

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 (arriving at 9:02:21), Bill Hobbs, and Rick Durham.

Also Present: Brad Newman, Planning Director, Jeff Graham, Attorney, and Elizabeth Bruns, Board Secretary.

Members Absent: Rex Etchison

CURRENT BUSINESS

1. Prayer by Member Durham
2. Pledge of Allegiance
3. Roll call taken with one Member Absent, and one arriving after roll call.
4. Member Durham made a motion to approve the October 8 minutes. Member Hobbs seconded the motion. **Minutes Approved.**

Member Hobbs made a motion to approve the October 22 minutes. Member Durham seconded the motion. **Minutes Approved.**

NEW BUSINESS

1. **Petition:** 2013-V-019
Address: South side of 1000 S., 449.30 feet west from centerline of 750 W.
Location: South side of 1000 S., 449.30 feet west from centerline of 750 W.
Petitioner: Charles & Barbara Claus
Zoning: CR
Request: Variance to build an accessory structure prior to a residential dwelling

Tim Westerfield presented the staff report with a favorable recommendation.

Charles 240 North Merrill Street, Fortville. We raise miniature horses. Once I get my house sold in Fortville, we will start building our home.

Member Baker asked about water problems in the area.

Shane Sollars 3618 N Fortville Pike, Greenfield 46140. As far as runoff concern, the barn is going to be setback on the top of the property and the home would be at least 200' to 250' off of 1000 South.

Board Members expressed concern of the home never being built, which has happened in the past.

Patrick Manship, Madison County Surveyor. To answer this honestly, I am not that familiar with this site and the drainage.

Joseph Kramer 7575 W 1000 South. My property adjoins with the property owned by Mr. Claus. When it rains good there is a lot of water that goes over the road from the field and into the neighbor's lake across the road.

Shane Sollars stated that approximately where you see the markings on the paper is where the barn will set. The house and the barn will both be on high spots on the property.

Member Simmermon made a motion to provisionally approve Petition 2013-V-019 per Findings of Fact with a condition that they must come back in front of the Board in November of 2015 with proof that the home is started and proposals of when the home will be completed. Member Hobbs seconded the motion. Vote was unanimous in favor of the motion. **Petition 2013-V-019 approved with conditions.**

2. Petition: 2013-V-021
Address: 4662 Country Court, Anderson
Location: Off of 150 North in Woodcliff
Petitioner: William Miller
Zoning: R-1
Request: Porch awning on detached garage to be closer than 10' to existing home.

Tim Westerfield presented the staff report with a favorable recommendation.

William Miller – 4662 Country Court. The reason I am requesting this is because when the floor was poured the contractor failed to put a rain lip on the garage and the weather causes the rain to come in under the door.

Member Hobbs made a motion to approve Petition 2013-V-021 concurrent with staff findings. Member Durham seconded the motion. Vote was unanimous in favor of the motion. **Petition 2013-V-019 approved.**

3. Petition: 2013-V-022 & 2013-SU-004
Address: 12413 Jackley Road, Elwood
Location: North of SR 28, on Jackley Road
Petitioner: Steve Narducci for Irv Larson, Property Owner
Zoning: CR
Request: A special use to allow for a wireless communication tower to be erected on this property, and a variance for maximum height requirement in a CR district.

Tim Westerfield stated that the Petitioner failed to get notice published in a timely fashion so this will be presented at the next meeting.

Member Durham made a motion to continue this petition to the next meeting seconded by Member Simmermon. **Petition 2013-V-022 and 2013-SU-004 continued.**

4. Petition: 2013-SU-005
Address: 9773 West 1025 South, Fortville
Location: South side of 1025 South, east of SR 13.
Petitioner: Jacob Gilliatte for Jim Devoe, Property Owner
Zoning: CR
Request: Special Use to allow for a recreation facility for a family retreat.

Tim Westerfield presented the staff report with a favorable recommendation.

Board Attorney Graham stated that this board is authorized to grant special uses only that are specifically authorized in our zoning ordinance. This would be more in the way of a development variance. You are very close to needing a use variance. In my opinion if any other land owner would remonstrate against this, or file a suit against this, the BZA would lose the suit if we were to approve the special use today.

Attorney Graham said a use variance would be possible if the land could not be used for what the purpose of the zoning district is on that parcel. They are very hard to get approved. At this point I feel the special use is inappropriate. We would have to see the findings of fact. This is my legal opinion.

Jim Devoe 12128 Rangeview Court, Fishers. Originally when I purchased the property, there were two residences at the top of the property. I had those moved with the intent of building a cabin and a garage. Our intent was to have our family to use the property and let the kids ride quad-runners and so forth. As we got involved in Young Life we thought this would be a great place for our kids and their friends to get together and have their meetings.

Michelle Devoe – 12128 Rangeview Court, Fishers. First of all I would like to say our first use for this would be as a family. Young Life is a small Bible study.

Steve Hoffman with Hoffman Engineers asked for one minute before a motion is made to speak with his Petitioner. Because of the Use Variance could we amend what we have done today? Can we amend this for them to build the building for their personal use?

Attorney Graham stated that we cannot grant a variance because they did not advertise for a variance, they applied for a special use, and a special use is not specifically offered for this type of use in a CR zoned district in our Ordinance.

Member Durham made a motion to deny Petition 2013-SU-005. Member Simmermon seconded the motion. Vote was unanimous in favor of the motion. **2013-SU-005 denied.**

Member Hobbs made a motion to do away with the fees on this petition. Member Durham seconded the motion. Vote was unanimous in favor of the motion. **Variance fee waived for this petition.**

MISCELLANEOUS

Chairman Baker stated that the next BZA meeting will be held December 19th at 9 a.m.

Adjournment: 10:09:56 A.M.

Mary Jane Baker, Chairman

Elizabeth Bruns, Board Secretary