

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, John Randall, Jr., Chairman, presiding.

Members Present: Bill Maxwell, John Randall, Jr., Mary Jane Baker, and Bill Hobbs.

Members Absent: Shirley Aubrey.

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 Shirley Aubrey absent.
2. The minutes of the previous meeting were distributed to each member prior to the meeting. Member Maxwell made a motion to approve the minutes as corrected. Member Baker seconded the motion. The vote was unanimous in favor of the motion.

#### **New Business**

1. Petition: #575  
Address: North side of CR 800N, approximately 1/8 mile West of CR 500E  
Location: Monroe Township  
Petitioner: Bradley & Emily Hanner  
Request: Beauty Salon in Morton Bldg. next to residence.

Director Wilson stated staff recommends approval of the special use request, subject to the following condition(s):

All development shall be in compliance with the Home Occupation Standards outlined in Section 6.16, page 120, of the *Madison County Land Use & Development Code*.

The following issues were considered in formulating the recommendation:

### **LAND USE**

The subject site is a 1.3-acre parcel located along the north side of CR 800 North, just west of CR 500 East. This request would provide for the location of a beauty salon within a 60' X 30' detached accessory structure. The property is zoned C-R (conservation residential) and the Comprehensive Plan recommends residential development for this site. This parcel is located just west of the Madison/Delaware County line and is surrounded by undeveloped farmland.

The Madison County Land Use & Development Code requires that any type-II home occupation receive a special use approval from the Board of Zoning Appeals. Type-II home occupations are businesses that may be located in certain residential and agriculturally zoned areas without jeopardizing the rural/residential character of the surrounding area.

The petitioner has indicated that she will be the only employee with no more than two customers on site at one time. Initially, the petitioner does not expect to be open more than 20 hours per week, with appointments determining the hours of operation. The petitioner does expect some retail sales; however, those sales will be directly related to the services that will be provided on site (i.e. shampoo, styling gel, and other hair-care products).

**FINDINGS OF FACT**

*Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*

No. A beauty/barber shop is one of the more common home occupations and can often be found within residentially zoned areas. The grant of this request would not pose a risk to the safety or welfare of the community.

*Will the requirements and development standards set forth in the district for such exception be met?*

Yes. The applicant has agreed to adhere to the requirements of the Ordinance with respect to Home Occupations.

*Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*

No. The subject site can still be used for residential purposes and will not include any paved parking areas; freestanding identification signs or exterior lighting that is common with commercially zoned areas.

*Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*

Yes. The CR district does provide for a barber/beauty shop to be a home occupation.

The board was informed staff received proper notification.

Bradley and Emily Hanner, 4914 E 800N, Alexandria were present representing this request.

The board was informed this would take a State Design Release even though it is not a new structure, before any new permits are given approval.

Mr. Hanner stated the area of the garage that will be use is 16' x 16'. We understand there are standards that will have to be met by the State. The well and septic service both the house and the garage. As of now the septic is not hooked up but if this is approved that will be done according to the Board of Health.

There were no remonstrators present.

Member Maxwell stated, I make a motion to approve Petition #575. It does have a turn around in the driveway for the customers to turn around so they don't have to back out on 800N because

there is a lot of traffic on that road. They do have to have a State Design Release and a Board of Health permit to hook up to the septic. Only one employee. It is not injurious to the public health, safety or general welfare of the community. It adheres to the requirements of the ordinance. It has to meet the signage regulations of the ordinance. And the CR District does provide for Home Occupation such as a beauty shop.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #755 was approved.**

2. Petition: #576  
 Address: West side of CR 200E, approximately 1/8 mile South of US 36  
 Location: Adams Township  
 Petitioner: Andrew Smith  
 Request: A variance of use to provide for auto/truck repair.

Director stated staff recommends approval of the variance of use request.

The following issues were considered in formulating the recommendation:

### Land Use

- ◇ The subject site is a 1.060-acre parcel located along the west side of CR 200 East, just south of US 36. This request would provide for automobile/truck repair in an existing commercial structure. The property is zoned C-R (conservation residential) and the Comprehensive Plan recommends conservation residential/general commercial development for this site.
- ◇ The *Madison County Land Use & Development Code* does not permit automobile/truck repair on a parcel-zoned conservation residential (CR). This type of use is relegated to the highway commercial or light commercial zoning classifications. Conservation Residential is designed to provide for the development of clusters of medium-sized homes on relatively large lots.
- ◇ The petitioner has indicated that the existing facility will be reused. Minor changes have been proposed that include three new overhead doors and additional landscaping around the site. The structure has been used as Fielding Tool & Engineering since 1971 when the property was rezoned from the B-1 business district to the light industrial classification. Prior to the Ordinance revisions in 2002, the light industrial district permitted automobile/truck repair.

### Legal Non-Conforming Use

- ◇ The subject site and its structure do qualify as a “legal non-conforming use.” However, since the petitioner is proposing three new over-head doors, this would change the intensity of the use. According to the Ordinance, page 176-177, concerning nonconforming structures, lots

and uses; “Any legal nonconforming structure shall not be enlarged or altered in a manner that increases its nonconformity...”

- ◇ With the addition of the overhead doors, staff has determined that this would allow the petitioner to service larger vehicles at a more frequent rate thereby increasing the intensity. Staff does not believe that this request would be detrimental to the surrounding property owners nor would it affect surrounding property values.

### **FINDINGS OF FACT**

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?*  
No. An automobile/truck repair facility has been at this location since the early 1970’s with no complaints by surrounding property owners. The grant of this request would not pose a risk to the safety or welfare of the community.
2. *Will the requirements and development standards set forth in the district for such exception be met?*  
Yes. The applicant has agreed to adhere to the requirements of the Ordinance with respect to loading docks, service bays and landscaping.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?*  
No. The subject site has been used for automobile/truck repair for over 30 years.
4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?*  
Yes. The area has a mix of uses and the subject site has been used for either commercial or light industrial for decades.

### **ZONING HISTORY**

**71-16**, September 17, 1971; Rezone 1.2 acres from the B-1 district to the I-1 classification to provide for a machine shop/automobile repair, **granted**.

Director Wilson stated staff was recommending approval subject to the elevations that were submitted with the request.

**Andrew Smith**, 7315 S 250E.

Mr. Smith commented that the east building was going to be used and an addition will be built, 44’ x 50’, adding three bay doors at the same depth as the current building. The addition will be approximately 50 feet off the property line. This will be oriented to the west and south of the building.

The site has its own water and sewer. There will be separate bathrooms in the building. There will be a company that comes in and collects the oil and other fluids. There will be no outside storage with the exception of eight to ten parked vehicles.

Director Wilson stated it is required there be one parking space for every 200 square feet. In this particular case, with the size of the structure they are looking at a sizeable parking area that will be needed. It will probably take 30 parking spaces. This will have to be hard surface. Landscaping is also required. All areas, driveways and access have to be paved.

**Ron Summer**, 3626 E US 36, Markleville.

Mr. Summer stated he owns four houses in this area. There are other businesses in the area that now look like junk yards. I am worried about parts being stored outside of the building. I don't want this to become a junkyard.

**Rick Sharp**, 4715 Beechmont Drive, Anderson, IN.

Mr. Sharp stated he is a Realtor involved with this petition. There are other businesses in this area and he felt this would be an improvement to the area.

Director Wilson stated it must be noted that the parking must be oriented to the south and not to the rear or not to the north. All hard surfaces must be to the south and west of the building. All landscaping must be adhered to. I would object to parking in the front. All parking should be to the west and south of the building.

Mr. Shine reminded the board they could put conditions on this if they felt the need.

There was discussion regarding the right of way of 200E (Old St. Rd. 109).

Member Hobbs said, I move to approve Petition #576 with these conditions; the outside vehicles would not exceed ten, there would be no outside storage at all, and there would be a requirement of hard surface drive and parking to accommodate the ten vehicles that the petitioner had asked for, parking to be to the south and west of the building, landscaping as per the ordinance and fifteen parking spaces. All state and local permits shall be obtained. I don't think this would be injurious to public health, safety and morals. And the development standards are set forth in the district for such an exception. It is consistent with the character and zoning of the Comprehensive Plan. Paving shall be part of the remodel.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #576 was approved with conditions.**

**Miscellaneous:**

Mr. Shine stated about the article that recently was in the newspaper. There has been new legislation that has been proposed. (A copy was given to the board members). It discusses the

landfill and various items. They had discussions on environmental matters and the landfill issue came up. There was an amendment made in conference with the approval of both representatives in the House and Senate, which may affect landfills in the state of Indiana. To Senator Lannon's knowledge the Governor as of the previous Friday has not signed this. He does anticipate the Governor will sign this legislation in to law. If in fact it is approved it is going to be very interesting as to how it affects Madison County and the Mallard Lake Landfill. It is short and sweet and it says if there is going to be construction to begin or complete after April 1, 2008 they must go back to the Madison County Board of Zoning Appeals for reviews and approvals.

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

Adjournment: 9:58:55 A.M.

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John Randall, Jr., Chairmen

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Beverly Guignet, Secretary