

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., Shirley Aubrey, and Bill Hobbs.

Members Absent: Mary Jane Baker.

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 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 Aubrey made a motion to approve the minutes. Member Maxwell seconded the motion. The vote was unanimous in favor of the motion.

The board was informed there are no minutes for the July 22, 2008 meeting as it was cancelled.

New Business

1. **Petition: 2008-V-010**
Address: 10866 North 24th Street, Elwood
Location: SR 37, South on Madison Ave/South P St. Continue on P St. to 24th St. then Left
Petitioner: Larry Shallenberger
Request: Permission to locate manufactured home (on foundation) behind the already constructed garage, due to existing well and property lines.

Director Wilson told the board legal notices to surrounding property owners were post marked August 6, 2008 however; it appears the Anderson Herald Bulletin did not run this until this past Wednesday. That would have made it the 20th which would have only been a six day notification in the paper. This was at no fault of the petitioner or staff. Things were given to the paper on time it just did not make it until Wednesday. The board has the right to waive the notification requirement for the paper or the surrounding property owners. Staff believes we can go forward as notices to the surrounding property owners were post marked prior to the date which they were required. There are no remonstrators for or against so we would recommend a waiver of four days on the notification in the paper.

Member Aubrey moved to waive the notification of four days since the article did not make it in to the paper until the sixth. Member Hobbs seconded the motion. The vote was unanimous in favor of the motion.

Larry Shallenberger, 10866 N 24th Street, Elwood.

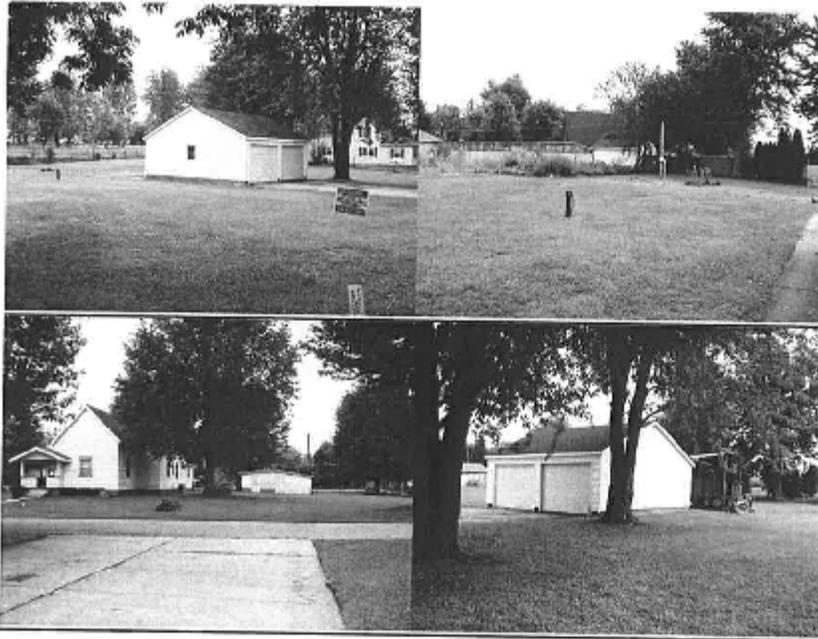
Director Wilson stated due to the location of the well and septic and the existing garage, the manufactured home was to be located behind the garage. Staff recommends approval of the variance request.

The following issues were considered in formulating the recommendation:

Land Use

- ◇ The subject site is a 0.49-acre parcel located just south of CR 1100 North, south of the City of Elwood in the Ira Kidwell Subdivision. The site is currently improved with a 528-square foot accessory structure (detached garage). This request would provide for the placement of a 28x56-foot manufactured dwelling located 68 feet from the front property line, five feet to the rear of the detached garage. The property is zoned Residential Two (R2) and the Comprehensive Plan recommends medium density single-family development for this site.
- ◇ The Madison County Land Use & Development Code does not permit accessory structures to be located in front of a primary structure. 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. In this case, a mobile home had been previously located on site, in the same location as this proposed manufactured dwelling.
- ◇ According to the site plan, only 64 feet exists from the north lot line to the north elevation of the detached garage. With the manufactured dwelling being 56 feet wide, there would not be sufficient room to place the dwelling on site and still adhere to the side setback requirement of 10 feet for the R-2 zoning district as well as maintain the required 10-foot separation between structures. Additionally, a 30-foot front setback is required for the R-2 district when abutting a local road. Therefore, a hardship does exist warranting the grant of a variance for the location of the manufactured dwelling.
- ◇ The site plan does indicate only a five-foot separation between the proposed dwelling and the existing detached garage. The Ordinance requires a minimum 10-foot separation between accessory and primary structures. This will need to be corrected prior to the issuance of an Improvement Location Permit (ILP).

GENERAL INFORMATION



EXISTING LAND USE R2 Residential

SURROUNDING ZONING AND LAND USE

North -	R2	Residential / Single-family
South -	R2	Residential / Single-family
East -	R2	Residential / Vacant
West -	R2	Residential / Single-family

COMPREHENSIVE PLAN Recommends low to medium density single-family development for this site.

THOROUGHFARE PLAN The Official Thoroughfare Plan indicates that North 24th Street is a local road.

UTILITIES This site is improved with a well and septic system.

LEGAL NOTICES Post-marked August 6, 2008.

FINDINGS OF FACT

1. *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 and has historically been located in front of the primary structure on this lot.
2. *Will the requirements and development standards set forth in the district for such exception be met?*
Yes, all setbacks would be met for the R-2 district.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*
No. Many of the surrounding properties contain detached accessory structures with some located in front of primary structures. This would be consistent with the development pattern of the area.
4. *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 single-family development.

ZONING HISTORY

None

CAW

There were no remonstrators present.

Member Aubrey stated she would move to approve Petition 08-V-010 for a variance of development standards. The following issues for approval are as follows:

- 1). Site has 528 square feet detached garage and the property is zoned residential (R2). The comprehensive Plan does recommend medium density single family development for this site.
- 2). A mobile home had previously been located in same location as is the proposed dwelling.
- 3). According to site plan there would not be sufficient room to place the dwelling on site and still adhere to side setback requirement of ten feet. Therefore, a hardship does exist warranting the approval of the variance for the location.

Plus the staff recommends approval and per the following Findings of Fact:

1. *The approval would not be injurious to the public health, safety, morals, and general welfare of the community?*
No. As the accessory structure will not be used for living space or commercial activity and has historically been located in front of the primary structure on this lot.
2. *The requirements and development standards set forth in the district for such exception have been met?*
Yes, all setbacks would be met for the R-2 district.
3. *The proposed use will not permanently injure other property or uses in the same district and vicinity as many of the surrounding properties contain detached accessory structures with some located in front of primary structures. This would be consistent with the development pattern of the area.*
4. *The proposed use is consistent with the character of the zoning district and the Comprehensive (Comp) Plan and the area is planned, zoned and developed for single-family development.*

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2008-V-010 was approved.**

2. Miscellaneous:

Director Wilson informed the board he had been contacted by the DNR and we were informed we are getting new flood maps for Madison County. The Planning Department will need to host and open house. We have that scheduled on Wednesday, October 1 from 4 to 8 P.M. in the Delaware Room at the Anderson Public Library. There will also be an informational meeting here in this room at 1 P.M. the same day. F.E.M.A. is sending notice to all property owners in Madison County affected by these maps. The Planning Commission will then need to make a recommendation to the County Commissioners before the end of the year to accept and enforce these flood maps.

Mr. Shine advised the board that waiving the statute requirements for notices should be handled on a case by case basis and that he discourages the board from doing so.

Mr. Shine updated the board on additional legal matters concerning the K.C.C.A. and that the board had again been named in a lawsuit concerning Mallard Lake.

Director Wilson told the board he working on a draft for an ordinance concerning windmill farms in the county. It is being discussed that there be a moratorium on these in the county. We need something on the books concerning this as more and more of them are popping up across the country.

The Plan Commission will be touring a large wind farm in Benton County and any of the board members are welcome to attend.

It was the consensus of the board to adjourn.

Adjournment: 9:36:09 A.M.

John Randall, Jr., Chairman

Beverly Guignet, Secretary