

## BZA - Minutes July 23, 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, Jerry Stamm, Kelly Salyer and Lindsay Brown

Members Absent: Vice Chairman - Curt Stephenson

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 – Curt Stephenson
4. Member Stamm made a motion to approve the June 25, 2024 Board Minutes, seconded by Member Brown. Voice call was unanimous. **Motion approved**

### New Business

1. Petition: 24-SU-011 **Continued to next meeting**  
Address: 5178 W St Rd 32 (48-11-18-100-028.000-031, 48-11-18-100-030.000-031)  
Location: Stony Creek Township  
Petitioner: The Animal Protection League  
Land Owners: Peter McNamee  
Zoning: GC  
Request: Animal control facility to operate an animal sanctuary
2. Petition: 24-V-021 **Withdrawn**  
Address: 0 Linden St (48-12-27-300-010.000-033)  
Location: Union Township  
Petitioner: Bennett Stanley  
Land Owners: Sharon & Michael Levi  
Zoning: CR  
Request: Accessory structure 2 feet taller than ordinance allows
3. Petition: 24-SU-012 **Continued to next meeting**  
Address: 12046 N Jackley Road  
Location: Pipe Creek Township  
Petitioner: Charles McDonald  
Land Owners: Charles McDonald  
Zoning: GC  
Request: Additional dwelling in pole barn

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4. Petition: 24-V-031  
Address: 2460 East CR 67  
Location: Union Township  
Petitioner: Heather Lee  
Land Owners: Jack Christopher Gentry  
Zoning: GC  
Request: Front yard setback relief

Director Strange presented the staff report for petition 2024-V-031. The petitioner is requesting front setback relief to allow a permanent shipping container next to the building for dry storage. Staff recommendation is to approve this petition with the condition that a screening fence or landscape buffer is placed between the shipping container and the roadway. The petitioner was available for comment. There was discussion about how she could add a fence to conceal the container on concrete. There was question of planters with lattice and vines instead of a fence. Member Brown made a motion to approve 2024-V-031 as presented with the findings of fact, seconded by Member Salyer. 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 properly operating their restaurant.

5. Petition: 24-SU-013  
Address: 0 E 400 S  
Location: Union Township  
Petitioner: Kendrick Donald  
Land Owners: Kendrick Donald  
Zoning: AG  
Request: Accessory structure built before primary

Director Strange presented the staff report for petition 2024-S-013. The petitioner wants to build a barn prior to building his home. A representative for the petitioner was available for comment. He confirmed that there will not be any plumbing and the barn is for storage only. Staff recommendation is to approve with the conditions that 1. the house is built in front of the barn, 2. The footers are in the ground within 2 years. Member Brown made a motion to approve 2024-S-013 as presented with the findings of fact, seconded by Member Salyer. 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. This new development 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 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.
6. Petition: 24-SU-014  
Address: 0 S 250 E  
Location: Adams Township  
Petitioner: Kyle Wynn  
Land Owners: Kyle Wynn  
Zoning: AG  
Request: Accessory structure built before primary

Director Strange presented the staff report for 2024-S-014. A covenant will be required that the home will be built within 2 years. Staff recommendation is to approve the petition with the condition that the house is built in front of the accessory structure. The petitioner was available and confirmed with the board that he understands the covenant and condition. No plumbing in the barn. Member Salyer made a motion to approve 2024-S-014 as presented with the findings of fact, 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. This new development 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.
7. Petition: 24-SU-015  
Address: 9785 N 200 W  
Location: Monroe Township  
Petitioner: Thomas Gatchel  
Land Owners: Thomas Gatchel

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Zoning: AG  
Request: Allow animal boarding

Director Strange presented the staff report for 2024-SU-015. The petitioner has an American Mini-pig rescue with about 30 pigs on the property. They have applied for a 501 (c3) status, which is pending. The state requirements are that they have RFID 80 tags for disease control purposes and documentation for the interstate transfer activity of the mini-pigs. Staff recommendation is to approve with the following conditions, which if violated, could lead to revocation of the special use at the hearing of the BZA: 1. The number of mini-pigs on site at any time will not exceed 60, 2. The petitioner will abide by the state requirements cited above and any subsequent local or state requirements that may be applicable. The petitioner and his wife, Lisa, were available and answered questions from the board. Lisa is requesting use of microchipping instead of the tags due to the pigs ripping the tags out. Director Strange wants a letter from the state confirming the microchips are allowed in place of the RFID 80 tags. Member Salyer made a motion to approve petition 2024-SU-015 with findings of fact, seconded by Member Brown. 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. This new development is such that there should be no negative impact on the general welfare of the community. The petitioners have been conducting this activity for a couple years with no apparent problems.
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.

8. Petition: 24-V-032  
Address: 9785 N 200 W  
Location: Monroe Township  
Petitioner: Thomas Gatchel  
Land Owners: Thomas Gatchel  
Zoning: AG  
Request: Allow farm animals on less than 4 acres

Director Strange presented the staff report for 2024-V-032. Staff recommendation is to approve this petition with the condition that the number of farm animals of any type in total cannot exceed the per acre unit requirements of the Madison County Farm Animal Standards. Member Salyer made a motion to approve petition 2024-V-032 with findings of fact, seconded by Member Stamm. Roll call was unanimous. **Motion approved**

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### 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. The conditions provide control of future use).
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 and there have been no complaints on this use.
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 animals that complement their rescue operation.

### Miscellaneous

Director Strange has two code enforcement issues to address. The first is Drew's Parts. On July 19, 2024, Tom Whitesell, Lindsay Brown and Joe Davis toured the site with Kelly. Joe Davis accompanied due to a recent spill found on the site. A visual inventory was conducted and almost all parts associated with the business has been removed. There are reconditioned parts inside the building that must be removed. There are tires onsite which are supposed to be removed, but per Kelly Drews the tires cannot be removed without IDEM approval and IDEM gives them a permit to move. Documentation from IDEM was requested but not yet received. There was some issues about West Nile virus, Joe Davis addressed this issue. While the inspection results in the observation that great progress has been made outside, the presence of the parts in the building onsite and the tires indicates the facility is still in violation and beginning July 27, 2024 running until August 23, 2024 the fine will be \$500 per day. The current fine totals \$11,400. Kelly Drews was present and spoke to the board. There was discussion between the board, director and Mr. Drews. Attorney Graham stated with the litigation going on right now, he recommends an executive session for this discussion.

Second issue is a complaint issued by Lauren White representing a group of citizens around the Salty Dog operation. The BZA approved a manufacturing recycling operation and IDEM approved a solid waste processing. Larry is looking through the response from Salty Dog lawyers and Lauren's complaint and will try to make a recommendation for the board next month.

An Executive Session may be held August 27, 2024.

### Adjournment

Chairman Simmermon made a motion to adjourn, seconded by Stamm. Meeting adjourned at 10:17:41 a.m.

  
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John Simmermon, Chairman

  
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Nikki Wood, Board Secretary