

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., Shirley Aubrey and Bill Hobbs.

Members Absent: 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 one member, Mary Jane Baker was absent.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Member Maxwell made a motion to approve the minutes with the corrections as stated. Member Aubrey seconded the motion. The vote was unanimous in favor of the motion.
3. **Petition #548 of Quincy Masonic Lodge Board of Trustees, landowner and Juan Garcia of Quincy Masonic Lodge, petitioner, for Variance for installation of a powered/lighted Marque Building/ Property Identification Sign.** The property is zoned “CR” and is located on the west side of State Road 13 approximately 1/8 mile south of 1300N in Pipe Creek Township, with the physical address being 1136 N. Anderson Street, Elwood.

Mr. Hershman said, businesses and houses characterize the surrounding area. The site is a lodge building.

Staff has received proof of proper notification. The newspaper ad was run in the Thursday, August 16, 2007 copy of the Call-Leader.

The applicant is making the request in order to place a 72”x48” sign on the property. The lodge is a nonconforming use in the CR zoning district. The sign would not be permitted in the CR. The sign will have to be set 10’ out of the right-of-way or 60’ from the center of the road as per the Ordinance.

This was continued from the last meeting because of notification. That issue has been resolved.

Juan Garcia, President of the Masonic Lodge of Elwood was present representing this request.

Mr. Garcia said, we want to make sure that we are in compliance with the city and county levels.

The sign will sit at least 60 feet back from the center of the road right of way.

It will be 15 feet behind the sidewalk which will be 45 feet from the west side of the sidewalk.

There were no remonstrators present.

Member Aubrey said, I move to approve Petition #548 for a variance of signage requirements per Findings of Fact. It will not be injurious to public health, safety or general welfare. The adjacent property should not be affected in an adverse way. The applicant on terms to the ordinance results in a predicament because the lodge does need signage (not audible). The proposal meets all standards set forth by the state law and the ordinance and the sign will meet all ordinance requirements. The sign will be set back 60 feet from the center of the road.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion.

Petition #548 of Quincy Masonic Lodge Board of Trustees, landowner and Juan Garcia of Quincy Masonic Lodge, petitioner, for Variance for installation of a powered/lighted Marque Building/ Property Identification Sign was approved.

New Business

1. **Petition #551 of Diana J. Teachnor, landowner and petitioner, for a special use to operate a pet/dog sitting service for owners as they vacation.** The property is zoned “AG” and is located on the west side of SR 37 between 1500 North and 1550 North in Duck Creek Township, with the physical address being 15361N SR 37, Elwood.

Mr. Hershman said, fields with scattered houses characterize the surrounding area. The site is house with several outbuildings.

Staff has received proof of proper notification.

The staff report stated the Board granted a variance for Ms. Teachnor on March 26, 2002. The variance, No. 179, was granted for crafts, arts and plants in the small building in front. The big building in the rear was to be for farm equipment repair. The businesses are no longer operating, as per the applicant. However, there were no complaints regarding the businesses when they were operating.

The proposed business falls under a home occupation, type 2. The applicant does have a letter from a local vet regarding the proposed use. The dogs will be in an existing building. There is a fence around the back yard. The applicant plans on using “doggie dooleys” which are similar to septic systems in order to dispose of the waste. I talked to Brandon Clidence with the Health Department. He recommended that the applicant contact Dennis Ehlers with the State Board of Health. I have informed the applicant of this. I have talked to Dennis Ehlers. He stated that as long as this is not a system under pressure regarding the septic, that a permit would not be needed.

The animals will be in the far north building. The animal runs will be in the fenced in area.

Mr. Hershman said, the board granted a variance on March 26, 2002. The variance #179 was granted for crafts, arts, plants and a small front building and a big building in the rear was for farm equipment repair. The business is no longer being operated as per the applicant. However, there were never any complaints regarding the businesses while they were operating.

Diana Teachnor was present representing this petition.

Ms. Teachnor said, I live at 15361 N St. Rd. 37, Elwood.

Ms. Teachnor informed the board the other businesses are no longer in operation. No repair work just for personal use. We have one personal truck.

Ms. Teachnor said, she could probably handle at least a dozen dogs at a time. That should be very manageable. There are a lot of people who are interested in this type of service.

Member Hobbs said, the only thing I would like to comment about because we had this discussion with the lady that was in last month, is the waste handling. We had, I think, we had determined at that meeting that may be having it disposed of by a dumpster or something of that nature might be a little bit better than --- she was also talking about something like this but --- a septic system type --- and for --- I think those are fine for small, one or two dogs but when you are trying to do that many animals it probably isn't the best way to handle it. I would recommend that you look in to just having a dumpster or your trash facility take it.

Ms. Teachnor said, I have been researching (not audible) I would do what ever you would require.

Mr. Hershman said, there is all ready a dumpster on the property. Probably a hold over from one of the previous businesses.

Member Maxwell asked, now is the small building out near the road, is that the one you want to use or the back one?

Ms. Teachnor replied, the back one. Then I would have door in there going out to the fence. They would never be outside once the owner drops them off. They would be in there and in the fenced in area.

Member Aubrey said, I would have to say, there would be no dogfights.

Ms. Teachnor replied, no way.

Mr. Shine said, on this, on the approval you just might put on it, the other two previous variances, special exceptions are hereby null and void agreement.

There were no remonstrators present.

Member Aubrey said, I move to approve Petition #551 in order to operate a dog sitting service per Facts of Finding. The proposal would not be injurious to public health and or welfare. The requirements of the development would be met with sufficient parking to handle the business. The proposal will not be injurious to other properties in the area. The proposal is consistent with the zoning district and the Comprehensive Plan. Proposal does meet requirements set forth from the state law and the ordinance. A dumpster must be used for doggie doo. All variances approved for 2002 for crafts, arts, plants and car repair will be null and void.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #551 of Diana J. Teachnor, landowner and petitioner, for a special use to operate a pet/dog sitting service for owners as they vacation was approved.**

2. **Petition #553 of David & Susan Smith, landowners and petitioners, for a variance to build a garage three feet in front of house.** The property is zoned “CR” and is located on the south side of SR 38 between 100E and 200E in Adams Township, with the physical address being 1509E SR 38, Markleville.

Mr. Hershman said, fields with scattered houses characterize the surrounding area. The site is a house lot.

Staff has received proof of proper notification.

The property is a lot in Administrative Plat # 03-09. The applicant is making the request in order to allow the front of a proposed garage to extend 3-feet beyond the front of the house. The Ordinance requires that accessory structures be located behind the residence.

The applicant needs to construct the garage at that location because the way the property drains. The proposed garage will meet all other requirements in the Ordinance. There are homes in the near vicinity that are closer to the road than the proposed garage.

David and Susan Smith, 1509 E St. Rd. 38, Markleville were present representing this petition.

Mr. Smith, said, there will be six feet between the house and the garage. It will be a 32’ x 26’ building.

Member Aubrey asked, is that where the cement pad is now?

Mr. Smith replied, yes.

Member Aubrey asked, now did you have a permit to have that (not audible) in there?

Mr. Smith replied, well I done that under the (not audible).

Member Aubrey asked, and you are just going to add that, it's not going to be used for a repair or any kind of business?

Mr. Smith replied, no. It's just a garage.

Member Aubrey asked, for two cars ---

Mr. Smith replied, (not audible) personal use. No business. The siding will match the house. By placing the garage there it will not interfere with anything because the houses to the west of me are further out and the next one east is way back.

Mr. Shine asked, the purpose of the garage?

Several board members replied, personal use. No business.

Mr. Smith said, the back building is a barn. It is not for animals. I have a small work area back there. The roofline will match the house.

There were no remonstrators present.

Member Aubrey said, I move to approve Petition #653 for a variance of an accessory structure in front of a primary structure requirement per Finding of Facts. It will not be injurious to public health, or general welfare. Adjacent properties will not be affected in an adverse way. Proposal does meet most of the standards set forth in the state law and our ordinance. The garage may not be used as a business at any time.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion.

Petition #553 of David & Susan Smith, landowners and petitioners, for a variance to build a garage three feet in front of house was approved.

3. Miscellaneous: Mr. Shine said, I have prepared some written Findings of Fact and I believe coincides with what our oral motion of --- Shirley's was at the last meeting concerning the dairy. I have talked to Mr. Byers who was the attorney for the petitioners and he has suggested and I have no objections to recommending to you that we have a --- Shirley's written findings be approved and then secondarily then the board signs the written findings that were based up on Shirley's findings. That statute requires that we have written Findings of Fact. And this is just a submission of those written Findings of Fact.

If you would you could take a minute to review those findings because I just got those prepared this morning, the final draft of them so (not audible).

Member Hobbs said, I would just like to state that I believe that the 30 foot depth on the monitoring wells which us a requirement of the county and which was offered up by the

applicant be inserted in the motion under Item 10, that it should read, the monitoring wells, 30 foot in depth, which are to be installed on the property pursuant to IDEM permit.

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

Adjournment: 9:32:03 A.M.

John Randall, Jr., Vice Chairman

Beverly Guignet, Secretary

The written Findings of Fact were signed in open hearing and are attached hereto.

INDIVIDUAL FINDINGS OF FACT
MADISON COUNTY BOARD OF ZONING APPEALS
AUGUST 14, 2007

Comes now the Madison County Board of Zoning Appeals and after having reviewed Petition #479, request for special use for a confined feeding operation for dairy expansion, the Board makes the following findings.

That as to the subject real estate which is incorporated herein and marked as Exhibit A, which is approximately 240 acres, the Board grants the special use and finds:

Would the approval be injurious to the public health, safety, morals, and general welfare of the community? Based upon the evidence, the Board finds that the waste shall be properly disposed of and steps are being taken to control odor and the water table would not be significantly drawn down. Based upon that, the approval should not be injurious to the community.

Will the requirements and development standards set forth in the district for such exception be met? Yes, the proposed expansion and acreage owned by the Petitioner still provides that the milking parlors and associated structures are over 100 feet from the property lines. The property is more than 1,320 feet from a residential zoning district.

Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity? No, the surrounding area is characterizes primarily by fields with scattered houses. Further, with the amount of land that Willemsens are purchasing, a certain percentage of the impacts will be contained on the property.

Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan? Yes, the existing area is agricultural in nature with a mix of row crops and animals. It does further the Comprehensive Plan goal of preserving agriculture.

The Madison County Board of Zoning Appeals attached the following conditions:

- (1) The property shall be kept free from debris.
- (2) All non-manure waste shall be disposed of in an appropriate manner.
- (3) Confined Feeding Operation may not be expanded or enlarged on the subject real estate, unless reauthorized by the Board of Zoning Appeals.
- (4) Upon termination of operation (voluntary or involuntary), petitioner or their successor will remove all structures related to operation from subject real estate within 90 days and return the same to agricultural use. Further, the waste from the lagoons shall be removed and the pits filled in. Failure to remove shall authorize County removal of the structures at the expense of the landowner/operator.

The written Findings of Fact were signed in open hearing and are attached hereto.

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MADISON COUNTY BOARD OF ZONING APPEALS
AUGUST 14, 2007

Comes now the Madison County Board of Zoning Appeals and after having reviewed Petition #479, request for special use for a confined feeding operation for dairy expansion, the Board makes the following findings.

That as to the subject real estate which is incorporated herein and marked as Exhibit A, which is approximately 240 acres, the Board grants the special use and finds:

Would the approval be injurious to the public health, safety, morals, and general welfare of the community? Based upon the evidence, the Board finds that the waste shall be properly disposed of and steps are being taken to control odor and the water table would not be significantly drawn down. Based upon that, the approval should not be injurious to the community.

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MADISON COUNTY BOARD OF ZONING APPEALS
FINDINGS OF FACT
AUGUST 14, 2007

Comes now the Madison County Board of Zoning Appeals and after having reviewed Petition #479, request for special use for a confined feeding operation for dairy expansion, the Board makes the following findings.

That as to the subject real estate which is incorporated herein and marked as Exhibit A, which is approximately 240 acres, the Board grants the special use and finds:

Would the approval be injurious to the public health, safety, morals, and general welfare of the community? Based upon the evidence, the Board finds that the waste shall be properly disposed of and steps are being taken to control odor and the water table would not be significantly drawn down. Based upon that, the approval should not be injurious to the community.

Will the requirements and development standards set forth in the district for such exception be met? Yes, the proposed expansion and acreage owned by the Petitioner still provides that the milking parlors and associated structures are over 100 feet from the property lines. The property is more than 1,320 feet from a residential zoning district.

Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity? No, the surrounding area is characterizes primarily by fields with scattered houses. Further, with the amount of land that Willemsens are purchasing, a certain percentage of the impacts will be contained on the property.

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- (4) Upon termination of operation (voluntary or involuntary), petitioner or their successor will remove all structures related to operation from subject real estate within 90 days and return the same to agricultural use. Further, the waste from the lagoons shall be removed and the pits filled in. Failure to remove shall authorize County removal of the structures at the expense of the landowner/operator.
- (5) There shall be a designated green space/filter strip of 25 feet in width used for the collection of sediment and cleansing runoff along any surface water, or regulated drain or water source.

- (6) All requirements of the IDEM Permit dated the 19th day of July, 2007 shall be incorporated as if part of this approval.
- (7) That the Boy Scout agreement introduced into evidence and incorporated and marked as Exhibit B shall be enforced between the parties and can be enforced by the Board.
- (8) That the Board finds that there are certain statutory and administrative regulations administered by the Indiana Department of Natural Resources that indicated that if adjoining wells are affected it will be remedied by the petitioner.
- (9) That slurry manure shall not applied within 40 feet of right-of-ways of any public roadways nor 40 feet from an adjoining farm residence. All contracts shall be filed with the Madison County Planning Department annually.
- (10) That the monitoring wells, 30 feet in depth, which are to be installed on the property pursuant to the IDEM Permit, the results of the test which are filed with the Indiana Department of Environmental Management twice a year, the results shall be contemporaneously also forwarded to the Madison County Plan Commission, the Madison County Plan Director.

The Madison County Board of Zoning Appeals, based upon individual ballots and vote, votes 5 to 0 on the above petition and incorporates their individual ballots into this Board approval by reference.

MADISON COUNTY BOARD OF
ZONING APPEALS

William B. Holt
Bill Maxwell
Stanley Aubrey
Joseph P. Paudyal, Jr.

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MADISON COUNTY BOARD OF
ZONING APPEALS

Date: Aug 14, 2007



SHIRLEY AUBREY, Member