

BZA - Minutes August 27, 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 – All present
4. Member Stamm made a motion to approve the July 23, 2024 Board Minutes, seconded by Member Brown. Voice call was 4 yes, 1 abstain – Curt Stephenson. **Motion approved**

Old Business

1. Petition: 24-SU-011
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

Director Strange presented the staff report for petition 2024-SU-011. Director Strange took a noise meter to the current location on Dewey Street in Anderson which revealed readings of 45-50 decibels outside of the building. Staff recommendation is pending on what is heard in this meeting. Petitioner representative, Derek Manis spoke about the history of Animal Protection League (APL), a private non-profit organization, explaining they cannot turn away animals whether sick, injured, abused, surrendered, etc. He spoke of the current volume of animals at the shelter and what they estimate to come in as they are already out of space to properly house them. Their plan is to build a sanctuary for the healthy, adoptable animals. All animals that come in will be taken to the Dewey St. location first. All behavioral cases as well as sick and dying animals will stay. All healthy animals that pass a behavioral test and deemed adoptable will go to the sanctuary – an adoption only facility. They adopt out about 100 animals per month which in a 30 day period doesn't bring in that much traffic. The building will set deep into the property with little to no visibility. They also state they will build a wall for a safe perimeter to ensure no animals escape. Member Brown asked about a sustainability plan. Mr. Manis said it's a challenge but they have many corporate donors. Four remonstrators spoke in opposition of this petition mostly with the fear of noise issues and property devaluation and the amount of feces with approximately 100 dogs onsite. Also, the suggestion of looking for property in city was mentioned. Mr. Manis

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addressed a couple of issues brought up by the remonstrators. They did talk to the city about a couple of industrial sites but the city wants those sites for jobs. APL wants to do everything they can to mitigate the noise. There will be no nighttime barking dogs as they will be inside. For property value, this is a commercial district on a State Road. A couple remonstrators reiterated their stance on the noise. Member Brown would like some fact-finding information before taking further steps due to the lack of knowledge. He asked the petitioner for more data and plans. Director Strange said he's not so much worried about the noise, as there are technological things that can be done to reduce the noise. He's more concerned with the sustainability of the project, particularly operations in the future. This is zoned general commercial and with the calls of truck storage facilities which can go in immediately along with other facilities would create more noise. There was more discussion between the board and Director Strange. APL director, Maleah Stringer got up to state the feces get picked up and put in the trash. They do wash the runs daily. Member Brown made a motion to continue this petition and requesting a plan that entails building cost and layout, sustainability plan including letters from supporters, letter from the Health Department, and decibel levels. Member Simmermon states he is a supporter of APL but is concerned with the neighbors with the noise, health and safety, and the water. With the issues he wants more data before making a decision. Attorney asked for a summary of asks for the petitioner: plan, building cost and layout, financial commitment, sustainability, letter from the Health Department and decibel level. Motion was seconded by Member Stephenson. Roll call was unanimous. **Motion approved**

- 2. Petition: 24-SU-012
- Address: 12046 N Jackley Road
- Location: Pipe Creek Township
- Petitioner: Charles McDonald
- Land Owners: Charles McDonald
- Zoning: GC
- Request: Additional dwelling in pole barn

Director Strange presented the staff report for petition 2024-SU-012. Staff recommendation is to approve this petition. The petitioner was available but didn't have anything to add. No remonstrators. Member Stephenson made a motion to approve 2024-SU-012 with the 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.
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.

New Business

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1. Petition: 24-V-033
Address: 7933 S 250 E
Location: Adams Township
Petitioner: Robert and Billie Box
Land Owners: Robert and Billie Box
Zoning: AG
Request: Accessory Structure in front of a Primary Structure

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 being able to replace a long-standing barn on a property that is a residentially-sized parcel.

Director Strange presented the staff report for petition 2024-V-033. Staff recommendation is to approve this petition. The petitioner was available but didn't have anything to add. No remonstrators. Member Stephenson made a motion to approve 2024-V-033 with the findings of fact, seconded by Member Salyer. Roll call was unanimous. **Motion approved**

2. Petition: 24-V-034
Address: 2906 N 300 E
Location: Richland Township
Petitioner: Lyle J. Scharnowske
Land Owners: Lyle J. Scharnowske
Zoning: CR
Request: Build new structure less than the required 10 feet between structures

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 efficiently using the hardware on the patio to help with the proposed enclosure.

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Director Strange presented the staff report for petition 2024-V-034. Staff recommendation is to approve this petition. The petitioner was available but didn't have anything to add. No remonstrators. Member Simmermon confirmed a firewall is not needed. Member Stephenson made a motion to approve 2024-V-034 with the findings of fact, seconded by Member Brown. Roll call was unanimous. **Motion approved**

3. Petition: 24-V-035
Address: 0 W 900 S (48-14-29-300-001.000-012)
Location: Fall Creek Township
Petitioner: Cory Peter
Land Owners: JCP Farms LLC
Zoning: LI
Request: Setback relief from State Road 67
4. Petition: 24-V-036
Address: 0 W 900 S (48-14-29-300-001.000-012)
Location: Fall Creek Township
Petitioner: Cory Peter
Land Owners: JCP Farms LLC
Zoning: LI
Request: Setback relief from 900 South
5. Petition: 24-V-037
Address: 0 W 900 S (48-14-29-300-001.000-012)
Location: Fall Creek Township
Petitioner: Cory Peter
Land Owners: JCP Farms LLC
Zoning: LI
Request: Maximum building height relief

Director Strange gave a summary of the petitions 2024-V-035, 2024-V-036 and 2024-V-037. The petitioner further explained the setback changes that are requested to match Pendleton setback standards. Member Brown confirmed Pendleton plans to annex. No remonstrators. Member Brown made a motion to approve 2024-V-035 with the findings of fact, seconded by Member Stephenson. Roll call was unanimous. **Motion approved**
Member Brown made a motion to approve 2024-V-036 with the findings of fact, seconded by Member Stamm. Roll call was unanimous. **Motion approved**
Member Brown made a motion to approve 2024-V-037 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

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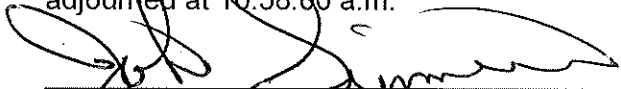
prevent the person from implementing a gradual development plan for an industrial property.

Miscellaneous

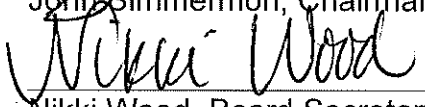
Director Strange has two code enforcement issues. One on Drews Parts. Inspection done Friday, there is very little left on the property. The place is clean and no salvage was seen. Based on the results of the inspection the parts and tires that have been removed from the property are stored inside, meaning he's still in violation. Current fine is \$26,400 which staff will request the Planning Commission attorney to submit to the courts to be reduced to a judgment. Director Strange proposes a new fine letter of \$500 per month, reduced from \$500 per day, be sent to Kelly Drews effective August 27, 2024 and extending 90 days. If no resolution in the next 90 days, the matter may defer to court. Member Brown mentions Drews Parts is not supposed to operate on that land and until everything is moved off the property, he feels they should continue on the same path. There was discussion between Member Stephenson and Attorney Graham. There was more discussion around the fine. Attorney Sipes spoke to the board on behalf of Kelly Drews. Lauren White spoke to the board. She gave update regarding the Mr. Drews court case and reiterated some decisions made by the board on March 26, 2024 in regards to Mr. Whites appeal and read some of the transcript from the March 26th meeting. Sean Smith spoke of county budget and fines. He recognizes the Drews Parts site looks better than but its not done, more needs removed.

Adjournment

Chairman Simmermon made a motion to adjourn, seconded by Member Stamm. Meeting adjourned at 10:58:00 a.m.



John Simmermon, Chairman



Nikki Wood, Board Secretary