

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairperson, presiding.

Members Present: Mary Jane Baker, John Simmermon, Rick Durham, and Rex Etchison.

Also Present: Ken Ellis, Planning Director, and Elizabeth Bruns, Board Secretary.

Members Absent: Bill Hobbs

CURRENT BUSINESS

1. Pledge of Allegiance
2. Prayer – Member Durham
3. Roll call taken with 1 Member, Bill Hobbs, being absent.
4. Member Simmermon made a motion to approve the minutes of the January 22, 2013 meeting. Chairperson Baker seconded the motion. Vote was unanimous in favor of the motion. **January Minutes Approved.**

NEW BUSINESS

Director Ellis informed the Members of the Board that he amended the Agenda and one of the Staff Reports.

Member Durham made a motion to approve the amended Agenda and Staff Report 2013-V-001 as presented, seconded by Member Etchison. **Amendments Approved**

1. **Petition:** 2013-V-001 (Public Hearing)
Address: 1290 South CR 500 West, Anderson, IN
Location: East side of CR 500 West approximately 1/8 mile south of CR 100 South.
Petitioner: Tim & Roberta Jordan
Owner: Robert J. & Carol J. McKee
Zoning: CR
Request: To legally establish a front yard setback encroachment of 20 feet to enable the proposed house to encroach into the front yard.

Director Ellis presented his Staff Reports for Petitions 2013-V-001, -002, and -003 with a favorable recommendation and a condition of a Commitment on the existing home being demolished.

Roberta Jordan – 1290 South 500 West. The driveway was poured within the last seven years and we would like to utilize the existing drive as much as we can to keep the cost of concrete to a minimum. The builder may move the house back more than the site plan shows depending on the drainage in the area.

Member Simmermon made a statement that the existing house is only forty feet from the road so this would be a big improvement.

Member Simmermon made a motion to approve 2013-V-001 per Staffs Findings of Facts. Member Durham seconded the motion. Roll call was unanimous in favor of the motion. **2013-V-001 Approved.**

Findings of Fact: 2013-V-001

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The granting of the variance neither harms the public nor undermines the purposes of The Codes. No easement, legal drain or right-of-way is encroached. The character of the neighborhood would not be changed or threatened. The proposed setback encroachment does not affect the health, safety and welfare of the neighborhood or Madison County.
2. *Would the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?* The proposal is compatible with the area and existing homes in the general neighborhood. The granting will not affect adjoining property values in a substantially adverse manner. Homes in the area have varying degrees of front setback. The variance will not be noticeable. The proposed residential structure will improve the property and the neighborhood.
3. *Would the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?* The petitioner desires to improve the subject parcel with new home construction. Given the location of the existing concrete drive, the encroachment would be 20-feet into the front setback minimum requirement. The granting is reasonable since the surrounding homes are also located within the front setback.

2. **Petition:** 2013-V-002 (Public Hearing)
Address: 1290 S. CR 500 W. Anderson, IN
Location: East side of 500 West approximately 1/8 mile south of 100 South.
Petitioner: Roberta & Tim Jordan
Owner: Robert J. & Carol J. McKee
Zoning: CR
Request: Variance to allow for the construction of a new dwelling while living in the existing dwelling on the same parcel.

Member Durham made a motion to approve 2013-V-002 per Staffs Findings of Facts and a recorded commitment for the removal of the existing home within 60 days of completion of the new home. Member Simmermon seconded the motion. Roll call was unanimous in favor of the motion. **2013-V-002 Approved.**

Findings of Fact 2013-V-002

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The proposed home would not pose a threat to the safety or welfare of the general community because it will meet all local and state codes for new construction. With a commitment to remove the existing home once the new construction is certified for occupancy, there should be no negative impact on the immediate neighborhood if the petitioner lives in the existing home while constructing the new one.
 2. *Would the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?* The proposed dwelling is compatible with the surroundings, and similar in character with other homes in the area. New construction will improve the value of the property. The affected properties will be impacted temporarily during construction.
 3. *Would the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?* The character of the neighborhood would not be changed or threatened while the new home is constructed and the petitioners live in their existing home. Without the ability to live in the existing home while the new home is being constructed would be an undue burden. Practical difficulty has been demonstrated.
3. **Petition:** 2013-V-003 (Public Hearing)
Address: 1290 S. CR 500 W. Anderson, IN
Location: East side of 500 West approximately 1/8 mile south of 00 South.
Petitioner: Roberta & Tim Jordan
Owner: Robert J. & Carol J. McKee
Zoning: CR
Request: To construct a new home slightly behind the existing barn. Section 6.6 D (d) states that all accessory structures shall only be located to the rear of the primary structure

Member Simmermon made a motion to approve 2013-V-003 per Staffs Findings of Facts. Member Etchison seconded the motion. Roll call was unanimous in favor of the motion. **2013-V-003 Approved.**

Findings of Fact 2013-V-003

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The proposed home would not pose a threat to the safety or welfare of the general community because it will meet all local and state codes for new construction. With a commitment to remove the existing home once the new construction is certified for occupancy, there should be no negative impact on the immediate neighborhood if the petitioner lives in the existing home while constructing the new one.
2. *Would the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?* The proposed dwelling is compatible with

the surroundings, and similar in character with other homes in the area. New construction will improve the value of the property. The affected properties will be impacted temporarily during construction.

3. *Would the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?* The character of the neighborhood would not be changed or threatened while the new home is constructed and the petitioners live in their existing home. Without the ability to live in the existing home while the new home is being constructed would be an undue burden. The character of the neighborhood would not be changed or threatened if the barn slightly protrudes past the plane of the front elevation. It does not appear out of place (shouldn't be noticeable to untrained eye). Without the ability to live in the existing home while the new home is being constructed would be an undue financial burden. Practical difficulty has been demonstrated. The county is protected by a recorded commitment to remove the old home once the new home is certified for occupancy.
4. **Petition:** 2013-V-004 (Public Hearing)
Address: 1615 S CR 700 W
Location: Westside of CR 700 W approximately ½ mile south of CR 100 S
Petitioner: Terry & Amy Jones
Owners: Terry & Amy Jones
Zoning: (AG)
Request: Side yard setback relief from 25-feet to 15- feet to construct a pole barn

Director Ellis presented his Staff Report with a favorable recommendation.

Amy Jones – 1615 South 700 West. Our biggest reason for the pole barn is to clean up the area and have storage. The reason we are asking for the variance is to line this new building up behind the existing barn.

Member Simmermon made a motion to approve 2013-V-004 per Staffs Findings of Facts. Member Etchison seconded the motion. Roll call was unanimous in favor of the motion. **2013-V-004 Approved.**

Findings of Fact 2013-V-004

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* The health, safety and welfare should not be affected by the proposal. The barn will be used for storage. It is sufficiently setback from the road as to not to affect the right-of-way. Similar variances have been granted in the past with no known negative impact.
2. *Would the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?* The area adjacent to the property will not be affected by the pole barn. The pole barn would be closer to the rear of the adjacent property. There is an adjacent wooded area that will block the view of the proposed barn.

3. *Would the strict application of the terms of the zoning ordinance result in a practical difficulty in the permitted use of the property?* Yes, due to site restrictions such as drainage and location of the drive, there are not adequate places to put the new barn except directly behind the existing barn. To comply with the required 25-foot side yard setback would extend the proposed structure into the middle of the driveway. This creates a practical difficulty for the petitioner. The variance will allow the petitioner to improve curb appeal with the extra storage to keep personal items such as boats, trailers, and assorted material in closed. The proposed building site is his best option.

MISCELLANEOUS

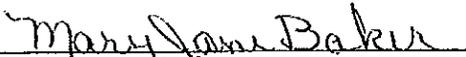
Director Ellis updated the Board on the status of the proposed Buffalo Farm being put on hold due to some possible environmental issues they may have with adjoining parcels and the USDA loan application.

At the Board's request the Dollar General in Lapel had a discussion with the owner's of the land they proposed to build their new store on and that conversation didn't go very well. Dollar General has pulled the plug on this project, and the owners were not willing to agree with anything you were asking for.

Member Durham made a motion to adjourn.

Chairperson Baker adjourned the meeting.

Adjournment: 9:40:25 A.M.


Mary Jane Baker, Chairman


Elizabeth Bruns, Board Secretary