-SU-007
 Address: 2806 East 1100 North, Alexandria
 Location: Monroe Township, District 3 Commissioner
 Petitioner: Parallel Infrastructure/AT&T/
 Landowners: Danny Johnson
 Zoning: AG
 Request: A Special Use to allow a New Unmanned Multi-Carrier Wireless
 Telcom Facility in the Agriculture (AG) Zone District

Interim Director Christenson presented the staff report with recommendation to table. Request is a Special Use to allow a new unmanned multi-carrier wireless telecom facility. Interim Dir Christenson indicated that she felt it should be tabled until they can gather more information from the Petitioner regarding rates before a decision is made. She also indicated that a landscaping plan should be submitted before a permit is issued. Interim Director Christenson is concerned that the current ordinance states that no permits should be permitted within a 3 miles radius of an existing tower, but the current permit would be 1500 feet of the current tower. Petitioner’s Attorney Dave Koots was present and spoke to board members. Tony Phillips with Fullerton Engineering spoke to the board. He indicated that the State of Indiana just passed a law state that it can no longer enforce the 3-mile radius separation. Remonstrations were received by were present and spoke as well.

After discussion was had among board members, Mr. Koots, Mr. Phillips and Interim Dir Christenson, Member Stamm made a motion to approve Petition 2022-SU-007 per Staff Findings of Fact and Conditions set forth by the board. Seconded by Member Hobbs. Roll Call vote taken and was unanimous. **Petition 2022-SU-007 Approved with Findings of Fact and Conditions**

FINDINGS of FACT for SPECIAL USE

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

No. The approval will not adversely affect the elements in any way.

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

No. The special use will 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. The Petitioner is unable to enter into a commonly reasonable lease term with the existing owner or landowner.

Conditions:

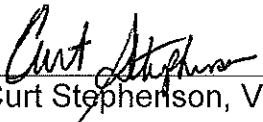
Petitioner to submit landscaping plans to the Plan Commission before any permits will be issued.

Miscellaneous

Resolution Establishing Policy for Electronic Meeting Participation – Member Hobbs made a motion to approve Resolution 2022-BZA-R-001. Seconded by Member Stamm.
Motion Approved

Adjournment

Chairman Simmermon made a motion adjourn and seconded by Member Bohlander at 10:58:07 am. **Meeting Adjourned**



Curt Stephenson, Vice Chairman



Stacey Hinton, Board Secretary