

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: Bill Maxwell, John Randall, Jr., Mary Jane Baker, and Shirley Aubrey.

Members Absent: Bill Hobbs.

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, Bill Hobbs was absent.
2. The minutes of the Special Hearing, August 14, 2007 was distributed to each member prior to the meeting. Mrs. Aubrey made a motion to approve the minutes with corrections as stated. Mr. Randall seconded the motion. The vote was unanimous in favor of the motion.

The minutes of the August 28, 2007 was distributed to each member prior to the meeting. Mrs. Aubrey made a motion to approve the minutes with corrections as stated. Mr. Randall seconded the motion. The vote was unanimous in favor of the motion.

3. **Petition #549 of Duane Reavis, landowner and petitioner, for Special Use to conduct mineral extraction in a flood plain.** The property is zoned “AG” and is located on the east side of County Road 200West, approximately 1/8 mile south of County Road 1100N in Monroe Township, with no physical address being assigned.

Mr. Hershman said, as of 9-24-07 Staff has not received approvals from any state agency. I talked to Mr. Reavis regarding this. He stated that IDEM approval has been obtained. However, he does not have Division of Water approval. He has applied for approval but has not received it.

Duane Reavis, 6435 N St. Rd. 9, Alexandria, IN.

Mr. Reavis said, I have applied for DNR water permit. The fastest we can get that is three months. The engineer that I had with Rayl Surveying --- I thought they were working on this right after the last meeting. I would call them every day and talk with them and would say check back in 30 days and they would say they hadn't got started on it yet. So, I got on the web site and applied myself.

I've got copies of the application that I will leave with you (copies of the application are on file in the Plan Commission office). I did get the approval back from IDEM and I will leave a copy of that (copy is on file in the Plan Commission office). Other than that that's all I have at this time.

Nothing is being extracted. All I have done is move some dirt around. The protection fencing has been installed.

Member Randall said, I believe the thought and the motion was, that they had to have the permits from IDEM and IDNR and both of those permits to be in the office before we could act on this. So, if we don't have both of those permits we cannot act on this today.

There were no remonstrators present.

Member Randall said, I move to table Petition #549 of Duane Reavis, landowner and petitioner, for Special Use to conduct mineral extraction in a flood plain until the November 27, 2007 meeting. Member Maxwell seconded the motion. The vote was unanimous in favor of the motion. **Petition #549 of Duane Reavis, landowner and petitioner, for Special Use to conduct mineral extraction in a flood plain has been tabled until November 27.**

New Business

1. **Petition #555 of Dr. Charles & Laretta Shumate, landowner and petitioner, for Variance to construct a room on the west side of the existing house, leaving the west wall 4' from the property line of the adjacent lot which is also owned by the Shumates.** The property is zoned "R-1" and is located on the south side of County Road 150 North, approximately ½ mile west of County Road 500E in Union Township, with the physical address being 4595 Clifty Drive.

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

Staff has received proof of proper notification.

The applicant wants to build a room addition 4 feet from the side property line. The Ordinance requirement is 5 feet from the property line. Mr. Shumate does own the adjacent property.

Charles Shumate, 4595 Clifty Drive.

Charles Shumate and his builder Steve Pitts were present representing this request.

Mr. Shumate said, both lots have their own separate tax statements.

The garage on the house is on the west toward the front. Along there is where I am adding on to the garage and it will come out 14 feet, 22 feet long. The entrance will be on the west side of the house by doorway. I would really like two entrances there.

Mr. Shine said, the minimum side yard setback is five feet each side but 20 feet total between the buildings. The rear setback is 25 feet. What we really need to have done is, as there are two lots and they have not been combined is just to have it recorded on the second lot in case the second lot would be sold that there has to be a minimum of 16 feet setback on that side. On lot 44 the east side it would be required 16-foot setback side yard.

There were no remonstrators present.

Member Aubrey said, I move to approve Petition #555 for a variance side yard setback requirement per Findings of Fact. It will not be injurious to public health, safety, and general welfare. The area property would not be affected in an adverse way. Strict application to the terms of ordinance cannot be met due to the septic tank in the rear yard. Proposal does meet the standards set forth in the ordinance in the state law. Lot 44 must be recorded and it must have 16 foot set back on the east side of the lot.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #555 of Dr. Charles & Laretta Shumate, landowner and petitioner, for Variance to construct a room on the west side of the existing house, leaving the west wall 4' from the property line of the adjacent lot which is also owned by the Shumates was approved.**

2. Petition #556 of Judie J. Lamb, landowner and petitioner, for Variance to keep exotic poultry on property, which has less than the required 4 acre minimum. The property is zoned "CR" and is located on the east side of County Road 300E north of County Road 300S in Union Township, with the physical address being 2858 S. 300 East.

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

Staff has received proof of proper notification.

The variance is the result of a complaint filed with this office. The Ordinance requires 4-acres to have farm animals. The applicant's son is keeping/breeding exotic chickens in the garage/barn next to the house. The surrounding area does have a history of people keeping farm animals.

Judie Lamb, 2858 S 300E, Anderson, IN.

Mrs. Lamb said, we wanting to keep our chickens. They are not regular farm chickens these are exotic chickens. They are called, Malaysian Serana's. They are very small. I have had neighbors who didn't even know I had chickens because can't hear them.

We are trying to keep the barn as clean as possible. They are all in cages they are not running free. Each pair has their own cage. One of the cages is six feet long by six feet high. They have been approved by the American Poultry Association. And that's what we are trying do, to get them approved so they can be shown at 4-H fairs and such.

We do not sell them. My son breeds them but he does sell the eggs. We do not sell the birds themselves. We have approximately 40 to 75 chickens, counting chickens and chicks.

The board is 40' x 32' and is attached to the house. We purchased the property July 26, 2007. I had no idea we couldn't keep them on less than four acres.

We thought with people all around us having farm animals, we didn't realize there would be a problem.

Mrs. King said, the complaint was about odor and noise.

Travis Huffman, Mrs. Lamb's son was also present.

Mr. Huffman informed the he also lives at, 2858 S 300E, Anderson, IN.

Mr. Huffman said, I am actually the one that started breeding these. I bought them from, Jerry Snyder. He went to Malaysia and bought them and brought them back. I do not sell the birds but I do sell the eggs to other breeders. We want to get them approved for the 2010 show. They weight no more than 500 grams.

Mrs. Lamb presented pictures to the board (the pictures are on file in the Plan Commission office).

Mr. Lamb said, the eggs are about the size of Robin eggs. We keep them in the barn. There are none that are running free, they are all in cages.

I have a neighbor here who has been in my barn and he can testify there is no odor. I keep my barn very clean. I clean it once a week. The only way you can hear my chicken's crow is if you're standing outside. Our barn is attached to our house and we can hear them crowing.

The waste we dispose of through Best Way Disposal. There is a dumpster that we use.

In this area there are donkies, horses --- that's why we bought this country home. The realtor did not say anything that there would be any kind of problems with me having my birds.

I do a lot with the 4-H kids and wanted to get these approved so they can be shown.

We just moved from town and I never had any problems with neighbors concerning odor or noise.

Steve Horn, 2837 S 300E.

Mr. Horn informed the board he is also a real estate agent and I live across the street from these folks.

Mr. Horn said, I am not here for or against these people. I just wanted to say I do have a barn, ten acres and what I have there I am allowed to have. I am concerned with how they were going to dispose of the waste.

Ron McWithey, 2857 S 300E.

Mr. McWithey said, I have been the barn and the place is very clean. I could detect no odor. I live across the street on the west side.

Mr. Huffman said, I do have record of the chickens that were shipped to me that were MPI tested. I can have them checked at any time. Doctor Baker is my veterinarian.

The maximum of adult chickens will go down to 50 as I have just been waiting for this hearing because I don't want to do anything until I found out about this. I have a lady that's coming up to buy seven pairs. I have plenty of room for them but I just don't want that many birds.

These chickens will never be outside and they cannot be in a temperature lower than 40 degrees. We have a big box fan for ventilation.

Mr. Hershman informed the board the Plan Commission has received several calls regarding the smell and the noise. I also have letters opposing this and they will be on file in the Plan Commission office.

Several members stated they were concerned that if they are allowed to do this then the neighbors will feel they can have some farm animals.

There were no remonstrators present.

Several members stated they were concerned with this setting precedence. They felt this was the wrong location as this is part of a subdivision. Also they felt this might start out small but grow much larger and that it could grow in to quite a nuisance and that the lot was too small.

Member Maxwell said, I make a motion to deny Petition #556. It could possibly be injurious to the public health, safety and welfare of the community. It could lower the value of the adjacent property. And it's per staff recommendation.

Member Aubrey seconded the motion.

The vote was unanimous in favor of the motion. **Petition #556 of Judie J. Lamb, landowner and petitioner, for Variance to keep exotic poultry on property, which has less than the required 4-acre minimum was denied.**

3. Miscellaneous:

Mr. Shine said, I have one thing for Beverly. On the August 28th minutes we should have at the end, that the board reviewed and signed as to written Findings of Fact and that should be included in those minutes. That the written Findings of Fact were signed in open hearing and attach them to those minutes.

It was the consensus of the board to adjourn.

Adjournment: 9:55:28 A.M.

Mary Jane Baker, Chairman

Beverly Guignet, Secretary