

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: Bill Maxwell, John Randall, Jr., Mary Jane Baker, Shirley Aubrey and Bill Hobbs.

Members Absent: None.

Also Present: Michael Hershman, Executive Director, 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 April 25, 2006 meeting were distributed to each member prior to the meeting. Mr. Hobbs made a motion to approve the minutes as presented. Mrs. Aubrey seconded the motion. The vote was unanimous in favor of the motion.

Mr. Hobbs made a motion, seconded by Mrs. Aubrey to approve the minutes for the May 23, 2006 meeting with the corrections as stated. The vote was unanimous in favor of the motion.

3. Petition #467 of Kenneth Jarrett, landowner, and Rick Jarrett, petitioner, for a special use for a confined feeding operation. This property is zoned AG and is located on the northeast corner of Co. Rd. 1300N and Co. Rd. 700W in Duck Creek Twp. and containing 152 acres, more or less.

Mr. Shine said, I was advised prior to the commencement of the meeting this morning and was provided with a copy of an appearance from a Peter, Campbell, King an attorney located in Columbus, Indiana entered on behalf of their law firm. They have filed with us a motion for continuance of the hearing on behalf of their clients, the remonstrators known as the Elwood Citizens against CAFO's.

Donna Marsh, Associate Attorney with Cline, King and King Law Firm at 1225 7th Street, Suite B, P.O. Box 250, Columbus, IN 47202-0250 was present.

Ms. Marsh said, the clients are the Elwood Concerned Citizens. You have been provided an appearance for our law firm, in particular, Peter King who is my supervising attorney.

Also, we have provided you with a motion to continue the vote on this Special Exception. Also, a copy of the appeal of the IDEM permits as well as notice of a pre trial conference regarding the IDEM appeal.

We feel that it would be prudent to delay the vote on this particular permit because as staff recommended approval with condition that the petitioner receive all State, Federal and Local approvals.

Technically at this point they do not have the State approval because that permit is under appeals. So, we would respectfully request the board to continue the vote at the local level until the IDEM appeal is fully adjudicated.

The appeal is based on perimeter discharge, discharge to groundwater, contamination of surface water, lack of proper waste characterization, generic engineering design with regard to the manure pits, service pits, crop failure, and in appropriate land use for disposal. Those were all the issues that will be before IDEM.

Michael Jarrett and Kari Keller Steel were present representing this petition.

Mrs. Steel said, we feel this is just a strategy delay on their part. The ODA actually went back to them and stated in great length that the comments under the appeal of NOI (not audible) vs. King, was inadequate and didn't meet all the requirements of an appeal process. The items they are appealing on are very generic. It does not have anything to do specifically with Mr. Jarrett has to do with IDEM.

They are challenging IDEM the ability to regulate that. Mr. Jarrett has done everything right. He has his county permit. He could start construction today and not be out of line. The appeal does not have to be settled for him to start construction and start operating.

Mr. Hobbs said, I have been through this process with IDEM before personally and I know what's been said about going ahead with construction but, it's very unlikely that is going to happen. I would say nothing is going to be done on this project until after this appeal process.

I personally don't see why we don't wait for that process to go through.

After some discussion by the board Mr. Hobbs said, I would like to make a motion that we delay a decision on the CAFO until after the appeal process is vented through IDEM. So, I am asking for a continuance until after the appeal process. We can set the date up for the meeting whenever that appeals process is completed.

After some discussion by the board Mr. Hobbs said, I would move to table Petition 467 subject to being continued if IDEM appeals is complete.

Mr. Shine said, we are not parties to either of those matters of litigation. We would have to request both parties to keep us advised and informed of all decisions for hearing dates as to IDEM. I will as your attorney also be in touch with IDEM. If this is your desires are to continue this today.

Mr. Hobbs said, I would like to include in my motion for the continuance that both parties keep our office and/or our attorney advised of everything that's current. So, I would like everything be cc to him.

Motion died for lack of second.

Mrs. Steel informed the board that the amendments that we are going to make, there is no new information. It is simply the southern barn will not be built.

Mr. Randall said, concerning the (not audible) from Mr. Shine and from what he has said, if we deny the continuance it really would not make any more work or anything else for this board in the long run. On that bases I move that we deny the request for the continuance.

The motion died for lack of a second.

Mr. Hobbs said, I make a motion that we continue this for a period of 30 days and put it on the agenda for next month's meeting subject to continuance if in fact the hearing with IDEM is not been completed.

Mrs. Aubrey seconded the motion.

The vote was three yes, Hobbs, Aubrey and Maxwell. Two no's, Baker and Randall. Motion carried. **Petition #467 of Kenneth Jarrett, landowner, and Rick Jarrett, petitioner, for a special use for a confined feeding operation has been continued for 30 days.**

The Board advised no new evidence would be presented with the exception of any report/update from the IDEM review.

New Business

1. **Petition #470 of William and Deborah Bailey, landowner and petitioner, for a front setback relief.** This property is zoned CR and is located on the west side of Alexandria Pike approximately ½ mile north of CR-1400 N in Richland Twp and containing 5 acres, more or less.

Mr. Hershman said, the surrounding area is a mix of residential and a gravel pit. The site is a house lot. The porch has already been started.

Staff has received evidence of proper notification.

The applicant is making the request in order to replace a front porch. The setback requirement is 100 feet to the right-of-way. The applicant is proposing 92 feet to the right-of-way.

William Bailey, 4607 N Alexandria Pike, Anderson, IN.

Mr. Bailey informed the board he is adding on to the existing porch a 4' x 6' extension. This would make it four foot closer to the road. The distance back from the road would be 92 feet from center of the road.

There were no remonstrators present.

Mr. Maxwell made a motion to approve Petition #470 of William and Deborah Bailey, landowner and petitioner, for a front setback relief per the staff recommendation and the Findings of Fact.

Mr. Randall seconded the motion.

The vote was unanimous in favor of the motion. **Petition #470 of William and Deborah Bailey, landowner and petitioner, for a front setback relief was approved.**

2. Petition #472 of B & R Rentals, LLC, landowner and petitioner, for a relief from public water requirement in a GC (General Commercial) zoning district. This property is zoned GC and is located on the east side of State Road-37 approximately ½ mile north of CR-1100 N in Pipe Creek Twp and containing .45 acres, more or less.

Mr. Hershman said, a mix of a mobile home park, factory, commercial and houses characterize the surrounding area. The site has 2 residences and a garage on it.

Staff has received evidence of proper notification.

The applicant is making the request as part of an effort to rezone the GC/General Commercial. If the variance is approved, the rezoning request will proceed to the Planning Commission. The GC zoning district requires both public sewer and water. The site was scheduled to have both public sewer and water as part of the Wilburn-Yarling project. However, running the public water line was deleted from the project. Ultimately, the applicant wants to put in a real estate and property management business into the site.

Ray Watson, 628 South "A" Street, Elwood, IN 46036, was present representing this petition.

Mr. Watson said, the front building would be used for the business. The garage and the second building will be used for storage only. I have checked with the State Highway on the entrance and exit off of St. Rd. 37.

The house will be strictly for the office and will not be used for a home. This is for a small real estate office use only.

Mr. Watson informed the board there is a private well on the property but when city water is available I will agree to tap in to it.

There were no remonstrators present.

Mr. Maxwell said, I make a motion to approve Petition #470 being this is strictly for the relief of the water requirement. It would not be injurious to public health, safety, moral and general welfare of the community. It would not hurt the value of the property around it in an adverse manner. And the fact that when the water gets across there, which it will some day, the petitioner will hook up to it.

Mr. Randall seconded the motion.

The vote was three yes; Randall, Baker and Maxwell. Two no's; Aubrey and Hobbs. The motion carried. **Petition #472 of B & R Rentals, LLC, landowner and petitioner, for a relief from public water requirement in a GC (General Commercial) zoning district was approved.**

3. Petition #473 of Jennifer Marcum, landowner and petitioner, to place an accessory structure in front of a primary structure. This property is zoned AG and is located on the west side of CR-350 E approximately ½ mile north of CR-500 N in Richland Twp and containing 7 acres, more or less.

Mr. Hershman said, a mix of residences, fields and a cemetery characterize the surrounding area. The site is a house lot with a shed located between the house and the road.

Staff has received evidence of proper notification.

The Marcum residence is a manufactured home. As such, the existing garage is only superficially attached to the home. The addition will place the structure in front of the home. The applicant intends to convert the existing garage into a living space.

Jennifer Marcum, 5445 N 350E, Anderson, IN 46012.

Mrs. Marcum told the board they did investigate putting the garage some where else but do to the way it's built, where the septic and well are this was the only good location.

There were no remonstrators present.

Mrs. Aubrey said, I will move to approve Petition #473 for a variance of the requirements that an accessory cannot be located in front of primary structure for the following reasons: The request meets the requirements set forth for approval in the State Law in Madison County Zoning Ordinance. The request is the result of a unique circumstance. It is not injurious to public health, safety and general welfare. Adjacent property will not be affected by this proposal. And further more a remodeling permit must be obtained before work can start and the new living area will have to meet the 1 and 2 Family Building Codes.

Mr. Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #473 of Jennifer Marcum, landowner and petitioner, to place an accessory structure in front of a primary structure was approved.**

4. Miscellaneous: Nothing was presented.

Mrs. Aubrey made a motion, seconded by Mr. Hobbs to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:17:44 A.M.

Mary Jane Baker, Chairman

Beverly Guignet, Secretary