

## BZA - Minutes June 25, 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 – Four present, One absent – Lindsay Brown
4. Member Stamm made a motion to approve the May 28, 2024 Board Minutes, seconded by Member Salyer. Voice call was unanimous. **Motion approved**

### New Business

1. Petition: 24-SU-007  
Address: 0 South 300 East (48-12-33-100-003.000-033)  
Location: Union Township  
Petitioner: Evan and Emily Rodgers  
Land Owners: Evan and Emily Rodgers  
Zoning: AG  
Request: Allow storage of dump trucks

*Lindsay Brown arrived at 9:08*

Director Strange presented the staff report for petition 2024-SU-007. He read one remonstrations letter in opposition of this petition. Chairman Simmermon added some things talked about at the Planning Commission meeting. The Technical Review Committee met prior to the rezone and was in favor. The Planning Commission was unanimous in their approval of the rezone. Staff recommends approval with the following conditions: 1) Number of trucks operating out of the property cannot exceed 12 without a traffic study and approval by the Madison County Board of Zoning Appeals; 2) Petitioner must coordinate with drainage board and complete all requirements up to and include preparation of a stormwater management plan as necessary; and 3) A variance must be obtained for the proposed building to allow an accessory structure to be built on the site prior to a primary use. The petitioners and their Attorney, Jonathan Cook spoke to explain plans and timeframes. The petitioners shared an image of the proposed site plan with the board. Jeff Graham confirmed the petitioners agree with making the conditions commitments and add to those commitments (commitment no. 4) that the eventual site plan be substantially similar to the drawing handed to the board today. Member Salyer made a motion to approve petition 2024-SU-

## BZA - Minutes June 25, 2024 Board Meeting

007 with the findings of fact as amended by Jeff Graham, 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. Specific measures, such as those in the commitments, listed in the conditions stated in the staff report, have been put in place to ensure no negative impact.
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, now commitments, detailed herein are met, no injury will occur to surrounding properties in the same district and vicinity. Assuming compliance with the conditions, the location and limited scope of the proposed use will be such as to not adversely affect neighboring property owners.
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. AG zoning contemplates the proposed use, and the commitments/conditions presented insure a harmonious relationship with nearby property.

2. Petition: 24-SU-008  
Address: 0 N State Road 9 (48-07-18-300-014.000-029)  
Location: Richland Township  
Petitioner: Matthew Cupp  
Land Owners: Matthew Cupp  
Zoning: GC  
Request: Storage for RVs, Boats, Campers and Trailers

3. Petition: 24-SU-009  
Address: 0 N State Road 9 (48-07-18-300-017.000-029)  
Location: Richland Township  
Petitioner: Matthew Cupp  
Land Owners: Matthew Cupp  
Zoning: GC  
Request: Storage for RVs, Boats, Campers and Trailers

Director Strange presented the staff report for petition 2024-SU-008 and petition 2024-SU-009. Staff recommends approval with the following conditions: 1) All storage is indoor; 2) Applicable requirements of the Highway Corridor Overlay district ordinance must be addressed to the satisfaction of the director or they will need to obtain a variance. The petitioner spoke and explained his reason for the layout of the buildings is due to being able to house more storage units and his wife spoke of the façade. The current layout of building with intended façade is pleasing to the board. There was discussion between the board and petitioner about the driveway

## BZA - Minutes June 25, 2024 Board Meeting

and permission to use the driveway. (Condition no. 3) An easement must be obtained from the adjacent property owners for access to driveway if needed. A remonstrator spoke about drainage concerns and his horses. Another remonstrator spoke of concerns with lighting and outside storage; he is fine with indoor storage. Member Brown made a motion to approve 2024-SU-008 and 2024-SU-009 including all findings of fact as well as drainage board approval and driveway permit, 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. This type of development is seen in other locations in the corridor with no negative impacts in these areas.
  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.
4. Petition: 24-V-026  
Address: 0 E State Road 38 (48-13-28-300-077.000-001)  
Location: Adams Township  
Petitioner: Preet Singh  
Land Owners: Preet Singh  
Zoning: GC  
Request: Front yard setback relief

Director Strange presented the staff report for 2024-V-026. The building at 60 feet will be 10 feet off the county thoroughfare plan right-of-way and fall in line with other buildings. Staff recommends approval of this request. The petitioner spoke and agrees to the 60 foot setback. Director Strange mentioned the typical setback is 100 feet. Member Brown made a motion to approve petition 2024-V-026 with the findings of fact, seconded by Member Stamm. Roll call was unanimous. **Motion 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 proposed use as presented should not negatively impact 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?** There should be no negative impacts on property value as this variance is not creating/adding to a problem.

**BZA - Minutes June 25, 2024 Board Meeting**

3. ***Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.*** Yes, the strict terms of the zoning ordinance would prevent the person from having a useful garage.
  
5. Petition: 24-V-025  
Address: 0 E State Road 38 (48-13-28-300-077.000-001)  
Location: Adams Township  
Petitioner: Preet Singh  
Land Owners: Preet Singh  
Zoning: GC  
Request: Side yard setback relief

Director Strange presented the staff report for 2024-V-025. The minimum side yard setback in this district is 25 feet. This house is in a row of residential houses that are more similar in design to a residential district with a minimum side yard setback of 5 feet. Staff recommends approval of this request. Member Brown made a motion to approve petition 2024-V-025 with the findings of fact, seconded by Member Stamm. Roll call was unanimous. **Motion 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 proposed use as presented should not negatively impact 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?*** There should be no negative impacts on property value as this variance is not creating/adding to a problem.
3. ***Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.*** Yes, the strict terms of the zoning ordinance would prevent the person from having a useful garage.

6. Petition: 24-V-028  
Address: 5824 W 700 N  
Location: Lafayette Township  
Petitioner: Daris Lee Reynolds Jr.  
Land Owners: Daris Lee Reynolds Jr.  
Zoning: R2  
Request: Accessory in front of Primary

Director Strange presented the staff report and explained the situation with this property. Staff recommendation is to approve this variance. The petitioner was present but didn't have anything to add other than the reason for his barn is to be used for personal storage. Member Stephenson made a motion to approve petition 2024-V-028 with the findings of fact, seconded by Member Stamm. Roll call was unanimous.

**FINDINGS of FACT for VARIANCE**

## BZA - Minutes June 25, 2024 Board Meeting

1. **Will the approval be injurious to the public health, safety, morals, and general welfare of the community?** No. The proposed use as presented should not negatively impact 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?** There should be no negative impacts on property value as this variance is not creating/adding to a problem.
  3. **Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.** Yes, the strict terms of the zoning ordinance would prevent the person from having a barn on a property that is a residentially-sized parcel.
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7. Petition: 24-V-027  
Address: 5824 W 700 N  
Location: Lafayette Township  
Petitioner: Daris Lee Reynolds Jr.  
Land Owners: Daris Lee Reynolds Jr.  
Zoning: R2  
Request: 2<sup>nd</sup> Driveway

Director Strange presented the staff report for petition 2024-V-027 with 2024-V-028. Staff recommendation is to approve this variance. Member Stephenson made a motion to approve petition 2024-V-027 with the findings of fact, seconded by Member Stamm. Roll call was unanimous.

### 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 proposed use as presented should not negatively impact 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?** There should be no negative impacts on property value as this variance is not creating/adding to a problem.
  3. **Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.** Yes, the strict terms of the zoning ordinance would prevent the person from having a barn on a property that is a residentially-sized parcel.
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8. Petition: 24-SU-010  
Address: 8099 S 800 W  
Location: Green Township  
Petitioner: Stefani Thacker  
Land Owners: Stefani Thacker  
Zoning: AG  
Request: Operate business from pole barn

Director Strange presented the staff report for petition 2024-SU-010. Staff recommends approval with the following conditions: 1) No outside fields or training areas will be established or used without approval of the BZA; 2) Evidence received by the office that the proposed structure to be used for the special use meets all Indiana Department of Homeland Security and Building Plan

## BZA - Minutes June 25, 2024 Board Meeting

Review requirements. The petitioner spoke to explain the business as 1 or 2 batting cages with an extra sound barrier. Member Stephenson made a motion to approve petition 2024-SU-010 with the findings of fact, seconded by Member Brown. **Motion approved**

### 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 operation is such that there should be no negative impact on the general welfare of the community.
  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 if 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.
9. Petition: 24-V-029  
Address: 8099 S 800 W  
Location: Green Township  
Petitioner: Stefani Thacker  
Land Owners: Stefani Thacker  
Zoning: AG  
Request: 2<sup>nd</sup> driveway

Director Strange presented the staff report for petition 2024-V-029. There were no issues from the Highway Department. Staff recommends approval of this variance. Member Brown made a motion to approve petition 2024-V-029 with the findings of fact, seconded by Member Stamm. **Motion 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 proposed use as presented should not negatively impact 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?** There should be no negative impacts on property value as this variance is not creating/adding to a problem.
  3. **Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.** Yes, the strict terms of the zoning ordinance would prevent the person from having a barn on a property that is a residentially-sized parcel.
10. Petition: 24-V-030

## BZA - Minutes June 25, 2024 Board Meeting

Address: 8099 S 800 W  
Location: Green Township  
Petitioner: Stefani Thacker  
Land Owners: Stefani Thacker  
Zoning: AG  
Request: Lot coverage relief

Director Strange presented the staff report for petition 2024-V-030. Staff recommends approval of this variance. Member Brown made a motion to approve petition 2024-V-030 with the findings of fact, seconded by Member Stamm. **Motion 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 proposed use as presented should not negatively impact 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?*** There should be no negative impacts on property value as this variance is not creating/adding to a problem.
3. ***Will the strict application of the terms of the zoning ordinance result in practical difficulty in the use of the property.*** Yes, the strict terms of the zoning ordinance would prevent the person from having a barn on a property that is a residentially-sized parcel.

### Miscellaneous

Director Strange gave an update on Drew's parts. On March 26, 2024 the BZA said within 90 days the operation had to cease and desist. The Planning Dept has been monitoring this and with the Drew's Parts staff and as we approach the 90 days. The inspector went out last week to check progress and stated most everything is gone. On June 24, 2024, Director Strange, Inspector Tom Whitesell, and Member Brown went to Drew's Parts. Based on the results of an inspection conducted by the Madison County Plan Commission, while substantial progress was made, there still remains parts from the salvage yard operation that need to be removed. This includes all parts with the exception of the tires which is governed by IDEM. Based on the inspection the fact the BZA's original timeline is expired, the daily fine will be increased to \$250.00 per day beginning June 24, 2024 and will extend to July 26, 2024 by which time if the removal is not complete, the fine will be increased to \$2,000.00 per day. Everything associated with Drew's Parts needs to be removed. Member Brown commented on the improvement of getting items removed from the property. With the improvement made Member Brown didn't think it would be right to fine \$2,000.00 per day starting today as was the original plan so he agrees with Director Strange's plan. Member Stephenson questions how the tires are going to be handled. Member Brown said to get a statement from IDEM sent to Larry. Jeff Graham would like the board to instruct himself and Director Strange on how to move forward. Kelly Drews, through his attorney, filed a petition for judicial review. State Law states the BZA enforcement of the March 26<sup>th</sup> decision can continue unless Kelly Drews obtains a stay from the court that says the Planning Commission can't do that anymore. They did file for a stay. By noon tomorrow, Attorney Graham has to write a response to that request for a stay. Member Brown made a motion to approve Attorney Graham to file

**BZA - Minutes June 25, 2024 Board Meeting**

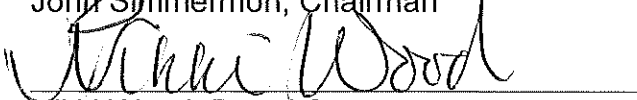
a response to the court that the complaint is still in violation, seconded by Member Stamm. Roll call was unanimous. **Motion approved**

**Adjournment**

Chairman Simmermon made a motion to adjourn, seconded by Member Brown. Meeting adjourned at 10:30:24 a.m.



John Simmermon, Chairman



Nikki Wood, Board Secretary