

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

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

Members Absent: None.

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

CURRENT BUSINESS

1. Roll call was taken with all members present.
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 as corrected. Member Hobbs seconded the motion. The vote was unanimous in favor of the motion.

New Business

Director Wilson informed the board the following petitions #SU-593 and V-594 are together and can be heard as one but they needed to be voted on separately. Proper notification was given on both. Member Hobbs made a motion, seconded by Member Maxwell to consolidate Petitions #SU-593 and V-594 for purpose of discussion only and to vote on them separately. The vote was unanimous in favor of the motion.

1. **Petition: 2008-SU-593**
Address: Southwest Corner of New Columbus Road and CR 500 South
Location: Southwest Corner of New Columbus Road and CR 500 South
Petitioner: Ben Nagengast for White River Paintball, Inc.
Request: Special Use for a Large Scale Recreational Business

Ben Nagengast 925 Anderson-Frankton Road, Anderson, Indiana was present representing this petition.

Mr. Nagengast told the board the size of the property is 127 acres but the paint ball activity will not utilize the entire 127 acres. The distance from the road and to the closest point of paint ball would be about 1,200 feet. The distance of the driveway coming in off of New Columbus Road will be 2,640 feet. The primary play area will be approximately 15 acres.

The paint in the balls will fade after a few hours of light so there will not be unsightly paint splattered around on the ground or trees. We have people use our equipment so we can have some kind of control. As far as the noise, it dissipates over a short distance of space. The main noises you will hear from the paint gun themselves is the noise from the people having a good time. The reason we like this property is it's so far off the road. It gives us enough distance to stay out of our neighbor's backyard.

If the people get within 200 feet of a safety boundary or an area that we don't want them in we have paint ball netting up. The netting is installed and it is 12 feet high. We have referees and staff all throughout the facility that monitor the players. The players are never left to themselves to wonder throughout the facility. There is an entire process they go through as soon as they arrive. Our main concern is safety.

The games last 10 to 15 minutes and they are usually over a three-hour period. We post signs and make sure people just don't wonder on to the property. We have been in this business for nine years and have never had any problems. We have outgrown the current facility and that is why we are looking at this site to relocate.

We have about 150 players a week, which is roughly 50 to 75 vehicles per week as they mainly come in groups to play each other. We do not have any kind of heavy traffic. They come in for three to four hours and then leave. This is not just for local people they come from all over the country to play. Most of the activity is on Saturday and Sunday between the hours of 11 A.M. to 7 P.M.

Our proposed hours are seven days a week from 9 A.M. to 9 P.M. Through the week it is usually by reservations. During the fall we usually play until 6 P.M. due to lack of daylight. The proposal does not stipulate any lighting or stadium lighting. We may have a few lights on the pro shop for security purposes that would cover the parking lot. We plan on hosting some larger events that may draw as many as a few hundred players. These are held during our normal business hours. These are usually held on Saturday or Sundays.

We would like to put two signs at the entrance. There are signs there now that are vinyl. They are roughly 3' x 8'. They will not be lighted. It will face both directions. We would also like to put a directional sign at the corner of the property at 500S and Columbus Road. I am proposing a 3 x 8 sign but it may be smaller.

We have a staff of three on management, ten part time referees and if we continue to, we may add 20 more employees.

The pro shop will be in the main building which will be 28' x 60'. It will be used to store all our supplies and to register all the players. We will also do retail sales out of the building. There will be some offices in there. Concessions will not be prepared food at this time but if that changes we will get approval from the Health Department.

We have already met with Fall Creek Regional Waste District and there seems to be adequate supply to this property. Access would come from the northwest corner of the property.

The board was told they have submitted a site plan showing exactly what part of the property would be utilized for the paintball activity and they will be held to this. This covers the entire northern woods all the way down to the creek.

Mr. Nagengast explained that the sellers would not sell off portions requiring all 127 acres to be purchased. But they have full intentions of selling the remainder of the land to the Red Tail Conservancy. Everything from their other paintball location will be moved to this location.

Right now the land is vacant. They plan on an 18-foot wide, 2,640-foot long access drive to the facility. A driveway permit has all ready been approved. Parking will be approx. 200' x 120' and will accommodate 75 cars. The drive and parking will be gravel and not a paved surface. The first 15 feet in to the property will be hard surface. In what they consider phase 2 there will be two additional buildings. One will be a steel agricultural 100' x 200' building that will be used for storage. The third building is an 80' x 50' pavilion for private events. There will also be an inside arena that will be used during the winter months. There can be five to six games going on at one time.

Greg Valentine, from Fall Creek Regional Waste District was present.

Mr. Valentine stated they have had discussion with Mr. Nagengast and the sewer lines are available in that area.

Judy Nagengast, 925 Anderson-Frankton Road.

Mrs. Nagengast told the board Ben is her son. He has been at his present location for nine years and has never had any problems. People go there and have a wonderful time. We also live adjacent to his present location.

Mr. Nagengast told the board he did have discussions with the neighbors and has had no negative feedback concerning the proposal.

Hookup to the sewer will be prior to the opening. There will be a modular building with two restrooms. They plan to drill their own well.

Mr. Shine informed the board that he wanted to clarify to the board that in the future we are going to require at least 50 feet wide for the easement and the signage has to remain on their property. They are also requesting today that the parking be gravel and remain that way.

Director Wilson stated staff recommends approval of the special use request, subject to submitted business plan/informational sheet file-dated June 3, 2008, and the following condition:

All signage shall be subject to approval by the Planning Director prior to the issuance of an Improvement Location Permit (ILP).

- ◇ The subject site is a 127-acre parcel located on the southwest corner of New Columbus Road and CR 500 South. The property is zoned CR (conservation residential) and the Comprehensive Plan recommends rural development for this site. This site is surrounded by single-family residential development. This request would provide for the location of a large-scale recreational operation (outdoor paintball facility). *The Madison County Land Use & Development Code* requires that any large-scale recreational use that wishes to locate in the CR district receive a special use grant from the Board of Zoning Appeals.

BUSINESS OPERATION

- ◇ The petitioner submitted a business plan/informational sheet file-dated June 3, 2008. In that plan, the petitioner explained the specifics of paintball, the history of the current operation and the plans for the new facility. According to the plan, the petitioner intends to use the southern portion of the site, south of the wooded area, for paintball, with the wooded area being sold to the Red Tail Conservancy for use as a nature preserve.
- ◇ The petitioner has indicated that the facility would be open from 9am to 9pm, seven days a week, with the bulk of play occurring on the weekends from 11am to 7pm. The current facility employs three full-time staff members and one part-time staff member. There are also 10 part-time referees that work weekends totaling 14 employees for the entire facility. The petitioner has indicated that they would hope to grow the business to a total of 20 employees. Additionally, the petitioner has indicated that no more than 80 patrons would be on site at any one time.
- ◇ The site plan indicates that a new 1,680 square foot modular structure would be located on site to accommodate a new pro-shop and storage for the facility. Additionally, a small number of concessions would be sold ranging from chips, soda, water, candy and Gatorade. The petitioner has stated that a permit from the Madison County Health Department would be obtained if they chose to sell prepared food in the future. However, for the time being, the petitioner plans to utilize local catering companies to accommodate those patrons that may request such services.
- ◇ The submitted business plan does include two future phases of growth/construction. In the coming years, the petitioner hopes to construct a separate 20,000 square foot “winter facility” that would accommodate patrons during the winter season. Further, the petitioner has expressed the desire to construct 4,000 square foot pavilion for private events. Each facility would require an Improvement Location Permit (ILP) from the Planning Department.

VARIANCE FOR GRAVEL DRIVE AND PARKING AREA

- ◇ The site plan indicates that a 2,640-foot long gravel access drive and 75-lot gravel off-street parking area are proposed for the facility. The Ordinance requires that any use located within one of the County’s commercial classifications have hard-surfaced access drives and parking areas. However, the PR classification (Parks & Recreation), which is the district where this use could locate without a special use grant from the Board, as well as the CR district, of which this property is zoned, indicates that access drives and parking areas may either be paved or gravel.

GENERAL INFORMATION



LEGAL NOTICE sent June 5, 2008

FINDINGS OF FACT

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*
No. This facility/use has strict safety procedures, as indicated in the business plan, and will have a 12-foot tall safety netting erected within 200 feet of the property line.
2. *Will the requirements and development standards set forth in the district for such exception be met?*
Yes. The applicant has agreed to adhere to the requirements of the Ordinance as well as the submitted business plan/informational sheet.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*
No. The subject site can still be used for agriculture, very low-density residential, or other recreational uses and will not include any paved parking areas.

(Not approved by BZA)

4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*

Yes. The CR district does provide for a number of recreational uses.

There were no remonstrators present.

Member Aubrey moved to approve Petition #593 for a 50-acre large scale Recreational Use per staff recommendation.

1. Submitting a business plan.
2. All signage approved before issuance of an Improvement Location Permit. The sign shall be on their property.
3. The pro shop (building 28' x 60') will be hooked up to the Fall Creek sewer system.
4. No prepared food will be served in your building or sold with out Health Department approval, only chips, popcorn, candy, etc (as a permit from Madison County Health Department would be obtained).
5. Any new building phase will have to be issued a new building permit through the Planning Commission.

Plus Findings of Fact:

1. The approval would not be injurious to the public health, safety, morals and general welfare of the community as six inches of gravel will be used.
2. The requirements and development standards set forth will be met as the applicant has agreed to adhere to the requirements of the ordinance.
3. The proposed use will not adversely affect the use of other people's property in the district. As you stated you were going to put spruce trees down the drive which will cut down the dust.
4. The proposed use will be consistent with the character of the zoning district and the Comprehensive Plan, as the district does provide for recreational uses.
5. Upon expansion a re-visit of the parking and pavement must be looked at.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2008-SU-593 was approved.**

2. Petition: 2008-V-594

Address: Southwest Corner of New Columbus Road and CR 500 South

Location: Southwest Corner of New Columbus Road and CR 500 South

Petitioner: Ben Nagengast for White River Paintball, Inc.

Request: Variance of Development Standards for a Gravel Driveway and Parking Lot as opposed to the required coverage of concrete/asphalt.

Ben Nagengast 925 Anderson-Frankton, Anderson, Indiana was present representing this petition.

Director Wilson informed the board what was covered in the Ordinance under Parking Standards, (see 6:11).

(Not approved by BZA)

As this was discussed along with Petition #593, Member Aubrey moved to approve Petition #594 for a variance of Development Standards to provide for a gravel driveway and parking lot as petitioners are putting down six inches of gravel. Also, Norway spruce trees will line drive cutting down any dust the gravel will cause. Plus our Findings of Fact.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2008-V-594 was approved.**

It was the consensus of the board to take a ten-minute break (10:25:38 A.M.).

Board was called back to order (10:35:12 A.M.).

3. Petition: 2008-V-588

Address: 2616 West SR 28, Alexandria

Location: 2616 West SR 28, Alexandria

Petitioner: Jesse L. Hamm

Request: Variance from Development Standards to allow an accessory structure to be placed in front of the primary structure.

Director Wilson informed the board notices were sent out June 5, 2008.

Jesse Hamm, 2616 W St. Rd. 28 was present representing this petition.

Mr. Hamm stated he planed on building a 24' x 34' pole barn to use for storage in front of his home workshop.

Mr. Hamm works on his own sprint cars. This is a hobby and not a business, and is only for his private vehicles. There will be one truck that will be stored inside the building.

The building will be built on two lots. There is an existing small building on one of the lots. Because this is a corner lot and there are two front yards.

There is a total of four lots and several parcels all together that belong to Mr. Hamm. At the present time each lot is being taxed individually and not as one lot. Director Wilson told the board he is going to ask that they be combined in to one large lot.

Director Wilson stated staff recommends approval of the variance request, subject to the following condition:

Both parcels shall be formally combined into one parcel prior to the issuance of an Improvement Location Permit (ILP).

The following issues were considered in formulating the recommendation:

Land Use

(Not approved by BZA)

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- ◇ The subject site includes two parcels totaling 11.933 acres and is located along the north side of CR 640 South, east of CR 300 East. This request would provide for the construction of a 13,408-square foot, 22-foot tall-detached accessory structure (horse barn) located within the proposed established front yard along CR 640 South. The property is zoned AG (agriculture) and the Comprehensive Plan recommends single-family/agriculture development for this site.
- ◇ The site plan indicates that the dwelling would be located 540 feet from the front property line with the proposed accessory structure 181 feet from the same line. The *Madison County Land Use & Development Code* does not permit accessory structures to be located within any established front yard. The purpose for this regulation is to ensure that the primary use of the lot is residential with the dwelling being the most noticeable structure.
- ◇ The petitioner has indicated that the grade of the property declines sharply beyond the rear of the proposed dwelling, which is shown on the submitted site plan. Further, the finger system for the dwelling will be located in the front yard, between the proposed dwelling and CR 640 South. There does not appear to be sufficient area to accommodate any accessory structure that would meet the Ordinance requirements behind the proposed dwelling.
- ◇ The Ordinance does provide for an agriculture-zoned parcel to utilize an accessory as a primary structure if farming is occurring on site. The Ordinance defines a farm as “an area used for agriculture operations, forestry, the operating of a tree farm or nursery, or the production of livestock and poultry as well as those properties classified by the IRS as a farm.”
- ◇ In this case, the storage of horses for personal use does not constitute a farm/agricultural operation and therefore, the accessory structure may not be used as a primary structure. Staff has asked that the petitioner combine both lots prior to the issuance of an ILP. This ensures that the proposed accessory structure and its lot would not be sold resulting in the potential location of a commercial business on site.



(Not approved by BZA)



EXISTING LAND USE AG

Residential

LEGAL NOTICES

Sent June 13, 2008.

FINDINGS OF FACT

(Not approved by BZA)

5. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*
No. The accessory structure will not be used for living space or commercial activity.
6. *Will the requirements and development standards set forth in the district for such exception be met?*
No, at least in terms of the location of the accessory structure in the front yard along CR 640 South. However, all setbacks will be met.
7. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*
No. The surrounding properties are all zoned agriculture and it is expected that large accessory structures be proposed for the area.
8. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*
Yes. The area is planned, zoned and developed for low-density single-family/agriculture-based activity.

Director Wilson stated there should also be a variance on the existing 34' x 32' building on this property. I would like to see this incorporated in to this request.

Member Hobbs left the meeting (11:10:36 A.M.).

Questions were raised as to the location of the utility easements and about combining all the parcels in to one large lot.

Several board members felt there was not enough information to proceed.

There were no remonstrators present.

Member Baker made a motion, seconded by Member Aubrey to suspend the discussion of Variance #588 go to Petition #592 and then come back to Petition #588. The vote was unanimous in favor of the motion.

Director Wilson told the board he was getting the plat for this subdivision so Mr. Hamm could show them exactly where the utility easement and where the barn would be located.

4. Petition: 2008-V-592

Address: North side of CR 640 South, East of CR 300 East
Location: North side of CR 640 South, East of CR 300 East
Petitioner: Kirk & Jana Hoffman
Request: Variance from Development Standards to allow an accessory structure to be placed in front of the primary structure.

Jay Gibson, Registered Professional Engineer with CDG Consulting, Indianapolis.

Mr. Gibson stated he is the representative to the Hoffman's.

Mr. Gibson informed the board they do own two parcels but are in the process of combing them into one large parcel.

The structure would be used to stable and house a riding arena for their own person use. The house sits on a very high knoll with the septic system to the east of it. The only flat area where the barn could be built is in front of the primary dwelling. They will dig a well for the barn and will also expand the septic system. The barn will contain a bath area, horse stalls and a riding arena. The house is under construction.

Director Wilson stated staff recommends approval of the variance request, subject to the following condition:

Both parcels shall be formally combined into one parcel prior to the issuance of an Improvement Location Permit (ILP).

The following issues were considered in formulating the recommendation:

- ◇ The subject site includes two parcels totaling 11.933 acres and is located along the north side of CR 640 South, east of CR 300 East. This request would provide for the construction of a 13,408-square foot, 22-foot tall-detached accessory structure (horse barn) located within the proposed established front yard along CR 640 South. The property is zoned AG (agriculture) and the Comprehensive Plan recommends single-family/agriculture development for this site.
- ◇ The site plan indicates that the dwelling would be located 540 feet from the front property line with the proposed accessory structure 181 feet from the same line. The *Madison County Land Use & Development Code* does not permit accessory structures to be located within any established front yard. The purpose for this regulation is to ensure that the primary use of the lot is residential with the dwelling being the most noticeable structure.
- ◇ The petitioner has indicated that the grade of the property declines sharply beyond the rear of the proposed dwelling, which is shown on the submitted site plan. Further, the finger system for the dwelling will be located in the front yard, between the proposed dwelling and CR 640 South. There does not appear to be sufficient area to accommodate any accessory structure that would meet the Ordinance requirements behind the proposed dwelling.
- ◇ The Ordinance does provide for an agriculture-zoned parcel to utilize an accessory as a primary structure if farming is occurring on site. The Ordinance defines a farm as "an area used for agriculture operations, forestry, the operating of a tree farm or nursery, or the production of livestock and poultry as well as those properties classified by the IRS as a farm."
- ◇ In this case, the storage of horses for personal use does not constitute a farm/agricultural operation and therefore, the accessory structure may not be used as a primary structure. Staff has asked that the petitioner combine both lots prior to the issuance of an ILP. This ensures that the proposed accessory structure and its lot would not be sold resulting in the potential location of a commercial business on site.

GENERAL INFORMATION





EXISTING LAND USE AG

Residential

COMPREHENSIVE PLAN

Recommends promotion and development of farming activities and operations and single-family development for this site.

LEGAL NOTICES

Sent June 13, 2008.

FINDINGS OF FACT

9. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*
No. The accessory structure will not be used for living space or commercial activity.
10. *Will the requirements and development standards set forth in the district for such exception be met?*
No, at least in terms of the location of the accessory structure in the front yard along CR 640 South. However, all setbacks will be met.
11. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*
No. The surrounding properties are all zoned agriculture and it is expected that large accessory structures be proposed for the area.
12. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*

(Not approved by BZA)

Yes. The area is planned, zoned and developed for low-density single-family/agriculture-based activity.

There was no remonstrator present.

Member Aubrey moved to approve Petition #592 to provide for an accessory structure located in front of a primary structure. subject to the lots being combined and that no living space be included in the proposed structure.

Plus Findings of Fact.

1. The approval would not be injurious to the public health, safety, morals, and general welfare of the community as the accessory structure will not be used for living space or commercial activity.
2. The requirements and development standards set forth in the district for such exception will not be met at least in terms of the location of the accessory structure in the front yard along CR 640 South. However, all setbacks will be met.
3. The proposed use will not adversely injure other property or uses in the same district and vicinity.
4. The proposal will be consistent with the character of the zoning district and the Comprehensive Plan. The area is planned, zoned and developed for low-density single-family/agriculture -based activity.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2008-V-592 was approved.**

The board went back to item 3, Petition #588.

Mr. Shine informed the board he now had the plat for Monroe Heights Subdivision. Along the south end of lots 5,6,7 and 8 there is ten-foot utility easement. Right on all of those lots. There is also an extra five foot along the sides if needed. There needs to be a specific site plan showing the new building is going to be located.

There were no remonstrators present.

Member Aubrey moved to approve Petition #588 to provide for an accessory structure located in front of a primary structure and an existing accessory barn on the conditions the four lots and two parcels become one and are recorded as such for tax purposes, subject to a survey site plan to be submitted for AEP approval.

Plus Findings of Fact.

1. The approval would not be injurious to the public health, safety, morals, and general welfare of the community as the accessory structure will not be used for living space nor for commercial activity.

(Not approved by BZA)

2. The requirements and development standards set forth in the district will not be met in terms of the location in the front yard along Estelle Drive. However, with the regards to the location along State road 28, all development standards will be met.
3. The proposed use will not adversely injure other property or uses in the same district and vicinity as the surrounding properties have detached accessory structures also.
4. The proposed use will be consistent with character of the zoning district and the Comprehensive Plan as the area is planned, zoned and developed for low-density single-family/agriculture-based activity.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2008-V-588 was approved.**

5. **Miscellaneous** - Mr. Shine stated we have some wind towers that are starting to come in. We will be having some discussion with board members to see how these need to be address as more and more will be coming in. There will have to be changes made to the ordinance to accommodate this new trend.

It was the consensus of the board to adjourn.

11:48:21 A.M.

John Randall, Jr., Chairman

Beverly Guignet, Secretary