

BZA - Minutes March 26, 2024 Board Meeting

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

Members Present: Chairman - John Simmermon, Vice Chairman – Curt Stephenson, Jerry Stamm, Kelly Salyer and Lindsay Brown

Members Absent: none

Staff Present: Larry Strange - Director, Nikki Wood – Board Secretary, and Jeff Graham - County Attorney

CURRENT BUSINESS

1. Prayer – John Simmermon
2. Pledge of Allegiance
3. Roll Call – 4 present, 1 absent – Lindsay Brown
4. Member Stamm made a motion to approve the February 27, 2024 Board Minutes, seconded by Member Salyer. Voice call was taken: 3 approved, 1 abstain – Curt Stephenson. **Motion Approved**

Lindsay Brown arrived at 9:03:01

New Business

1. Petition: 24-SU-004
Address: 405 S. Park Ave.
Location: Monroe Township
Petitioner: Byerly Self Storage
Landowners: Daniel Byerly
Zoning: GC
Request: Build a mini warehouse in GC

Director Strange presented the staff report with a brief summary of past Special Use approvals. Drainage Board has approved this project and the proper drainage permit was obtained. Staff recommendation is to approve with these specific conditions: 1) Building permits shall not be issued for construction of buildings under this special use until after approved drainage work is completed. 2) State design releases are required for all new buildings. Tom Byerly confirmed drainage work hasn't been completed at this time. Member Brown made a motion to approve petition 2024-SU-004 with conditions outlined in the staff report as presented, seconded by Member Stamm. Roll call was unanimous. **Motion 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. The operation is such that there should be no negative impact on the general welfare of the community.

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2. *Will the requirements and development standards set forth in the district for such exception be met?* Yes. As presented, the existing improvements on the property meet the standards of the Madison County Land Use Development Code. All future improvements will be subject to the applicable development standards.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?* No. As presented, and assuming that the conditions detailed herein are met, no injury will occur to surrounding properties in the same district and vicinity.
4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?* Yes. As presented, the conditions and the nature of the proposed project are consistent with the zoning code and comprehensive plan.

2. Petition: 24-V-007
Address: 297 E 1st Ave
Location: Monroe Township
Petitioner: James & Krista Baledge
Landowners: James & Krista Baledge
Zoning: R2
Request: Build an accessory structure in front of a primary structure

Director Strange presented the staff report summarizing the concerns of this property. Staff recommendation is to approve with the following condition: 1) The structure being converted into a partial residence must include design features on the Ross Street side that make it resemble a traditional home. The design features proposed must be approved by the planning department. Member Brown confirmed Mr. Baledge is ok with the design conditions. Mr. and Mrs. Baledge explained their needs for these variances. Member Brown made a motion to approve petition 2024-V-007 as presented with the same recommendations as the staff report, seconded by Member Stamm. Roll call was unanimous. **Motion approved**

FINDINGS of FACT

1. *Will the approval be injurious to the public health, safety, morals, and general welfare of the community?* No. The approval of the variance would stabilize the neighborhood by creating a principal structure on the property. Approval will not have an injurious effect 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, assuming the BZA required conditions are met, the proposed conversion will not affect the surrounding 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 petitioner would not have been able to do the project.

3. Petition: 24-V-008
Address: 297 E 1st Ave
Location: Monroe Township
Petitioner: James & Krista Baledge
Land Owners: James & Krista Baledge
Zoning: R2
Request: Primary structure less than 1400 sq. ft minimum living area in R2 zone

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Director Strange presented this petition summary with the above 2024-V-007 petition. The same staff recommendation to approve applies with the same condition: 1) The structure being converted into a partial residence must include design features on the Ross Street side that make it resemble a traditional home. The design features proposed must be approved by the Planning Department. Member Brown made a motion to approve petition 2024-V-008 as presented with the recommendations in the staff report, seconded by Member Stamm. Roll call was unanimous. **Motion approved**

FINDINGS of FACT

1. *Will the approval be injurious to the public health, safety, morals, and general welfare of the community?* No. The approval of the variance would stabilize the neighborhood by creating a principal structure on the property. Approval will not have an injurious effect 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, assuming the BZA required conditions are met, the proposed conversion will not affect the surrounding 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 petitioner would not have been able to do the project.
4. Petition: 24-AA-001
Address: 705 East School Street
Location: Richland Township
Petitioner: Laureen White
Landowners: Kelly Drews
Zoning: GI
Request: Appeal Planning Department determination that Drew's Parts is in compliance.

Director Strange introduced the administrative appeal of the determination of Director Strange in a letter from Tom Whitesell on December 18, 2023 that Drews Parts was in compliance with the code at that time. Director Strange read 2 letters from remonstrators in support of Ms. White's appeal. Several complaints from Sean Smith was emailed to Larry as well in which Tom Whitesell followed up on, the most recent being that a large piece of equipment was supposed to be removed by last week. Tom confirmed that it wasn't moved so the Planning Dept. is going to reinstitute the daily fine that was in place up through December 18, 2023 until that issue and any other issue is resolved. Director Strange then read the Madison County code from Article 11.13 on Administrative Appeals. Director Strange provided a background from when he entered the position as Director then went on to read the overview from the staff report. There was discussion between the board and Director about what can be done in GI (General Industrial zoning district). Drews Parts can store and sell part outside, he cannot disassemble or assemble parts on the property. The premise is to get all disassembly off the property and this property becomes essentially an outdoor warehouse for finished goods coming from a disassembly operation at a suitable location which is occurring. Laureen White provided a binder with supporting evidence of her appeal that Drews Parts is not in compliance to the board and Director Strange with a nine-page letter, which she read to the board. Member Brown feels there has been an oversight and the BZA needs to make a determination. Attorney Graham reiterated the determination for today is whether the December 18, 2023 determination was correct or not.

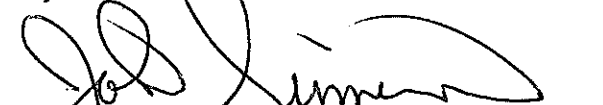
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Kelley Drews spoke his side on some of the points Ms. White made in her appeal. There was discussion between him and the board on the IDEM report and some frames that need removed from the site and what is considered a "finished good". Sean Smith provided pictures to the board and spoke about finished goods and salvage yards. He also provided a flash drive with a MCPC video and IDEM reports. He asked the board to sustain Ms. White's appeal and issue proper fines. Member Brown ran through the findings of fact provided by Ms. White. Director Strange spoke again with regards to Ms. White's findings of facts. Mr. Smith spoke again about buffer yards. Member Brown makes a motion based on Ms. White's findings of fact that Drew's parts is not in compliance. Findings of Fact: 1) Written determination that Drews in compliance with the Ordinance is inconsistent with the Provisions of the Ordinance. Drews is not in compliance with the Ordinance. 2) Written determination that he is operating a "Parts Distributorship" is unsupported, and inconsistent with the provisions of the Ordinance. Drews continues to operate a heavy machinery salvage/junkyard on the property at 705 East School Street, Anderson, Indiana. 3) Drews' broken machines and waste tires are not finished products/goods, and the written determination that they are is unfounded, unsupported, and inconsistent with provisions to the Ordinance. And 4) Drews' continued operations on the property constitute a violation of the following: a) Permitted uses in a General Industrial District set out in section 3.29 and 3.31 of the Ordinance; b) Expansion and modification of existing uses under the Development Standards of Section 6.2 of the Ordinance; c) Violation of the Performance Standards under Section 6.8 (H) of the Ordinance; d) Violations of the Environmental Standards under Section 6.9 (N) and (O) of the Ordinance. Member Stephenson spoke about what that zoning permits and his concerns with the IDEM reports in regard to the water. He goes along with Ms. White's findings of fact. Seconded by Member Stephenson. Roll call vote was 4- yes, 1 no – John Simmermon. **Administrative Appeal Upheld.** Member Brown made a motion to amend the agenda to enforce the site of Drews Parts, seconded by Member Stamm. Roll call was unanimous. **Motion approved.** Member Brown made a motion that Drews Part is to cease and desist as of today operations at 705 E School Street and he has up to 90 days to remove all equipment related to the salvage yard from the job site. Seconded by Member Stephenson. Roll call was unanimous. **Motion approved**

Miscellaneous

Adjournment

Member Brown made a motion to adjourn, seconded by Member Simmermon. Meeting Adjourned at 11:06:25 a.m.



John Simmermon, Chairman



Nikki Wood, Board Secretary