

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, John Simmermon, Bill Hobbs, Bill Maxwell.

Members Absent: Rick Durham

Also Present: Ken Ellis, Planning Director, Gerald Shine, Jr., Attorney, and Elizabeth Bruns, Board Secretary.

### **CURRENT BUSINESS**

1. Roll call taken with one member being absent.

2. Election of Officers

Member Hobbs nominated Mary Jane Baker as Chairman of the Board for 2011, seconded by Member Simmermon.

Member Maxwell made a motion to close nominations, seconded by Member Hobbs.

Vote was unanimous in favor of the motion, **Mary Jane Baker elected Chairman.**

Member Maxwell made a motion to nominate Bill Hobbs as Vice Chairman of the Board for 2011, seconded by Member Simmermon.

Member Maxwell made a motion to close nominations.

Vote was unanimous in favor of the motion. **Member Hobbs elected Vice Chairman.**

Member Maxwell made a motion to retain Elizabeth Bruns as Board Secretary, seconded by Member Hobbs.

Member Simmermon moved to close nominations.

Vote was unanimous in favor of the motion. **Elizabeth Bruns elected Board Secretary.**

Member Maxwell made a motion to retain Mr. Shine as Board Attorney, seconded by Vice Chairman Hobbs.

Member Simmermon made a motion to close nominations.

Vote was unanimous in favor of the motion. **Mr. Shine elected as Board Attorney.**

3. Oath of Office for John Simmermon administered by Gerald Shine, Board Attorney.



Madison  
County  
Planning  
Commission

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The State of Indiana, Madison County, ss:

I, John Simmermon do solemnly swear and affirm that I will support the Constitution of the United States and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duties as a member of the Madison County Board of Zoning Appeals according to law and to the best of my ability, so help me God.

Subscribed and sworn to before me, this 26<sup>th</sup> day of April, 2011.

~~Kathy Stoops Wright, Clerk,  
Madison Circuit Court~~

Filed with me this 26<sup>th</sup> day of April, 2011, and entered into the minutes of the proceedings of the Madison County Planning Commission and Board of Zoning Appeals.

Elizabeth Bruns, Secretary  
Madison County Indiana  
Planning Commission

4. The minutes for December 21, 2010, were mailed to each member prior to the meeting. Member Hobbs made a motion, seconded by Member Maxwell to approve the minutes. The vote was unanimous in favor of the motion.

No Petitions were filed for January, February, or March, therefore resulting in no minutes requiring approval.

NEW BUSINESS

1. Petition: 2011-V-004 Variance Zoning: AG  
Address: 6744 West 1400 North  
Location: North side of 1400 North, approximately ¼ mile west of 600 West.  
Petitioner: Keith & Betty Trimble  
Request: Relief from Lot Width to Depth Ratio.

Director Ellis stated that we need to be sure that zoning issues related to plats go to the Board of Zoning Appeals if they need to be varied.

The new Statute will establish this, so you will hear a lot of width to depth ratio cases in areas of the county where you have large lots or you have existing large farms, where the farm has either been through probate or due to the actions of the will the properties are being split off and the Planning Department is involved in the splitting off of this farm ground and we may have the old farmstead which includes the house or the barns and many times that stays with the estate.

Keith VanWienen, with Precise Land Surveying, this is an existing homestead with the barns. This is a request to split the homestead and barns from the existing farm, and to not take out any farmland and lose any tillable acreage. We have basically followed the existing cultivation lines which doing that we met all of the current standards except for the width to depth ratio. The regulated drain based on the county maps, barely touches this piece of ground. I researched back into the 1930's or 1940's to see if there was any documentation showing the width of the right-of-way for the pipeline company and could not find anything.

Member Hobbs asked if all power lines, the well, and septic are on this proposed lot.

Keith Tremble co-owner of the property at 6744 West 1400 North, my personal residence is 8884 West 700 North, Elwood. All utilities are on this proposed lot and the septic is located behind the house and not on the farmed property.

Mr. Shine said, in the future we need to know where the septic system is located on the property.

My name is Joseph C. Kelich; I live at 7175 North 575 West, Frankton. My parents live just to the east of the subject property. The only reason we are here is just to find out how this could affect us.

Chairman Baker closed the public hearing, and asked Mr. Ellis to continue.

Director Ellis presented his Staff Report and Findings of Facts.

**FINDINGS OF FACT:**

1. ***Will the approval be injurious to the public health, safety, morals, and general welfare of the community?*** No, the site has been zoned (AG) agriculture for a number of years with the surrounding properties being used primarily for residential and agriculture. The board has approved this type of request in other areas which are intended for agricultural activities, so as to maintain farming operations.



2. Review of 2009-SU-004 – Horse Boarding & Training Facility.

Director Ellis stated, what I would like to do today is let you decide on her situation and circumstances as to whether she needs to come back for a public hearing, a termination or a revocation hearing.

Mr. Shine asked how this came to the attention of the Planning Department that we did not have a review hearing in March or April of 2010.

Director Ellis stated that he talked to the staff and asked them what areas do we feel need attention. Your board secretary brought up the problem that we have cases that commitments were made and timelines were set and I'm sure that they aren't being investigated thoroughly, and it would be her recommendation that we come up with a checklist for each of those cases.

Leigh Ann Richwine, my residence is 406 Stone Drive; the property for review today is 5255 North 350 East. I have had several obstacles to overcome over the past year, and am now trying to move forward. I have an appointment this week to refinance my home and hope to start moving forward again. Everything is under roof; we are working on doors and windows at this time. I have contacted May Supply to be sure that they have all pieces in stock for my septic, we are hoping for good weather, it's a project that they assure should be able to be installed in one to two days. We are pretty much building this house on our own.

Member Maxwell asked Director Ellis if the big issue was the house not being built.

Director Ellis stated that she had committed to building the residence first, and as you can see the horse barn was built, and I have a Certificate of Occupancy that the Madison County Building Inspector issued on the horse barn.

Chairman Baker asked where the septic system was going to be.

Ms. Richwine stated that it would be in front of the house and the well will be behind the house.

Mr. Ellis stated he would like to see her held as close as we can to these commitments and because we have issued these permit legally, she has until September to finish this house, I think at a minimum we have to give her that opportunity. I would at least expect her to be completed by the end of her building permit, close to completion. The only other complaint that the staff was receiving had to do with manure management.

Member Maxwell stated that the manure was to be hauled off by a vendor.

Ms. Richwine said, we have farmers taking some of the manure, we have also purchased a dump truck for the purpose of hauling this off, we purchased a tractor for the loading of the manure, we have gone into a nice little expense to make sure that we can haul it off, and we have also gotten into some measures to make sure that this issue right here doesn't happen again. We have started using sawdust with the exception of the stallions, and brand new foals as they are foaling. Weather is always an issue, to move a loaded dump truck in the rainy season is very impractical. We are constructing a ramp so that the manure never hits the ground. We can load the dump

truck from the wheelbarrows coming out of the barn. I would like to ask that there would be some percentage that we are able to spread on our field, particularly with the shavings being the bedding we are using, it makes wonderful fertilizer and we do grow and use our own hay. This is a huge factor of our business if we have a good hay crop.

Member Hobbs stated that originally when we approved this it was based on the waste to be handled by a disposal company. Is that something that you have looked into?

Ms. Richwine stated that this is something that she looked into and not a lot of people provide that. If we were to get Manifold, the expense of getting dumpsters the size that we need was impractical. There was one company that might have made provisions to get it, but that was not their normal.

Member Hobbs stated that we have had several of these come before us and everybody that has applied for this has had a waste disposal company that just specialized in this type.

Ms. Richwine stated that she would be more than happy to take names of anyone that we may know of for manure removal.

Member Simmermon stated that you will have to make provisions for the removal of the manure because this is an ongoing thing, so one way or another you have to get it out of there.

Member Hobbs stated that he has seen several instances where they build a concrete structure/bunker and the customer brings it into that and then companies come in and pick it up.

Member Simmermon made a motion stating I would like to have at the August meeting that she gives us testimony on the financing of the home, give us evidence of improvement on the house towards completion, and a permanent resolve to the manure issue for the future including rainy conditions.

Member Hobbs seconded the motion, and noted that Ms. Richwine might want to contact some of the other area horse people or the horse track to find out who removes their waste.

Ms. Richwine said she would be more than happy to contact them.

Roll Call taken, vote was unanimous in favor of the motion. **Ms. Richwine is to return for a review in August.**

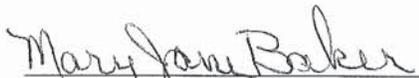
3. Director Ellis had a discussion with the Board regarding our home occupation code and how it prohibits manufacturing and retailing out of a residential dwelling. The Alcohol Tobacco & Firearms Agency issues various types of permits to individuals all the way from what they call a gun dealer to someone that we would call a gunsmith, and there are clear distinctions in the licensing of each of those categories on what they can and cannot do, what types of weapons they can maintain, the types of customers that they can see, and the type of paperwork that they have to process and move through the Federal Government.

The State Legislature is getting ready to rewrite code, and there is sections of code that are going to deal with locations of gun shops, but I believe that in trying to paraphrase that new statute it will say that you are going to have just like with a CAFO the ability to locate that gun shop and zone it and keep them out of certain areas. Your ordinance does not define gun shop. Federal law defines gun shop and gun dealers as someone above and beyond what we would consider to be a personal service, (and a personal service would be someone who fixes my nails, does my hair, and fixes my 22 caliber rifle, that would be a gunsmith, and that's someone who particularly may not even be firing the gun in the home or maintaining ammunition at the home, because all that they are doing is maintaining the repair, and what your ordinance allows is for a gunsmiths to operate in their homes as long as they are maintaining and repairing and they have the proper licensing, but the step up to a gun dealer, where they are allowed to carry so many pounds of gunpowder, and have so many rounds of ammunition may be all fine in our minds if it is out in the middle of nowhere, but that's not going to be the case. The ATF, if the local zoning approves it, will issue a gun dealer license anywhere, they are more concerned about what is the communities regulations and what is the community allowing.

I just wanted to give all of you a heads up on my interpretations and how I plan to move ahead with this. I just don't see gun dealers fitting into the definition of home occupation.

Chairman Baker adjourned the meeting.

Adjournment: 10:36:32 A.M.

  
Mary Jane Baker, Chairman

  
Elizabeth Bruns, Secretary