

BZA - Minutes January 28, 2025 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, Lindsay Brown and Kelly Salyer

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 (arrived at 9:05)
4. Member Stamm made a motion to approve the December 23, 2024 Board Minutes, seconded by Member Salyer. Voice call was unanimous. **Motion approved**
5. Elections: Vice Chairman Stephenson nominated John Simmermon as Chairman. No other nominations. Voice call was unanimous. John Simmermon serves as Chair of BZA. Member Stamm nominated Curt Stephenson as Vice Chairman. No other nominations. Voice call was unanimous. Curt Stephenson serves as Vice Chairman of the BZA. Chairman Simmermon nominated Nikki Wood as Secretary of the BZA. No other nominations. Voice call was unanimous. Nikki Wood serves as Secretary of the BZA.

Old Business

None

New Business

1. Petition: 25-SU-001
Address: 6440 N State Road 37
Location: Pipe Creek Township
Petitioner: William Burress
Land Owners: William Burress
Zoning: AG
Request: Allow Home Occupation II

Director Strange presented the staff report for 2025-SU-001. This petition is a request to operate an auto repair shop on his property. The Planning Department received a complaint in the fall about the auto shop. Several letters were emailed to Director Strange in support of Mr. Burress and his business and one letter in opposition. Director Strange read the definition of Type II Home Occupation from our code book which includes auto repair as a permitted use but requires anything being worked on not to be stored outside and his sign is only permitted on the primary structure. Staff recommends approval. Our office will enforce the code. The

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board and Director Strange had more discussion to clarify expectations of the business at this property. Mr. Burress was available for questions. Chairman Simmermon stated to Mr. Burress he understood Mr. Burress didn't know he needed a permit (special use) but going forward he has to follow the rules. There was discussion between Mr. Burress and the board about the number of cars allowed on the property and what is allowed to be outside and conditions to be placed on the special use. A supporter of this petition stated Mr. Burress runs a clean business and has been fixing his cars for about 10 years. No remonstrators. The board discussed the number of cars on the property and what should be the maximum number of vehicles allowed – ten motor vehicles including trailers. Member Brown made a motion to approve 2025-SU-001 with the conditions that 1. Move the trash can to the northwest corner of the barn and placing a 6-8 foot fence, and 2. No more than 10 motor vehicles that are operational with plates and all the findings of fact presented by staff, 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. 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.

2. Petition: 25-V-001
Address: 5966 W Fall Creek Dr
Location: Fall Creek Township
Petitioner: Matthew Quinn
Land Owners: Matthew Quinn
Zoning: CR
Request: Side yard setback relief from 10' to 7'

Director Strange presented the staff report for petition 2025-V-001. The request is for a variance to allow him to add on to his existing home within the side yard setback. Staff recommends approval. The petitioner was available but had nothing to add. Member Stephenson said he's familiar with this area and doesn't see this project impacting the property next door. Member Stephenson made a motion to approve 2025-V-001 with the findings of fact, seconded by Member Brown. 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?* No, there should be no such impact.

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3. *Will the strict application of the terms of the zoning ordinance result in a practical difficulty in the use of the property.* Yes. The petitioner would not be able to do the project.

Miscellaneous

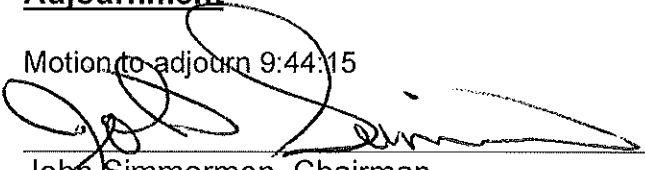
Over the holidays, Director Strange, Tom Whitesell, and Lindsay Brown went to Drew's Parts site and everything is out of all the buildings that were used for storage. He has two small buildings he is using to ship things which means he's still operating Drew's Parts on this property (on School Street). In August, Director Strange said from that point forward, we'll assess \$500 per month. As of today a fine of \$2500 will be issued to cover the period of September 2024 through January 2025. Director Strange encouraged him, and Kelly Drews has an application in, to come to the Planning Commission meeting in February or March to rezone the property to Light Industrial.

Jeff Graham updates: Back in December, Drew's Parts filed a counter claim to the county's request to collect the fines that has been briefed and answered. There was also the BZA denial in the spring of 2024, Drews filed a motion for judicial review – that case has been fully briefed and is in front of Judge Koester. There are other cases that have been consolidated with our case including some from local neighbors and has created a case involving nuisance, inverse condemnation, zoning, fines, judicial review. On February 5, 2025 there is a status conference to get everything on the same page and get something on the calendar. As of right now there is no briefing due in front of the court.

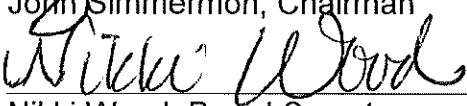
The solar case is in front of the Indiana Supreme Court. State Legislature is responding to the renewables on zoning boards.

Adjournment

Motion to adjourn 9:44:15



John Simmermon, Chairman



Nikki Wood, Board Secretary