

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Bill Hobbs, Rick Durham, John Simmermon, and John Orick.

Also Present: Ken Ellis, Planning Director, and Elizabeth Bruns, Board Secretary.

CURRENT BUSINESS

1. Pledge of Allegiance
2. Prayer – Member Durham
3. Roll call taken with all members present.
4. The minutes for the February 28, 2012 meeting were mailed to each member prior to this meeting. Member Hobbs made a motion to approve the minutes as presented. Member Simmermon seconded the motion; vote was unanimous in favor of the motion. **February Minutes Approved**

NEW BUSINESS

1. **Petition:** 2012-V-003 Development Standard Variance
Address: Not assigned
Location: West side of 300 E approximately ¼ mile north of US Hwy-36
Petitioner: Richard Ward Surveyor on behalf of Levon & Ora Lee Jack
Owner: Levon & Ora Lee Jack
Zoning: AG
Request: Relief from 50-foot Road Frontage Access

Director Ellis presented his staff report.

Richard Ward, Surveyor is representing the Petitioner's. In regards to lot #2 we are using the flood plain line and the building line on the north end and that line meanders and runs around that pond, so there wouldn't be any building activity north of that line.

Member Simmermon asked questions regarding the flood plain area.

Mr. Levon Jack said the open ditch runs straight to Fall Creek (north).

Mr. Thomas Aren, I own the property on the east boundary of this said property. His 40' drive goes along my south boundary. I have no opposition for a variance for making a building site back there; my opposition would be for it to be divided into several parcels, because of the terrain that lies there.

Board Members discussed issues regarding flood plain matters, the stone for another driveway cut, and the 40' driveway needing an additional 10' to meet our code.

Member Hobbs made a motion to continue this petition until our next meeting. Member Durham seconded the motion. Vote was unanimous in favor of the motion. **Petition 2012-V-003 Continued.**

2. **Petition:** 2012-V-004 Development Standard Variance
Address: 9052 N 500 W, Frankton
Location: East side of 500 W approximately 1/8 mile north of 900 N
Petitioner: Tony Bailey on behalf of Bailey Farms Incorporated
Owner: Don & Judy Bailey Farms Incorporated
Zoning: AG
Request: Legally establish a grain bin encroachment into a required front yard

Director Ellis presented his staff report.

Findings of Fact:

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The granting of the variance neither harms the public nor undermines the purposes of The Codes. It is not in the public's interest to deny the variance. This situation exists all over Madison County. Count Road 500 W is an unimproved collector with no future plans for improvement. The rural character of the neighborhood would not be changed or threatened. Since the situation already exists, the health, safety and welfare of the community should be unaffected.
2. *Would the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?* The proposal is compatible with the agriculture area. The granting will not affect adjoining property values in a substantially adverse manner. Similar situations exist with no known problems.
3. *Would the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?* The encroachment is reasonable since this is an existing facility with room to expand. It would not be practical to force the petitioner to locate the new bin away from the existing bins. There is no feasible alternative.

Mr. Bailey informed the Board that this grain bin would line up with the other bins, the barn and the front porch of the existing home.

Member Simmermon made a motion to approve Petition 2012-V-004 per Staffs Finding of Facts. Member Hobbs seconded the motion; vote was unanimous in favor of the motion. **Petition 2012-V-004 Approved.**

3. **Petition:** 2012-V-005 Development Standard Variance
Address: 3226 E 300 N, Anderson
Location: North side of 300 N approximately 1/8 mile east of 300 E
Petitioner: Richard Ward & Associates on behalf of owner Robert Mayhugh

Owner: Robert Mayhugh
Zoning: CR
Request: Relief from min. road frontage and max. width/depth ratio for Lot

Director Ellis presented his staff report.

Richard Ward, Surveyor is representing the Petitioners. Mr. Ward explained that this is a family situation where the siblings are splitting up the property to settle the estate.

Member Durham made a motion to approve Petition 2012-V-005, I feel it won't be injurious to public health and safety, and I think the use and the value of the area adjacent to it will not be deteriorated or affected substantially in any adverse manner. Member Orick seconded the motion. Vote was unanimous in favor of the motion.

Petition 2012-V-005 Approved.

4. Petition: 2012-P-005
Address: 7520 North 600 West, Frankton, Indiana
Petitioner: Chi Baldwin
Owner: James Wright
Zoning: R2
Request: Appeal of Director's decision that an (in-home gun shop) is not a Type II Home Occupation

Director Ellis informed the Board of his decision that dealt with the decision of in-home gun shop being a Type II Home Occupation. Director Ellis explained the reasons for his decision.

Chi Baldwin, 7520 North 600 West in Frankton. I feel I should be grandfathered in. I feel that working on cars is a retail sale if I put new parts on they are purchasing the parts which makes it a sale. So why can't we call my business a service and not a retail business. This is the loop hole that can allow me to do this.

The Board discussed when the Federal Firearms License was issued, the process of calling to set appointments, and the possibilities of moving the business to a commercially zoned property.

Keith Lindzy, 7550 North 600 West, we have agricultural across the street, we can hunt across the street with permission, and a lot of people out here own guns. If you sell Avon you are basically door to door sales, but if someone comes to your home to buy something then that's a retail sale. I think this is a gun stipulation against it, but I have no complaints with the traffic. There has never been any problems around there; they won't come here looking for trouble, which just doesn't happen out there. This ordinance needs to be changed, because anything that's sold out of your house is retail.

Member Hobbs made a motion, seconded by Member Orick to support our Staff Analysis on Petition #2012-P-005 not allowing retail sales in his home. Roll called taken, vote unanimous in favor of the motion. 2012-P-005 Appeal denied.

Mr. Baldwin asked what the ramification would be if he went ahead and opened his business.

Member Simmermon said I would just look for another location.

ADJOURNMENT

Chairman Baker adjourned the meeting.

Adjournment: 11:00:33 A.M.

Mary Jane Baker, Chairman

Elizabeth Bruns, Board Secretary