

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

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

Members Absent: None

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

### CURRENT BUSINESS

1. Prayer – John Simmermon
2. Pledge of Allegiance
3. Roll Call – All Present
4. July 26<sup>th</sup>, 2022 Minutes – Member Stamm made a motion to accept the July 26<sup>th</sup>, 2022 minutes. Seconded by Member Bohlander. Voice call vote taken and 3 – yes and 2 abstained (Lisa Hobbs and Curt Stephenson)- **Minutes approved.**
5. Member Hobbs made a Motion to amend the August meeting agenda to include the Memorandum of the Executive Session. Seconded by Member Stamm. Voice call vote taken and was unanimous. **Motion Approved.**
6. Attorney Graham indicated that the Board met in an executive session on August 16<sup>th</sup>, 2022 and read the memorandum to board members. Member Hobbs made a motion for the board to approve as presented and seconded by Member Stamm. Voice call vote taken and was unanimous. **Motion Approved.**

### OLD BUSINESS

1. Petition: 2022-SU-009 *Tabled from July*  
Address: 0 North State Road 9, Anderson  
Location: Lafayette Township, District 3 Commissioner  
Petitioner: Mervat Fakhoury  
Landowners: Ibrahim Fakhoury  
Zoning: GC  
Request: A Special Use to run a car lot and auto repair in the General Commercial (GC) Zone District

Interim Director Christenson indicated that the petitioner is working on more site developments and has asked for a continuance until September. He does not have all his materials to present to the board. Member Hobbs made a motion to continue Petition 2022-SU-009 to the September

27<sup>th</sup> meeting. Seconded by Member Stamm. Voice call vote taken and was unanimous. **Petition 2022-SU-009 Tabled to September 27<sup>th</sup> meeting.**

2. Petition: 2022-V-013, 018 and 019 – *Tabled from July*  
Address: 1359 E Zell Road, Summitville  
Location: Van Buren Township, District 3 Commissioner  
Petitioner: Terry Delong  
Landowners: Terry Delong  
Zoning: R2  
Request: A Variance for rear yard setback relief in the Single-Family Residential (R2) Zone District

A Variance for Accessory Structure in front of a Primary Structure in the Single-Family Residential (R2) Zone District

A Variance to allow a Second Drive in the Single-Family Residential (R2) Zone District

Interim Director Christenson indicated that Terry Delong has sent an email requesting for a continuance. He is working on getting his property surveyed. Secretary Hinton indicated that the continuance would be for petition 018 and 019 as well. Member Hobbs made a motion to continue all three (3) petitions. Seconded by Member Stamm. Voice call vote taken and was unanimous.

**Motion Approved**

### Old Business

1. Petition: 2020-V-010  
Address: 2675 West 600 South  
Location: Fall Creek Township, District 1 Commissioner  
Petitioner: James & Candice Stewart  
Landowners: James & Candice Stewart  
Zoning: R2  
Request: A Variance to construct an Accessory Structure in Front of a Primary Structure in the Single-Family Residential (R2) Zone District

Interim Director Christenson indicated that this was a petition that was heard back in 2020. The petitioner is asking for a modification of the decision made on this petition. There was a condition that was put in place that the accessory structure must be built with 45% masonry due to his home being on a corner lot, due to the subdivision and his zoning. Petition is asking to be able to put siding up rather than masonry. No Remonstrators were present. After discussion was had, Member Stamm made a motion to accept the modification to 2020-V-010 and to resend the 45% masonry part of it and use the proposed packet with barn structure from Menard's with two tone paint and adopt the Staff Findings of Fact that were already made. Seconded by Member Bohlander. Roll call vote taken and was unanimous. **Petition 2020-V-010 Approved with Modification**

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 construction of an accessory structure will not be injurious to the public health, safety and general welfare. If the proposed conditions are adopted, the approval would not be injurious to the morals of the community. The conditions ensure that the accessory structure will be built in a manner that will maintain the character and building aesthetics found throughout the subdivision and other properties in proximity.

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

Not if the proposed conditions are adopted. The area maintains homes with a high percentage of masonry on all facades. No properties in the area contain an accessory structure between a primary structure and a road. This location is on a corner lot at one of the entrances to the subdivision. The conditions ensure that the value of properties in the adjacent area are not affected in an adverse manner. The residential use will not be affected.

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 subject parcel is a corner lot and is currently vacant. The primary structure is located on the adjacent lot and contains minimal space for an accessory structure of this size. The vacant lot has plenty of room for such an accessory structure, but if just any accessory structure was placed in this location, there would be an adverse effect on the properties in the vicinity. The vacant lot being a corner lot causes additional problems regarding the strict application of the ordinance. If the strict application of the terms of the zoning ordinance were enforced, an accessory structure would not be able to be constructed on this property.

2. Petition: 2022-V-014  
 Address: 2675 West 600 South  
 Location: Fall Creek Township, District 1 Commissioner  
 Petitioner: James & Candice Stewart  
 Landowners: James & Candice Stewart  
 Zoning: R2  
 Request: A Variance to allow a second drive in the Single-Family Residential (R2) Zone District

Interim Director indicated that this petition should be 2022-V-014 and that it's a new petition. She also indicated that the petition is to allow a second drive for the barn that was approved. No remonstrators were present. After discussion was had among board members, Interim Director Christenson and Petitioner, Member Stamm made a motion to accept 2022-V-014 per Staff Findings of Fact and the stipulation of the 22' driveway instead of what he had proposed. Seconded by Member Hobbs. Roll call vote taken and was unanimous. **Petition 2022-V-014 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. The location of the driveway will not adversely affect 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. The location of the driveway is consistent with other residential driveways along White Oaks Drive and would not affect the use and value of the area 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 strict application of the zoning ordinance would result in a practical difficulty in the use of the lot and the accessory structure permitted by 20-V-010. The inability to have a driveway access from White Oaks Drive to the proposed structure would result in a hardship, as a spur off the existing driveway is limited to the east side of the primary structure, which means the spur would cut across the petitioner's front yard and result in a large quantity of impermeable surface.

**Conditions:**

The proposed driveway will comply with all applicable Entrance/Drive Standards of the Land Use & Development Code, include a maximum width of 22' at the right-of-way.

**APPEAL**

Drew's Part  
Owner: Kelly Drews

Interim Director Christenson indicated that next is an appeal that has been submitted by Kelly Drews. It's officially an Administrative Appeal of a zoning violation at 705 East School Street, in Anderson. She asked Attorney Graham to explain the procedure of how the appeal will go. Attorney Graham spoke to board members and explained how the procedure works and how they would go about making a final decision to the appeal. First to speak was Attorney Ralph Sipes who represents Mr. Kelly Drews. Attorney Sipes started off the hearing with asking questions to Kelly Drews. Mr. Sipes also spoke to the board members with case evidence in favor of Mr. Drews appeal. The board also asked questions to Attorney Sipes. Interim Director Christenson then spoke to the board and presented her evidence as well regarding the violation that was issued to Mr. Drews. Discussion was had among Interim Director Christenson, Attorney Graham and board members. Attorney Sipes did not have any further questions. Remonstrators were present and spoke to board members during public comment. Mr. Drews also spoke to board members and answered question the board had.

After discussion was had and all evidence was presented to the Board of Zoning Appeals, Member Hobbs made a motion to deny the appeal and ask the petitioner to move forward with the Plan Commission on rezoning and adopting the findings of fact from the staff report. Seconded by Member Stamm. Roll call vote taken and was unanimous.

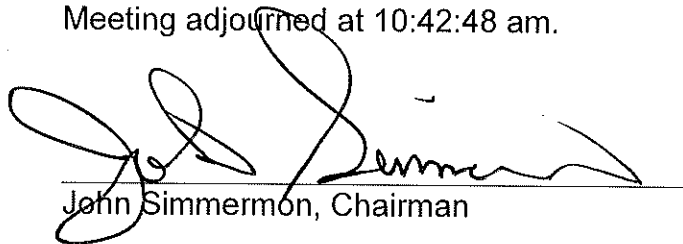
**Approval of Denial of Appeal**

**Miscellaneous**

Mr. Fakhoury was present at the meeting and the board and Interim Director Christenson indicated that his petition was continued until the September 27<sup>th</sup> meeting. Attorney Graham indicated that it had already been moved on continuing until September. He will need to be heard then.

**Adjournment**

Meeting adjourned at 10:42:48 am.



John Simmermon, Chairman



Stacey Hinton, Board Secretary

