

BZA - Minutes – July 28, 2009

775

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Member Bill Maxwell, presiding.

Members Present: Bill Maxwell, Rick Durham, and Albert Stewart.

Members Absent: Mary Jane Baker and Bill Hobbs.

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 two members, Mary Jane Baker and Bill Hobbs being absent.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Member Durham made a motion to approve the minutes. Member Stewart seconded the motion. The vote was unanimous in favor of the motion.

Member Maxwell informed the Board there is a quorum present but anything approved or denied would take a unanimous decision by the Board.

Continued Petitions

1. **Petition: 2009-V-004 Variance Zoning: AG (Tabled at the June 23rd Meeting)**
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 7 (seven) 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 that at the July 23 2009 meeting the petitioner had not provided the additional information that had been requested by both the staff and the Board. At that time it was tabled for an additional 30 days. The petitioner has now provided a site plan.

Director Wilson has gone to the site but at this time staff is still recommending denial. No hardship could be established.

Director Wilson told Mr. Taylor there is a County Drain that slopes through.

Mr. Shine informed the Board he also the attorney for the Drainage Board. There was a hearing on this last Wednesday at the Drainage Board and it was tabled. The legal drain does go crosswise through his property. There is a 75 foot easement on each side of the drain. The Madison County Drainage Board did not grant a reduction in that easement but did indicate they would consider reduction of the easement on one side if it would be a benefit to the Board of

BZA - Minutes – July 28, 2009

776

Zoning Appeals. That means a 50 foot reduction on the west side could be granted if it was deemed necessary by the Board of Zoning Appeals.

Daniel Taylor, 3982 W 950S was present representing this request.

Mr. Taylor told the Board the septic field is 12 feet on the west side of the building. If the variance is granted for where the building is located now it will be useable but moving it more to the east would then render it difficult to access.

The Board was informed that at the last meeting there were no remonstrators present but there were a couple of the neighbors present who told the Board they would have no problem with Mr. Taylor's request and where he wanted to place the building.

Patrick Manship, County Surveyor was present.

Mr. Manship stated there is a culvert pipe that goes under the Co. Rd. 950S and drains the property to the south. East of the house there is a culvert pipe and water drains from the south side of 950S and runs north and then west. The legal drain is on the north side of the surface stretch. This is a true hardship case if you look at the lay of the land. I would recommend approval.

There were no remonstrators present.

Member Durham moved to approve Petition #2009-V-004 for nine feet as presented. Also, per the Findings of Fact; it will not be injurious to the health, safety, and general welfare of the community. It will not affect the surrounding property values. It is consentient with the zoning and development of the community.

Member Stewart seconded the motion.

The vote was two yes; Durham and Stewart. One no; Maxwell.

Member Maxwell told the Board his reasoning for voting no was the two members who are not present today, he remembered they had issues with the petition. I think they would prefer that the building be moved a little. They were not in favor of the nine feet. I am not voting for Mr. Taylor not to have the building but I still think he could move it a little to get more of a setback even if it meant moving it to the north 20 feet.

Petition #2009-V-004 has been tabled until the August 25th meeting.

2. **Petition: 2009-V-005 Variance/2009-SU-006 Special Use Zoning: R-2**
(Tabled at the June 23rd Meeting)

Address: East side of CR 600 West, ¼ mile south of SR 128

Location: East side of CR 600 West, ¼ mile south of SR 128

Petitioner: Stapleton, Frank & Parthena

BZA - Minutes – July 28, 2009

777

Request: Variance of Development Standards to provide for the construction of a barn to house livestock and implement storage. (R-2 zoned districts require a residential dwelling on a lot prior to an accessory structure.) Special Use to provide for an R-2 zoned parcel to be used for pasture and agriculture purposes.

No one was present representing this request.

Director Wilson told the Board this was tabled because this is to be platted before the Board can act. The Plat Committee did not meet on July 9 as they did not have a quorum. As soon as this obtains approval from the Plat Committee then we can go forward. Therefore, Director Wilson recommended this petitions be tabled.

Jason Lawrence, 3770 W 900N, Alexandria, was present.

Mr. Lawrence told the Board that both of these petitions should be denied. Approval of this would decrease property values and would stop additional development. There is no primary dwelling on the property and there have been numerous calls about their horses getting lose in the street. The city of Frankton will not extend their utilities beyond their city limits. This does not fit within the residentially zoned area.

Director Wilson informed the Board that as of yet staff has not formulated any recommendation.

Phillip Alexander, 5866 North Drive, was present.

Mr. Alexander told the Board he felt this was not a good location for this. There are old buildings on the property that have not been properly maintained. There are several junk vehicles on the property and he is also concerned with the horses getting out. The property is not being taken care of. He also would like to see these petitions be denied.

Member Durham moved to table Petition #2009-V-005 Variance/2009-SU-006.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petitions #2009-V-005 Variance/2009-SU-006 have been tabled until the August meeting.**

3. Petition: 2009-V-006 Variance Zoning: GC (Tabled at the June 23rd Meeting)

Address: 110 East CR 300 North, Anderson

Location: Intersection of CR 300 North and Scatterfield Road

Petitioner: Independent Federal Credit Union – Bret Barclay

Request: Relief of required side setback for placement of an ATM Machine 5 feet from side property line. (Commercial zoned parcels are required to have a minimum side setback of 25 feet.)

Director Wilson stated this petition was tabled from the June 23rd meeting due to lack of notification.

Brad Barkley, Indianapolis was present representing this request.

BZA - Minutes – July 28, 2009

778

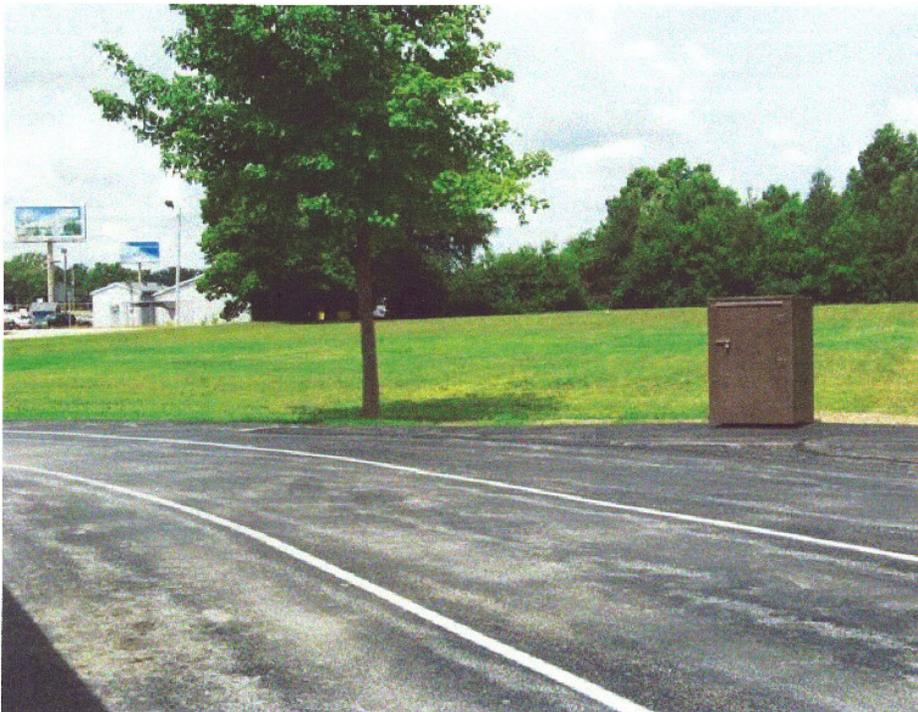
Mr. Barkley stated the ATM that is presently there is a walk up where people have to exit their cars and go into the facility. They would like to put the ATM separate as a drive up on the outside. Where they want to place the ATM would have three lanes and they want to add more asphalt. Independent does own the property that lies adjacent to the north. For security reasons the tree line has been cleared out. If this was to be placed further back it was felt this would cause a safety hazard.

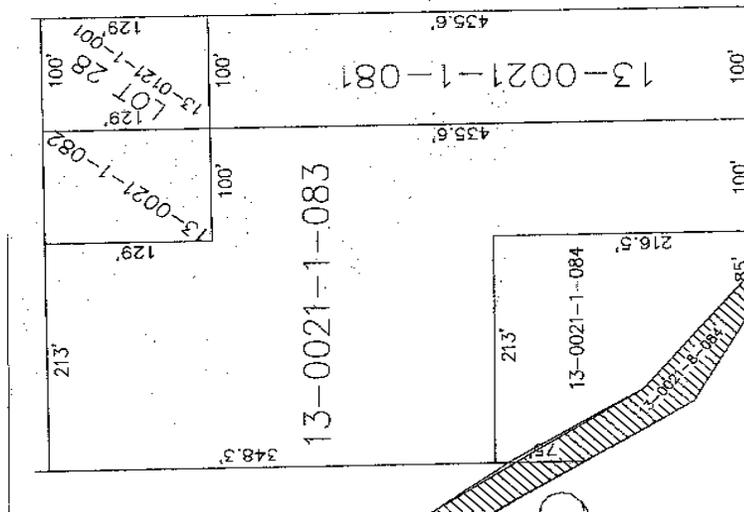
Janet McGill, Vice President of Information Services for Independent Federal Credit Union was present.

Ms. McGill informed the Board they do own the property that lies adjacent to the north and to the east. In the future there might be some expansion done and the property to the north could be utilized for that or it could remain empty for years. At the present there are no plans for any expansion.

Ms. McGill presented the following pictures showing different angles of the parking area.







Director Wilson informed the Board that the main issue is, because of the Corridor Overlay it specifically states, no accessory uses to be oriented towards the main Thoroughfare.

Director Wilson stated due to lack of public notification, this petition was automatically continued from the June 23, 2009 meeting to the July 28, 2009 hearing.

Staff recommends denial of the variance request.

- ◇ The subject site is a 0.895-acre parcel located at the intersection of Scatterfield Road and Hartman Road (CR 300 N), just outside the City of Anderson. The property is zoned GC (general commercial), improved with a 2,232.4 square foot commercial structure (bank) and is surrounded by a mix of land uses. The Comprehensive Plan recommends commercial development for this site. This request would provide for the location of an ATM five feet from the north (side) property line.
- ◇ *The Madison County Land Use & Development Code* requires a minimum 25 feet setback from any side property line. This regulation is to ensure that the uses and structures associated with commercial development are separated from neighboring uses with little to no affect on neighboring land values.
- ◇ According to an aerial of the property and confirmed by a visit to the site, there are 33 off-street parking spaces at the facility. The Ordinance requires that one space be provided for every 300 square feet of floor area as well as one space for each employee. This would equate to seven off street spaces for customers plus six additional spaces for the employees, totaling 13 required off-street parking spaces. Therefore, this site is improved with more than twice the required number of off-street parking spaces.
- ◇ The site plan indicates four drive-thru bays located to the rear of the structure. Staff believes that the additional ATM could be added to the existing drive-thru facility, without the need for a variance and without affecting the required number of off street-parking spaces.

BZA - Minutes – July 28, 2009

781

- ◇ Staff identifies a potential hazard with the petitioner's proposed location of the ATM. It is conceivable that more than one automobile would queue for the ATM and could potentially block other automobiles exiting the existing drive-thru. At a minimum this would disrupt the traffic flow on the site and potentially cause an accident as motorists would try to maneuver around any vehicle queued at the ATM.
- ◇ Additionally, this site is located within the County's Corridor Development Overlay District for Scatterfield Road (SR109). The intent of this overlay zone is to require development along the County's major thoroughfares to be aesthetically consistent, responsive to development pressures, and proportionate to the area's traffic issues. According to the Overlay guidelines, loading docks, over-head doors, trash collection bins and mechanical equipment are not permitted to be oriented toward any street right-of-way. Staff believes that drive-thru facilities, including ATM's would be consistent with this regulation.



THOROUGHFARE PLAN

The Madison County Thoroughfare Plan indicates Scatterfield Road as a primary thoroughfare and Hartman Road (CR 300 N) as a collector road.

Additional landscaping is required, the building material that is allowed, lighting, roof pitches that are different, building orientation is something that is very important to the corridor overlay, all primary structures must face the front lot in which they are located, no loading docks, service doors, trash collections or nay thing else that would be accessory to the primary use is allowed to face the public street. Any of those must be placed to the rear of the primary structure.

Staff does not see any hardship especially with common ownership of this property. The petitioners are able to replat the property and extend it further and still meet all the requirements of the Madison County Land Use Codes. So, staff recommends denial.

BZA - Minutes – July 28, 2009

782

Ms. McGill stated Mr. Barkley told the Board, they want to build a 4' x 12' portable building for the ATM, place it in front of the existing building but close to the north property line for security reasons and to help with the flow of traffic.

Roger Kinser 133 West Main Street, Markleville.

Mr. Kinser told the Board he is a member of Independent Federal Credit Union. He also stated he and his wife feel this is a very unsafe situation and feel that what is being proposed would be a much more secure and safe location. The feel safety is more important than the corridor overlay.

Director Wilson told the Board if they could move the ATM back and to the east so it would be in line with east edge of the sidewalk it could work with in the corridor overlay.

Brad Barkley and Janet McGill told the Board they would have no problem with moving the ATM back to the east and north of the edge of the sidewalk.

There were no remonstrators present.

Member Durham moved to approve Petition # 2009-V-006 with the following conditions:

1. Shift the north property line 20 feet to the north by replatting the north parcel.
2. Wave the landscaping requirements around the proposed ATM.
3. Shift the proposed ATM 30 to 50 feet to match up with the existing walk along the north side of the structure.

This will not be injurious to the health, welfare of the community and not affect the surrounding property values. It is consistent with the development of the community.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petition # 2009-V-006 was approved.**

New Business

1. **Petition: 2009-SU-007 Special Use Zoning: GC**
Address: 5211 South New Columbus Road, Anderson
Location: West side of New Columbus Road, South of 500 South
Petitioner: Ben Nagengast
Request: Expansion of Large Scale Recreational Business, to provide for an additional playing field and primitive camping sites.

Ben Nagengast, 810 Ernie Lu Ave. was present representing this request.

Director Wilson stated he would like to see a more detailed site plan of the camping area as well as the corn maze area. More information concerning traffic, customer numbers and would like elevations of the proposed signage and the proposed new structure.

Staff is requesting this be continued until August 25, 2009 to get that additional information.

BZA - Minutes – July 28, 2009

783

The last variance granted was not for the entire parcel and that is what is being requested at this time. Mr. Nagengast wants to utilize the entire 127 acres.

Mr. Nagengast told the Board his business has grown substantially in the last year. Some of the acreage would not be used at this time but maybe five to ten years down the road. The southern portion is zoned for recreational uses and they feel there are additional things that can be done and additional needs and services that can be provided within the same theme that is being done now; such as the haunted house, the corn maze, etc. The basic proposal is for 77 acres which will cover the rest of the parcel and is up for discussion today.

They hired about 20 new part time employees, 1 new full time employ and there is potential to grow. There have been no complaints on their business in the time they have been in operation.

Most of the customers come from outside of the county. The people who come also bring their money to the county by purchasing gas, food, shopping, hotels, etc. In the future their expectation is to hire more people to help with the operation.

There will be a new parking lot on the north portion of the property. Nothing will be visible from the road. There will be a new pro shop. There will be a new structure to house the equipment and supplies that are used on the property. The entire parking lot and drive will be covered with two to six inches of asphalt millings. The driveway is over 18 feet wide and over a half mile long.

There are about 20 cars a day that go in and out of the facility except Fridays which is around 40 and Saturdays which it increases to around 700 cars. There are four speed limit signs that are placed along the drive.

Two new signs are proposed to be placed on each side of the entrance. (The following pictures show the proposed signs.

INSERT PICTURES

For the pro shop they want to erect some lighting apprentices. This will be toward the interior of the playing field. It will not light the entire property just some that are close to the playing field. The buildings are well within the interior of the property.

The expectations are to hire about 10 full time personal and up to 200 part time personal within the next five years.

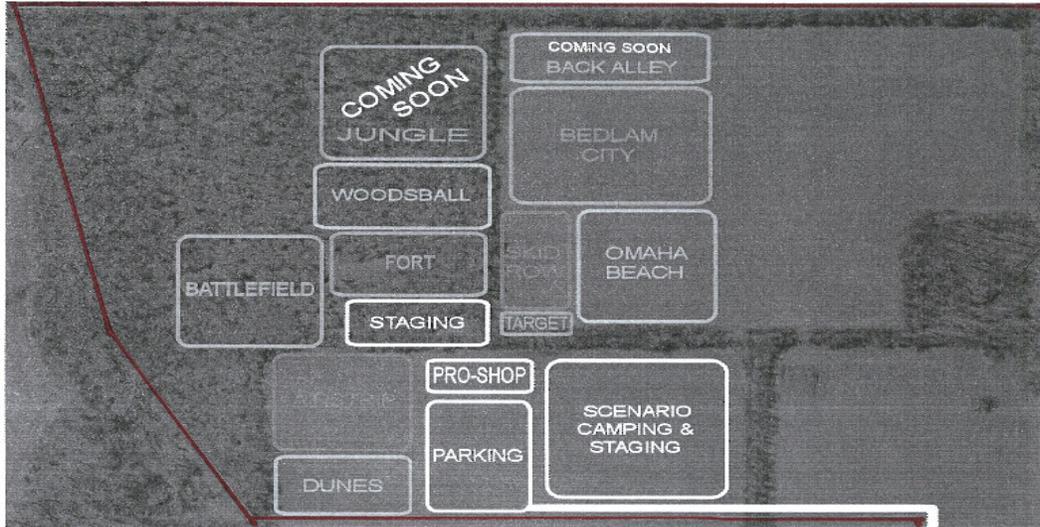
Most people will set up on Fridays. Its primitive camping as there are no hookups, no sewers drops, ect. Camping is specifically for the two day events so, there will be a limited number of camp days. Not all people who come to those events stay and camp on the ground. The pro shop is kept open 24 hours to allow players and campers to use the restrooms.

BZA - Minutes – July 28, 2009

784

The events usually start on Fridays and most of the games are on Saturday and on Sundays in the morning and early afternoon. There are usually four main events that are held throughout the year. Those are held during the warmer months. The hours are from 8 A.M. to midnight.

The following pictures are of the southern part of the parcel depicting the layout as it is now.





They are working with the Boy Scouts in doing a Haunted House. Half of the proceeds will go towards charities in the communities. This year the corn maze will run in conjunction with the Haunted House and in future years because of the parking they will be able to use the maze throughout the fall season when the corn is high. The corn maze is on approximately ten acres and it would run seven days a week. It would run from 8 A.M. to dark and no later. The Haunted House will be set up as a temporary structure.

Director Wilson stated staff feels this is a significant expansion of what had been initially approved. Staff has a number of issues that need to be resolved. It is felt that going to 127 acres from the 50 is substantial. The intersection of 500S and New Columbus Road is a tricky intersection. By increasing the traffic staff would like to see a traffic study before a recommendation or any decision by the Board is made. Lighting is of concern as this is a residential area. Staff wants to know what type of lighting is being proposed so it will not be intrusive to the residents in the area. What the hours of operation will be. Camping was never mentioned at the initial approval. Staff wants to make sure if there any permits that are needed from the Board of Health that they are obtained; Frequency of waste disposal with the port-a-lets; where they will be located. Security with this many people, what type of security will be provided.

Mr. Nagengast is doing a good business he is more than tripling the size of the usage on the property and there are a lot of questions that staff feels need answered and that is why staff is requesting this be tabled.

Mr. Nagengast told the Board the camping site could accommodate up to 1,000 people. The lighting is something that can be withdrawn if it is a problem it was just for the playing fields.

As far as the traffic there is no traffic off of 500S. All the traffic would be off of New Columbus Road and it can handle the traffic as it was just recently expanded. They are working with the State to get some trailblazing signs from the Interstate to their facility. That way they can say which way and how the public would come to the facility.

There will be on site personel the entire time to help with the security. They will patrol the grounds at all times. There will be no alcohol allowed. Fireworks are not allowed and the campfires will be kept to a minimum and will be contained and monitored at all times.

Mr. Nagengast has spoken with the Health Board and as far as he could see the port-a-lets will be located throughout the area. They are used for two days and then removed. There are enough of them that not one of them will get to much use and therefore will not create a health hazard and the waste is disposed of by a professional company.

Director Wilson stated a use of this size is a large facility and staff is just not comfortable at this point with what has been presented. Sewers may need brought out to this property for restrooms as opposed to the port-a-lets.

Director Wilson told Mr. Nagengast the things that staff had mentioned today, they would like to see in writing, letters from various agencies, this is something that needs more than one meeting for the Board to consider this request.

Tim Allen, 5206 S New Columbus Ave.

Mr. Allen told the Board the majority of his property is along New Columbus. He felt this has affected them greatly. The traffic, the light, the mailbox, just the whole situation. The first time

BZA - Minutes – July 28, 2009

787

they said nothing because it was their understanding the woods was going to be donated. They weren't going to do anything with the north part of the ground now they are back in here asking for more. He would like this to be tabled so he could look in to a few things on his own.

Norman Davis, E 500S was present.

Mr. Davis told the Board he lives across the street from this property. The only objection he had to this was them trying to expand the operation. His concern is with the water.

Director Wilson stated he had spoken with Mr. Nagengast and informed him no structures could be built in that area as it is wet and could possibly flood at times.

Mr. Nagengast told the Board he would be open to considering a definite setback as far as activity from the road. That way Mr. Davis won't feel he has a paintball operation in his front yard. There will be no access roads on this property.

Director Wilson told the Board he is still asking that this be continued so additional information can be provided.

Member Durham moved to table Petition #2009-SU-007 until the August meeting.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-SU-007 has been tabled until the August meeting.**

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

Adjournment: 11:53:28 A.M.

Bill Maxwell, Member

Beverly Guignet, Secretary

BZA - Minutes – July 28, 2009

788

2. Miscellaneous