

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, John Orick, John Simmermon, and Rick Durham

Members Absent: None

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 being present.
4. The minutes for the June 26, 2012, meeting, were mailed to each member prior to this meeting. Member Durham made a motion to approve the minutes as presented. Member Hobbs seconded the motion; vote was unanimous in favor of the motion.
June Minutes Approved.

NEW BUSINESS

1. **Petition:** 2012-V-009
Address: unassigned
Location: North side of 150 N approx. ½ mile east of 300 East in Union Township
Petitioner: Kristopher Kimmerling
Owner: Betty Jordan
Zoning: CR
Request: Variance relief from the required lot width to depth ratio for the proposed 100 feet wide and 1162 feet long lot, to allow a total width to depth ratio of 11.62. Section 3.6 of the Madison County Land Use & Development Code states the maximum lot depth shall not be more than 3.5 times the lot width for all residential primary uses.

Director Ellis presented his Staff Report to the Board Members with a favorable recommendation.

Mr. Kimmerling stated that they want as much agriculture land as possible, and would like to build on the highest point of ground due to drainage in the area.

Attorney Shine asked if the Petitioner was advised of the Drainage Board hearings that are involving this area.

Mr. Kimmerling stated he is aware of it and contacted the engineering firm that is handling this case

Member Orick made a motion to approve 2012-V-009, in accordance with the Findings of Fact given to us by the Madison County Planning Commission.

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. Road frontage requirements are met. Setbacks will not be an issue. They will abide by all Health Department standards for a septic system. The rural character of the neighborhood would not be changed or threatened.
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 proposed dwelling is compatible with the surroundings, and similar in character with other homes in the area. New construction will improve the value of the property. The granting will not affect adjoining property values in a substantially adverse manner.
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 character of the neighborhood would not be changed or threatened by the new home site. The proposal is reasonably compatible with the rural area. There are physical land constraints that prohibit construction of a new home except at the proposed location. The proposed lot has to exceed the lot width to depth ratio to provide access to the only appropriate location for the house.

Member Hobbs seconded the motion. Vote was unanimous in favor of the motion.

Petition 2012-V-009 Approved.

2. **Petition:** 2012-V-010
Address: 12344 North 300 West, Alexandria, IN
Location: East side of 300 W approximately ½ mile North of SR 28
Petitioner: Mark A and Dena Hosier
Owner: Mark A and Dena Hosier
Zoning: AG
Request: Variance to allow for the construction of a new dwelling while living in the existing dwelling on the same parcel. The Madison County Land Use & Development Code states there shall be a maximum of one (1) residential structure per parcel of property.

Director Ellis presented his Staff Report to the Board Members with a favorable recommendation,

Mark Hosier stated that what he would like to do is build a single story home due to his handicap and his wife having multiple sclerosis. We would like to live in our home while the new home is being built and then tear it down immediately when the new house is completed.

Board Attorney, Mr. Shine stated that we have a commitment form that has been prepared by the Planning Department which if approved today would need to be signed by the title owners, Mr. & Mrs. Hosier, it would then be recorded with Madison County and it would be a legal document which would then require Mr. Hosier to remove this residence upon completion of his new residence.

Member Simmermon made a motion to approve Petition 2012-V-010, per staffs Findings of Fact and with a condition that the existing home would be demolished within 60 days of occupancy of new home.

Findings of Fact:

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The proposed structure would not pose a threat to the safety or welfare of the general community because it will meet all local and state codes for new construction. With a commitment to demolish once the new home is certified for occupancy, there will be no impact on the immediate neighborhood if the petitioner lives in the existing home while constructing the new one.
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 proposed dwelling is compatible with the surroundings, and similar in character with other homes in the area. New construction will improve the value of the property. The affected properties will be impacted temporarily during construction.
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 character of the neighborhood would not be changed or threatened while the new home is constructed and the petitioners live in their existing home. Without the ability to live in the existing home while the new home is being constructed would be an undue burden. Practical difficulty has been demonstrated. The variance greatly improves livability and quality of life issues for the petitioner.

Member Orick seconded the motion. Vote was unanimous in favor of the motion.

Petition 2012-V-010 Approved with Conditions.

- 3. Petition:** 2012-V-011
Address: 17367 North State Road 13 Elwood
Location: Approximately 5 miles north of Elwood
Petitioner: Shawn L. Townsend
Owner: Shawn L. Townsend
Zoning: AG
Request: Variance from the maximum square footage and location for a home occupation permanent wall sign on the primary building to a 3 foot by 6 foot free standing advertising sign in the front yard. Section 6.16 B (g) of the Madison County Land Use & Development Code states the home occupation must not require an identification sign exceeding 4 square

feet attached to the primary structure. No off-site signs or signs in the yard of the property shall be permitted.

Director Ellis presented his Staff Report to the Board Members with a favorable recommendation.

Shawn Townsend stated his reasons for the request.

Member Hobbs made a motion to approve 2012-V-011 concurrent with staff findings.

Findings of Fact:

1. ***Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*** The proposed sign is appropriate to the type of home based business to which it pertains. The location of the proposed sign would not pose a threat to the general community. Similar sign variances have been granted in the past with no negative impact. The proposed business identification free-standing sign enhances the public safety and successfully markets the vehicle repair service. No easement or right-of-way is encroached by the proposed sign. The sign structure will not impact septic or water on the site.
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 proposed sign is creative and distinctive. The proposed increased signage is compatible with the surroundings, and will be similar in character and in keeping with many of the agriculture and commercial signs along SR 13. The property will not have a commercial appearance.
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 character of the neighborhood would not be changed or threatened. The proposed sign does not affect the health, safety and welfare of the community. At this location, a 4 square feet attached to the primary structure is not practical along an arterial highway with high speed vehicle traffic passing by. Practical difficulty has been demonstrated. The proposed sign is appropriately sized in its context, so as to be aesthetically pleasing with the surrounding area, yet allow for adequate advertisement.

Member Durham seconded the motion. Vote was unanimous in favor of the motion.

Petition 2012-V-011 Approved.

4. **Petition:** 2012-V-012
Address: 8652 South State Road 109, Markleville
Location: East side of SR 109 approximately 1/8 mile south of SR 38
Petitioner: Robert G and Betty Marie Cox
Owner: Robert G and Betty Marie Cox
Zoning: GC (General Commercial)
Request: Variance to enlarge a Legal Non-Conforming Structure; legally establish a front yard encroachment by the primary dwelling, relief from the public water and sewer requirement and relief from the south side yard setback

from 25' to 10'. Section 3.23 of the Madison County Land Use & Development Code states an existing single-family dwelling is a permitted use in a General Commercial (GC) zone district. Overlay and GC zone districts require connection to public water and sewer. The front setback on the existing home is 50 feet. This setback should be a total of 125 feet as established by the Plat of Markleville West Subdivision and the Madison County Thoroughfare Plan.

Director Ellis presented his Staff Report to the Board Members with a favorable recommendation.

Michael Blake is representing the Petitioners. Hi I'm Michael Blake, and I live at 1426 West US Hwy 36. Bob & Betty Cox would like to building an addition on the current home, this home was inherited from his mother. They would like to enlarge a bedroom and add a bathroom. This is the only feasible place to build as the septic system is in the back yard.

Member Hobbs made a statement that if Fall Creek Regional Waste comes within 300 feet of your property; you are required to hook up to their service. I would just like to make it clear that this variance would not get you out of that requirement.

Bob Cox, 8652 S SR 109, all of the rooms in this house are so small, and we would like to have a little more space as we get older. While taking care of my mother when she lived with us, it came to a point when we had to move her to a nursing home, because the rooms weren't large enough to be able to take care of her at home any longer.

Member Durham made a motion to approve 2012-V-012 per staffs Findings of Fact.

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. Public water and sewer are not available. The petitioner will abide by all Health Department standards for a septic system. The rural character of the neighborhood would not be changed or threatened by the construction of the proposed room addition.
- 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 proposed dwelling is compatible with the surroundings, and similar in character with other homes in the area. The front yard remains as is; compatible with structures in the neighborhood. New construction is in-line front dwelling elevation. The side yard variance will not be noticeable. The granting will not affect adjoining property values in a substantially adverse manner.
- 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 character of the neighborhood would not be changed or threatened by room addition. The existing

dwelling cannot be reasonably made conforming because of the limitations put on it by the Madison County Thoroughfare Plan and GC zoning requirements. The front building line is not reduced but maintained and the essential character of the neighborhood remains rural residential.

Member Simmermon seconded the motion. Vote was unanimous in favor of the motion.
Petition 2012-V-012 Approved.

MISCELLANEOUS

Board Members discussed the progress of the Wind Farm.

ADJOURNMENT

Chairwoman Baker asked for a motion to adjourn.

Member Durham; so moved.

Adjournment: 9:48:13 A.M.

Mary Jane Baker, Chairman

Elizabeth Bruns, Board Secretary