

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, John Randall, Jr., Vice Chairman, presiding.

Members Present: Bill Maxwell, John Randall, Jr., and Bill Hobbs.

Members Absent: Shirley Aubrey and Mary Jane Baker.

Also Present: Michael Hershman, Executive Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

### CURRENT BUSINESS

1. Roll call was taken and two members, Shirley Aubrey and Mary Jane Baker were absent.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Mr. Hobbs made a motion to approve the minutes. Mr. Maxwell seconded the motion. The vote was unanimous in favor of the motion.

Mr. Randall said, there can be no action taken, no official action would be recorded unless we all three vote together.

**3. Petition #517 of John Eicks, landowner and David Eicks, petitioner, is for Special Use to construct a garage for personal use.** The property is located on the East side of Rangeline Rd. (200E) just North of 100S (Mounds Rd.) in Union Township, with the physical address being 2308 S. Rangeline Rd.

Mr. Hershman said, this was tabled until they got approval from the Division of Water on this one. We did not receive a copy of that nor have we heard from Mr. Eicks.

There were no remonstrators present.

Mr. Maxwell said, I make a motion to continue Petition #517 until the April meeting.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #517 of John Eicks, landowner and David Eicks, petitioner, is for Special Use to construct a garage for personal use has been tabled until the April meeting.**

**4. Petition #518 of David & Cathy Grollimund, landowners and petitioners, Variance from setback requirements on 650S for the purpose of expanding grain handling/storage system.** The property is located on the south side of 650S, east of 50W in Fall Creek Township, with the physical address being 335 West 650S, Pendleton.

Mr. Hershman said, Mr. Grollimund has submitted a revised site plan showing the proposed eight-foot out of the right of way.

David Grollimund 103 Ladino Lane, Anderson.

Mr. Grollimund said, what we basically did was trim all the fat out of it. We've moved any future building completely outside the right of way. When we first proposed this we were encroaching in the right of way. Now we are actually eight feet outside the right of way. We are asking for 22 feet of variance from the 60 feet setback. So, we will be setback 38 feet.

We have also decreased the number of potential bins to two so we haven't extended the area as far to the east as we had originally contemplated. The bins are 48 feet in diameter.

The bin to the east will eventually come down.

Mr. Maxwell said, the road is not a busy road right now but the growth is in the southern part of the county and this could potentially become a busy road. The existing bins are very close to the road and somebody could easily slide in to them.

Mr. Hobbs said, we have 22 acres here and we're trying to shove these out on the road.

Mr. Randall said, well there is no where else he can go without having to put in a new leg and a dump pit and everything else.

Mr. Hobbs said, what happens when he expands it out this way? He's going to have to do that any way. Any direction he's going to have to do that.

Mr. Randall said, he can go on east and he wouldn't have to do anything different. He could still tie in from the dump pit and could also unload back to the same place.

Mr. Shine said, as Mr. Hobbs has said, should we approve an expansion in a bad location. That's exactly what you are doing.

Mr. Hobbs said, if he didn't have any other options, it's just a little different situation.

Mr. Maxwell said, if the first bin were brought down to the east to where it would sit in between, the center would be in between the two bins that are there. It could be moved farther to the south. This would possibly give them an additional six feet. That would be for only one bin. The second bin would have to go west.

Mr. Hobbs said, it looks to me as you have enough room between that small one and the road to get one in there and still have a setback and just run the grain leg over to that medium size bin which is a little more distance than you have now.

Mr. Grollimund said, that's the harder direction to go. I was saving that for future expansion if I needed more expansion in addition to what we show here. Plus there is a drive that will go in sort of to the southeast of the business right next to the dump pit. We can move to the east but I

was just trying to limit the distance I would have to go to the east. The one bin to the east will eventually come down.

Eventually I would need to end up with six bins this size, and then I am going to have four bins strung off to the east as opposed to two. It can be done. Is it the most efficient way, no.

Mr. Hobbs said, I have trouble putting something that close to the road that isn't necessary because anybody gets off the road or anything they are going to be right on top of those bins.

Mr. Randall asked, we have never heard from anyone in that vicinity that was opposed to that have we?

Mr. Hershman replied, that's correct Mr. Randall.

There were no remonstrators present.

Mr. Hobbs said, well I'm going to recommend denial according to staff recommendations.

I do believe the under the Finding of Facts that this would be injurious to the public health, safety, morals and welfare of the community. The use would be typical of the area, which is all ready agricultural, and it would not result in a practical difficulty in permitted use of the property. I don't think Mr. Grollimund has many other choices and I don't think we need to approve something that removes another option.

Mr. Maxwell said, I will second that and I feel the same way. There are other options. There is more room to put those without getting up there and because of the possibility of that road being widened that would cut it down even more. And it may create a situation where in the winter time somebody was to slide off the road it would be right in to one of those pretty easy.

The vote was two yes: Hobbs and Maxwell. On no; Randall. The motion did not carry.

**Petition #518 will be continued until the April meeting.**

Mr. Hershman said, on the following petitions #513, 514, 15 and 16, I have received an e-mail from the representative of Hancock Telecom requesting this be continued until the April meeting.

There were no remonstrators present.

Mr. Maxwell said, I move to accept the request of the petitioners to continue until the April BZA meeting.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. Petitions #513, 514 515 and 516 have been tabled until April.

**5. Petition #513 of Jerry A. & Linda K. Manges, landowners and Hancock Telecom, petitioners, variance from the Telecommunication Facility Standards relating to fencing.**

This property is zoned “AG” and is located on the North side of SR 38 between 600W and 700W in Green Township, with the physical address being 6526 W. SR 38, Pendleton.

**Petition #513 has been tabled until the April meeting.**

**6. Petition #514 of Jerry A. & Linda K. Manges, landowners and Hancock Telecom, petitioners, variance from the Telecommunication Facility Standards relating to site & setback.**

This property is zoned “AG” and is located on the North side of SR 38 between 600W and 700W in Green Township, with the physical address being 6526 W. SR 38, Pendleton.

**Petition #514 has been tabled until the April meeting.**

**7. Petition #515 of Jerry A. & Linda K. Manges, landowners and Hancock Telecom, petitioners, variance from the Telecommunication Facility Standards relating to landscaping.**

This property is zoned “AG” and is located on the North side of SR 38 between 600W and 700W in Green Township, with the physical address being 6526 W. SR 38, Pendleton.

**Petition #515 has been tabled until the April meeting.**

**8. Petition #516 of Jerry A. & Linda K. Manges, landowners and Hancock Telecom, petitioners, special use to construct a Telecommunication Facility for wireless broadband service.**

This property is zoned “AG” and is located on the North side of SR 38 between 600W and 700W in Green Township, with the physical address being 6526 W. SR 38, Pendleton.

**Petition #516 has been tabled until the April meeting.**

**New Business**

**1. Petition #519 of Gregory & Valerie Wendling, landowners and petitioners, variance for construction of barn in front of residence.**

This property is zoned “AG” and is located on the South side of 600S between 200E and 300E in Adams Township, with the physical address being 2721 E. 600 South, Anderson.

Mr. Hershman said, the property is located 2721E 600South. The property is in Adams Township, Section 16.

To the north and the west, fields and houses characterize the surrounding area. To the east, houses characterize the surrounding area. There is a house and garage immediately to the east that is closer to the road than the proposed garage. The property is a large house lot with a house and outbuilding toward the back.

Staff has received proof of proper notification.

The Ordinance requires accessory structures to be located behind primary structures. The proposed 40'x52' barn will meet both front and side setback requirements. According to the applicant, the property has a deep drop off behind the house, keeping the barn from being built there. The applicant plans on using the building for personal storage and protection for cows.

Marian Coons, 6188 W Country Lane, Anderson was present representing the petitioners.

Mr. Coons said, the biggest issue is the barn cannot be put behind the house because of the drop off and it's in the flood plain. The lot is long and narrow and the house sets well back off the road. The barn will not be that far in front of the house.

There were no remonstrators present.

Mr. Maxwell said, I make a motion to approve Petition #519.

This is unique situation as far as where the house sits and the lay of the property. It's still way back off the road. It's not like they want to sit it up on the setback. I don't believe it will be injurious to the public health, safety, morals and welfare of the community. It's not going to affect the area of the adjacent property owners. And it pretty much fits in with the --- we've done this before where the homes have been back like that and the only alternative is to put it in front of the house.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #519 of Gregory & Valerie Wendling, landowners and petitioners, variance for construction of barn in front of residence was approved.**

Mr. Hershman said, the following petitions #522,523,524 and 525 are interrelated.

Petition #522 if for sidewalk requirements, #523 side yard requirements, #524 Gable roof design and #525 sign height requirements.

We can hear all the petitions at once but vote on them separately.

The property is located on the east side of SR 13, south the BP station. The property is in Green Township, Section 22.

A mix of uses characterized the surrounding area, including a convenience store, mobile home park, and a cemetery. The site is a lot in Shepherd's Crossing commercial plat.

Staff has received proof of property notification.

The pedestrian walkway requirement is part of the corridor development overlay district requirements. A Waffle House restaurant is proposed for the site. The applicant is asking for 3

other variances. Further, the applicant has applied for a waiver of the minimum lot width requirement in from the Planning Commission. The final step is approval of a site plan and final plat of the lot from the Technical Review Committee.

With #522 the applicant is concerned about the safety and he wants to reduce it down from ten foot to five foot.

Regarding Petition #523 the Ordinance requires a 25-foot side yard setback in the GC zoning district. A Waffle House restaurant is proposed for the site. The applicant is asking for 3 other variances. Further, the applicant has applied for a waiver of the minimum lot width requirement in from the Planning Commission. The proposed site is of the Shepherd's Crossing development approved in February 2004. The applicant will need approval of a site plan and a final plat from the Technical Review Committee.

The applicant wants to reduce the property size for this lot so that an adjacent property would have a full 2-acres. Since the applicant is seeking approval of a waiver for minimum lot depth, staff is curious how is will affect the side yard setback.

Petition #524 the gabled roof requirement is part of the corridor development overlay district requirements. A Waffle House restaurant is proposed for the site. The applicant is asking for 3 other variances. Further, the applicant has applied for a waiver of the minimum lot width requirement in from the Planning Commission. The final step is approval of a site plan and a final plat from the Technical Review Committee.

According to the applicant, the Waffle House design is a nationwide standard for them and do not want to vary from that standard. Further, the applicant states that the roof will not look significantly different than the Ricker's to the north.

Petition #525 the Ordinance limits signs to 15 feet in height in the Corridor Development Overlay District. The applicant is proposing a 25-foot high sign. A Waffle House restaurant is proposed for the site. The applicant is asking for 3 other variances. Further, the applicant has applied for a waiver of the minimum lot width requirement in from the Planning Commission. The final step is approval of a site plan and a final plat from the Technical Review Committee.

Dick Donnelly 1615 Broadway, Anderson.

Mr. Donnelly said, let me start out by introducing the group of professionals that we have here. Mr. Butch Bowers with Waffle House out of Atlanta Georgia, Jeff Hollons property owner and developer of Shepherds Crossing and Brad Rayl, Surveyor.

The most important one I think to us is the reduction of the side yard size.

Your ordinance is unique in that it requires the 45-foot side yard in business district. Many of the ordinances around here in local business zone require ten feet. Other ordinances require zero on up.

The distance is on the south side from the building to the property line. The ordinance requires 25 feet and we are asking that you reduce to 17 ½ feet. So, that would be a seven and a half reduction.

We meet all the green space requirements. It would be less hard surface coverage than the ordinance requires.

Forty-five feet is the unused area is we believe to be excessive and serves no public purpose. There are very few requirements for as much as the 25-foot setback.

Mr. Rayl is here in part to explain the fact that there are no utilities down the side of this building. All utilities are in for this area. There will be no easements in terms of water or sewer or electric or gas. There will be a seven and a half foot drainage requirement off this lot for an easement but the rest of it is just plain old ground and it's important for us, especially in terms of trying to get as many uses in here as possible to save seven and a half feet on this piece of property.

Jeff Hollon, 1938 Meramec Drive, Anderson.

Mr. Hollon said, all of the utilities, the water is in front of the property basically on the east side of 13. The pressure sewer is on the east side of 13 or in front. So are the drainage culverts that go all the way to the Interstate. The gas and the electric are to the backside of the property or to the west side of the road that goes back to Carefree Mobile Home Park. The telephone lines are in front.

Mr. Donnelly said, this has a joint driveway that's already in with Rickers which is one reason that we can compact things a little bit. We don't have to have separate turn radius.

Mr. Hollon said, the State required us to put a deceleration lane in which goes all most within 40 feet of 800S. You will be able to cross access both Rickers and our property.

All the parking space is on the north and east side of the property. The entry to the Waffle House is on the north side of the building.

Butch Bowers, Georgia.

Mr. Bowers said, the entrance is entering in to the middle of the building, basically in to the center of the parking lot. That's always where our front door is located. Some times we do have parking out in front of the building, which would be between St. Rd. 13 and us but we are not going to do that in this case.

Mr. Donnelly said, the next most important is the gable roof requirement. This is one of the early buildings that is coming before you in the corridor overlay zone.

It's difficult to take a national franchise chain that uses their buildings as identical from place to place. Their proposal is to upgrade their exterior to brick and it will be the same size at St. Rd. 9 and 69.

Mr. Bowers showed drawings of what they would like to do.

Mr. Bowers said, we are moving the yellow fascia off the south of the building. Taking away the canvas stripped awning over the metal and paint it green that will match well with the Rickers next door. This is basically a flat roof with exception of the awning.

Mr. Donnelly said, it's similar to the way Rickers is with the gable awnings over the door. It's an attempt at compromise or to modify to fit the spirit of the ordinance.

We put a tremendous amount of equipment up on the roof that a lot of people don't see which helps esthetically hide that. If you have a gable or a hip type of roof it just makes it a lot more difficult to put that equipment out there.

Mr. Donnelly said, the next issue is the sign height. Across the street is a Mann development that never got built. I believe we permitted 25-foot high signs. I believe the Rickers sign is 30 feet by variance. They are requesting 25 feet.

Obviously when you're at an Interstate interchange you would like to have a high a sign as possible. It's a significant increase in visibility to go from a 15 feet to a 25 foot as far as redeveloping. All though there is not much out there now the signs are pretty clear that that area is growing rapidly.

Mr. Randall said, we approved a higher sign than this for Pilot, which is diagonally across the Interstate. If I am traveling down the Interstate I want a sign that's high enough that I can see it before I get pass the pull off.

Mr. Donnelly said, we would like a variance for reduction in the walking sidewalks that's ten foot wide made out of concrete. The sidewalk will go in the right of way as per your requirements. It would go to the left of the property line.

A ten-foot wide can be confused with the driving lane when people are pulling out. Being made out of concrete it looks like a road. If you go to Fishers to one of their subdivisions they usually use an eight-foot path and when you use concrete it usually causes drainage problems.

Mr. Hollon said, some of my concerns are, I can see it in a residential area but basically all that is going to be is pedestrians walking to the store. Our contentions is that its too wide based on it being confusing. You're going to have some people trying to drive down it.

Mr. Maxwell said, my concern is, did we make that too wide when we approved the ordinance. Is that something we need to look at? The width, not whether it's suppose to be there but the width.

Mr. Shine said, there is a difference between commercial and residential and there may be a difference that we may want to consider as to these sorts of widths. What the possible usage is. I don't believe we would have any legal problems of going back in five years and telling the water company or whom ever rather than a ten-foot now we are going to be requiring you to put in an eight-foot or six foot as long as we have consistency.

Mr. Donnelly said, this is the most difficult one and if you would like to continue this for a month to figure out where you want to head. This one has the least impact on this development in terms of --- if nothing happens they are more than willing to sign a covenant. This always comes up and it not only comes up because of the cost of putting in a ten-foot wide concrete but when you do concrete it really affects the drainage.

There were no remonstrators present.

**2. Petition #522 of Jeff Hollon, landowner and petitioner, variance from 10' wide sidewalk requirement.** This property is zoned "GC" and is located on SR 13 just south of the new Ricker's in Green Township.

Mr. Maxwell said, I think we all kind of agreed that ten foot was wider than necessary.

I would make a motion at this time on Petition #522 that they won't have to construct the walk way at this time until the ordinance has been reviewed and further building to the south development, the whole development, come in to play and at that time either by ordinance dimensions or by the need for that area of buildings you will have to put the sidewalk in. And they be required to do a covenant.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #522 of Jeff Hollon, landowner and petitioner, variance from 10' wide sidewalk requirement was approved.**

**3. Petition #523 of Jeff Hollon, landowner and petitioner, variance from south side yard requirement of 25' to be reduced to 17'.** This property is zoned "GC" and is located on SR 13 just south of the new Ricker's in Green Township.

The board was informed the service lines and the utility lines will not be affected by this variance if granted.

Brad Rayl, Rayl Surveying, 1940 E 53<sup>rd</sup> Street, Anderson, IN.

Mr. Rayl said, any drainage in this case would be on the lot its self. So there is a grass area that goes to the next lot. They come in wherever they need to based on how that is laid out. The utility company would come to them and get their easement.

There were no remonstrators present.

Mr. Hobbs said, I make a motion that we approve Petition #523. I do not believe it will be injurious to the public health, safety, morals and general welfare of the community. There would be no potential for additional utilities to go through that area that were not on site for the structure its self. I do not believe that the value of the area would be affected one way or another if we approve this. I believe the buildings could be built in that 17-½ foot area without impacting the future construction of other buildings.

Mr. Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #523 of Jeff Hollon, landowner and petitioner, variance from south side yard requirement of 25’ to be reduced to 17’ was approved.**

**4. Petition #524 of Jeff Hollon, landowner and petitioner, variance from Gable Roof Design standard.** This property is zoned “GC” and is located on SR 13 just south of the new Ricker’s in Green Township.

Mr. Randall said, since we have run in to this on a couple of other businesses I would repeat what I have said before, this particular location right there around that interchange is a unique situation in this county. There is no other interchange on 69 that’s under county jurisdiction. I think that we have a situation here that deserves to be treated separately at least from road 800 up some where north of the Interstate and looked at as a separate thing and as a unique location. Any action taken on this should not negate following the ordinance on other locations. But this is an entirely different location.

Mr. Hobbs said, we are going to be facing this on this interchange that people have a national presence that they want to purpose and I think if we hold tight on this we are just not going to get those people to locate there.

I don’t think by allowing this at this particular interchange is going to affect what we might want too do in other areas.

Mr. Maxwell said, I agree and the staff recommendations are probably not what we are going to end up here with and I don’t really like going against that but, I think after we discussed it, to me it makes sense.

There were no remonstrators present.

Mr. Maxwell said, I move to approve Petition #524. I do not believe it would be injurious to the public health, safety, morals or general welfare of the community. I don’t believe it will affect the value of the adjacent property. I think it is not setting a standard for a business that might go in next door to it. I feel the franchises should be able to use their trade name building sites. This is also in pursuant to their presentation that they gave to the board. This design is per the new design, the pictures they presented to us at this meeting.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #524 of Jeff Hollon, landowner and petitioner, variance from Gable Roof Design standard was approved.**

5. **Petition #525 of Jeff Hollon, landowner and petitioner, variance from sign height requirement from 15' to be increased to 25'.** This property is zoned "GC" and is located on SR 13 just south of the new Ricker's in Green Township.

The board was informed they have approved other sign heights in the area.

There were no remonstrators present.

Mr. Maxwell said, I would make a motion to approve Petition #525 for the 25-foot height on the sign. I don't believe it will be injurious to the public health, safety, morals and general welfare of the community. It is not going to affect the value of the adjacent property. In fact the adjacent property was given a variance to raise theirs to 25 feet. With the rise of the over pass at that intersection I don't believe the 15 feet height sign would be seen until it was to late to get off at that exit.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #525 of Jeff Hollon, landowner and petitioner, variance from sign height requirement from 15' to be increased to 25' was approved.**

Mr. Randall said, I would personally want to point out here that on these four petitions again that these are not setting precedence for other locations in the county. Because this is a unique location in the county. I think we have to look at it and treat as such and treat it separately and differently. Because we approved things here does not mean we would some where else in the county

6. Miscellaneous: Nothing was presented.

Mr. Hobbs made a motion, seconded by Mr. Maxwell to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:39:39 A.M.

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John Randall, Jr., Vice Chairman

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Beverly Guignet, Secretary