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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: Mary Jane Baker, Bill Maxwell, Rick Durham, Albert Stewart 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 and all members were 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 with the corrections as stated. Member Hobbs seconded the motion. The vote was unanimous in favor of the motion.

Continued Petitions

1. **Petition:** 2009-V-002 **Variance Zoning: AG**
Address: 6723 West Fall Creek Drive
Location: South side of Fall Creek Drive, west of CR 600 West.
Petitioner: Ferge, James & Viola
Request: Lot #3 - A variance of the development standards to provide for the construction of a single-family dwelling in a lot without road frontage (200' road frontage is req).
Lot #2 - A variance of development standards to legally establish an accessory structure 17' from the east property line (minimum 25' side setback required) without a primary structure (residential lots required to be improved with a dwelling).
Lot #1– A variance of development standards to legally establish a swimming pool located zero feet from east property line (minimum 25' side setback required).

Director Wilson informed the Board he had met with Mr. Ferge and a representative from Rayl Surveying. We went over what I had talked about in my staff report for the last two months. Staff still believes that three splits on that property just exceeds the recommendations of the Comprehensive Plan and therefore they have asked for another 30 days continuance. Based on the impression I had after the discussion I believe they are going to try for two splits.

There were no remonstrators present.

Member Maxwell made a motion to continue Petition 2009-V-002 until the June meeting.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2009-V-002 has been continued for the June meeting.**

New Business

1. **Petition:** **2009-V-003 Variance Zoning: AG**
Address: 11906 North 600 West, Frankton
Location: SE Corner of SR 28 and CR 600 West
Petitioner: Dalzell, Mitchell & Angela
Request: Provide for the construction of a 1,890 square foot accessory structure located in front of the primary structure along State Rd 28 (accessory structures be behind primary structure).
required to

Angela Dalzell, 11906 N 600W.

Mrs. Dalzell told the Board that because of the drainage in that area they need to move the location of where they want to build the barn. The property is lower to the south. It will be behind the tree line. This is a corner lot so there are two frontages.

The barn will be used for 4-H livestock and will not be used for any kind of breeding or boarding purposes.

Director Wilson told the Board proper notification was given. And the staff had no knowledge of any drainage problems.

Director Wilson stated that staff recommends denial of the variance request.

- ◇ The subject site is a 5-acre parcel located at the corner of SR 28 and CR 600 West within the Frankton area. The property is zoned AG (agriculture) and is surrounded by large-lot single-family development and farming operations. The Comprehensive Plan recommends rural development for this site. This request would provide for the construction of a 1,890 square foot detached accessory structure located within the established front yard along SR 28.
- ◇ *The Madison County Land Use & Development Code* requires all accessory structures to be located behind the primary structure of the lot. The reason for this provision is to help ensure orderly development of residential areas with residential dwellings being the dominate and most noticeable structure. The petitioner indicates that the proposed structure would be used to house livestock for 4-H purposes.
- ◇ According to the site plan, sufficient area exists to accommodate the proposed structure, south of the proposed location that would meet all development standards for the AG-zoning classification. Therefore, staff sees no reason to grant this request.



Mrs. Dalzell told the Board it would be quite expensive to add fill.

There were no remonstrators present.

Member Maxwell stated the layout of this property and the fact that the ground is lower and sitting the barn back to the south to reach the required setback, this is just a unique situation. With the distance to 28 and they own that, which there will be no one else building there and the low ground to the south, that makes this a unique situation to this parcel.

Member Maxwell made a motion to approve Petition 2009-V-003 to have the barn at the location they are proposing. It will not be detrimental to the safety, health or the welfare of the community. It will not affect the value of the surrounding properties.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2009-V-003 was approved.**

2. **Petition:** **2009-V-004 Variance Zoning: AG**
Address: 3982 West CR 950 South, Pendleton
Location: North side of CR 950 South, west of CR 300 West
Petitioner: Taylor, Daniel
Request: Variance of Development Standards to provide for the construction of a 2,560 square foot accessory structure located within 9 feet of the side property line. County Ordinance requires all accessory structures to be placed no less than 25 feet from the side property line in an AG zoned district.

Director Wilson informed the Board proper notification was given.

Daniel Taylor, 3982 W 950S.

Mr. Taylor told the Board he wants to build the barn to house his personal vehicles, travel trailer and several other cars and other items that he wants to park inside. He would like the structure to be as close to the house as possible. By utilizing the required setbacks it would place the structure too far behind the house. When the weather is bad it would make it more difficult to get

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to the garage. The septic system and field is also located in that area. By having the nine foot setback he could use the existing driveway.

Director Wilson stated staff recommends denial of the variance request.

- ◇ The subject site is a 16.129-acre parcel located along the north side of CR 950 south; west of CR 300 West. The property is zoned AG (agriculture) and is surrounded by large-lot single-family development and farming operations. The Comprehensive Plan recommends rural development for this site. This request would provide for the construction of a 2,560 square foot detached accessory structure located nine (9) feet from the side (west) property line.
- ◇ *The Madison County Land Use & Development Code* requires all accessory structures within the agriculture zoning district to be located a minimum 25 feet from any side property line. This regulation is to ensure that the large structures, often used to store farm machinery and equipment, are isolated from neighboring properties. Often the machinery stored in these buildings are noisy and produce a lot of exhaust. The petitioner indicates that the proposed structure needs to be placed at this location due to the existence of a septic tank.
- ◇ The petitioner has indicated that the purpose of this structure is to store a number of recreational vehicles, a snow plow and personal vehicles. The petitioner has also indicated that this structure would be used to store materials associated with a contracting business and plans to use a portion of the structure for work.
- ◇ The petitioner indicates that the proposed structure needs to be located at this spot due to a septic tank and field. However, staff identifies sufficient area just north of the proposed location that would accommodate a structure of this size while meeting all setbacks.



Mr. Taylor brought up the problem of drainage. If he built per staff's suggestion the barn would be blocking a major surface water way.

Patrick Manship, (County Surveyor)1054 E 600S.

Mr. Manship stated he is very familiar with the Levi Harger Drain. It drains from the east and goes west. On the south side of 950S, the reason there is a lot of water ponding is it has broken down under the railroad tracks. There is another blockage and another breakdown between this property and the railroad tracks. I would consider this a hardship as far as where that surface

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drain is located. This should be a fact to consider in hearing this variance. It will probably be this fall before we can get all these problems addressed.

If this would be approved today Mr. Manship stated he would like to see drainage plans and for this to go before the Drainage Board before a building permit is issued.

Francis Kimm, 9603 S 400W.

Mr. Kimm stated the culvert under 950 is plugged and has backed up on me and Mrs. Knarred. I am a neighbor to Mr. Taylor and I own the property to the southwest of Mr. Taylor. I have no problem with him building the building where he is requesting.

Director Wilson informed the Board this is the first that staff is hearing of any type of drainage or water issues. The staff does believe whenever a petitioner wants to utilize that as an option we do need to see contours and we need to see facts supporting that claim. It is still staff's recommendation that this be denied. For future reference we would like to see contours and proof of drainage issues if that is in fact what is going to be utilize as a hardship.

After some discussion several of the Board members stated they would like to see some contours and something to show where the laterals are located.

There were no remonstrators present.

Member Maxwell moved to table Petition 2009-V-004 until the June meeting. The petitioners need to find out where the laterals are located and work with the office and/or Surveyor's office on the contour maps

Member Durham seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2009-V-004 has been tabled until the June meeting.**

3. **Petition:** **2009-SU-005 Zoning: AG**
Address: 1525 West CR 1850 North, Summitville
Location: South side of CR 1850 North, west of CR 100 West
Petitioner: Parker, Ron & Marcia
Request: Special Use to provide for the construction of three residential/small scale windmills to provide power to their home and upholstery shop.

Director Wilson informed the Board proper notification was given.

Rob Watson, 7388 W 750, Frankton.

Mr. Watson was present representing the Parker's.

Mr. Watson told the Board their intent is to help Mr. Parker put up three residential windmills for the purpose of generating electricity for their use. It will not be for sale.

Director Wilson stated staff recommends approval of the special use request.

- ◇ The subject site is a 19.4-acre parcel located on the south side of CR 1850 North, east of CR 100 West. The property is zoned AG (agriculture) and is surrounded by farming operations. The Comprehensive Plan recommends rural development and farming operations for this area. This request would provide for the placement of three 50-foot tall small-scale windmills for individual electricity consumption.
- ◇ *The Madison County Land Use & Development Code* permits a number of exemptions for agriculturally-related structures if farming is occurring on site. However, if farming is not occurring on site, accessory structures are not permitted to exceed 25-feet in height. The petitioners have indicated that they do not farm the property.

TECHNICAL INFORMATION

- ◇ According to the information submitted by the petitioner's, the three windmills would have an electricity production of 1000Kw at 20mph. The diameter of the rotor would be 96 inches with three blades; a total weight of 28 pounds, would be anchored by guy wires and could survive winds of 140mph.
- ◇ According to the site plan, the three windmills would be located at various sites on the property, with mill #1 approximately 88 feet from the east property line, mill #2 47 feet from the south property line and mill #3 in excess of 200 feet from the west property line. Staff supports the location of these windmills because if the mills were to fall, the structures and all equipment would be contained to the subject site.

GREEN ENERGY / BENEFITS

- ◇ Residential wind power is like solar energy in that it is very environmentally friendly. More wind power usage can reduce the huge amounts of fossil fuels used in our nation today. Residential windmills provide a great way to become an active participant in the green movement and save money at the same time. Residential wind power is the second most abundant source of alternative energy on the face of the planet and continues to grow at a significant rate as a primary source of alternative energy for homeowners. Excess electricity can generally be sold back to the utility or used at a later date. Sleek design combined with quiet operation offer a solution that could significantly reduce or eliminate electric bills without disrupting the neighbors.



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The following picture was submitted and Director Wilson informed the Board that although the picture doesn't show there are actually three blades on the windmill.



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The Board was told these could be moved back to meet the setbacks and to provide enough space in case the mills fell.

These are on a hinged pole and the blades are about four feet from tip to tip and the pole height will be 50 feet.

Member Durham stated he would feel more comfortable with this if he could see a professional Engineers Stamp on this.

Mr. Watson informed the Board that AP requires an electrical block out which will be at the bottom of the pole and it will be locked in a box with a padlock. The cable going up is a quarter inch cable. These will be buried in conduit. The Parker's will not be farming this.

Director Wilson stated we have a number of cellular towers and other communication towers that use guyed wires for support. This is private property and if someone goes on this property then they are trespassing and should not be there. In terms of engineering we will require that at the Improvement Location permitting stage. There will have to be an Engineering stamp on the plans.

At this point in time we are utilizing what the State covers. Staff is working on an ordinance for residential windmills.

There were no remonstrators present.

Member Hobbs moved to approve Petition 2009-SU-005 with the following conditions; all electrical wiring that pertains to the grid be positioned 30 inches below grade in conduit; This is to come back to the Board in one year and see what the results are and how it is going to work out; If the use stops the windmills are to be removed within three to six months; also a ten foot fenced in area around the base.

I don't believe it is going to be injurious to the public health, safety, morals and general welfare of the community. And according to staff recommendations.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2009-SU-005 was approved.**

4. Miscellaneous – Nothing was presented.

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

Adjournment: 10:30:52 A.M.

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Mary Jane Baker, Chairman

Beverly Guignet, Secretary