

BZA - Minutes –January 27, 2009

739

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with Vice Chairman Baker presiding.

Members Present: Bill Maxwell, Mary Jane Baker, Bill Hobbs and Rick Durham.

Members Absent: None.

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 and all members were present.

The Board took a moment of silence in remembrance of Board Member, John Randall, Jr. who passed away in December 2008.

2. Election of Officers: The meeting was turned over to Director Wilson for nominations for Chairman of the Board.

Member Hobbs nominated Mary Jane Baker for Chairman of the Board, seconded by Member Durham. The vote was unanimous in favor of the motion. Mary Jane Baker is Chairman of the Board for 2009.

The meeting was turned back over to Chairman Baker.

Chairman Baker asked for nominations for Vice Chairman.

Member Maxwell nominated Member Hobbs for Vice Chairman, seconded by Member Durham. The vote was unanimous in favor of the motion. Member Hobbs is Vice Chairman of the Board for 2009.

Chairman Baker asked for nominations for attorney of the Board.

Member Maxwell nominated Gerald Shine for attorney of the Board, seconded by Member Hobbs. The vote was unanimous in favor of the motion. Gerald Shine will serve as attorney for the board for 2009.

Chairman Baker asked for nominations for secretary of the Board.

Member Maxwell nominated Beverly Guignet for secretary of the Board, seconded by Member Hobbs. The vote was unanimous in favor of the motion. Beverly Guignet will serve as secretary of the Board for 2009.

BZA - Minutes –January 27, 2009

740

Chairman Baker welcomed Rick Durham as the new member to the Board replacing John Randall, Jr. The board is still one member short which will need to be appointed by the County Commissioners.

3. There were no minutes for October, November and December.

4. Approval of 2009 BZA Calendar: Member Maxwell made a motion, seconded by Member Hobbs to approve the calendar for 2009. The vote was unanimous in favor of the motion.

Calendar for 2009 was approved.

New Business

1. **Petition: 2008-V-013 Zoning: CR**

Address: 273 East US 36, Pendleton, 46064

Location: South side of US 36

Petitioner: Brown, Barry

Request: A variance of the development standards to provide for the placement of an accessory structure in front of the primary structure.

Director Wilson stated this is Petition 2008-V-013 which is a Variance of Development Standard. This property is located at 273 East US 36 in Adams Township. The request is for a variance of the development standards to provide for the construction of 1,200 square-foot detached accessory structure located within the established front yard along CR 25 East (detached accessory structures not permitted within the established front yard). Notices Post-marked November 10, 2008. Proper notification was give.

This petition was originally scheduled for hearing before the Board on November 25, 2008. Due to lack of a quorum and with the December meeting being cancelled due to the holiday break, this petition was continued to the January 2009 meeting. With Staff recommending approval and with similar requests being granted by the Board, Director Wilson and Attorney Shine agreed to issue an ILP for this request so that the petitioners could begin work in hopes of avoiding inclement weather.

No one was present representing this request.

There were no remonstrators present.

Member Maxwell moved to approve Petition 2008-V-013 per the following Findings of Fact:

- 1.) The approval would not be injurious to the public health, safety, morals, and general welfare of the community.
- 2.) Will not be injurious to the adjoining properties. It fits in with the community.
- 3.) It is a planned zoned and developed for low density single family activity and this is a personal use garage for equipment. All the setbacks are met.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. Petition 2008-V-013 was approved.

2. **Petition: 2008-V-014 Zoning: AG**

Address: 8338 South CR 750 West, Pendleton, 46064

Location: East side of CR 750 West, South of CR 800 South

Petitioner: Johns, Cecil & Brenda

Request: A variance of the development standards for maximum primary structures per lot while new dwelling is being constructed.

Cecil Johns, 8338 S 750W was present representing this petition.

Bruce Thicket, 17710 Gwinn Road, Atlanta, IN and Ray Melton, 8316 S 750W were also present were presenting this request.

Director Wilson stated Staff **recommends approval** of the variance request with the condition that the existing dwelling be removed within 30 days from the issue date of the Certificate of Occupancy for the new dwelling.

The subject site is a 5.13-acre parcel located along the east side of CR 750 West, in the southwestern portion of the County. This request would provide for the placement of 28 foot by 60 foot, 1,680 square foot manufactured dwelling. Single-family dwellings surround the site with the Comprehensive Plan recommending agriculture (AG) and conservation residential (CR) development for this area. Access to the site is via a private road that currently serves five residences.

The *Madison County Land Use & Development Code* does not permit more than one single-family dwelling to be located on a residential lot. The reason for this regulation is to ensure that when emergency service providers (EMS) are called to a residential property they arrive at the correct residence. With more than one dwelling per lot, especially in rural areas, it is conceivable that EMS may go to the wrong dwelling, which results in the loss valuable time. Further, with more than one dwelling per lot, the density of the area would not be consistent with the recommendations of the Comprehensive Plan, which recommends that this area be developed in a rural manner.

Staff is recommending that the existing dwelling be removed within 30 days from the issuance of the Certificate of Occupancy for the new manufactured dwelling. If the petitioner's are not willing to agree to this condition, Staff would **recommend denial** of the request. Conditions like this are difficult for the Planning Commission to enforce. It should be noted that Staff would prefer to always recommend denial of these requests. Once a second dwelling is on a lot, it is very difficult to get the "old" structure removed. Property owners may recognize that a second dwelling could provide additional income/revenue.

Proper notification was given.

Mr. Thicket informed the board he is doing part of the construction as far as the septic and footers are concerned. The John's want to leave the existing mobile home there until they get the new double wide installed. At that point in time the old one moved out.

Mr. Melton told the board he is a neighbor of the John's. Mr. Melton stated he owns three mobile home parks and he had made arrangements to purchase the mobile home from the John's and that he has a lot to place the mobile home when their new house is completed.

The board was informed there is sufficient room to remove the dwelling via the private road/access drive.

There were no remonstrators present.

Member Maxwell moved to approve Petition 2008-V-014 per the following Findings of Fact:

1. It would not be injurious to the public health, safety, morals, and general welfare of the community.
2. It will not be injurious to the adjoining property owners. It will be consistent with the character of the area.

The board would also like assigned affidavit/condition stating a date for the removal of the existing dwelling. The Board agreed to provide six months from issuance of an ILP.

Director Wilson stated it was brought to his attention yesterday that the sign did not make it to this property until yesterday. I was informed the ground was too frozen. It was in the paper in a timely manner as well as notices going out to the adjoining property owners. Two of the three requirements were met.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition 2008-V-014 was approved.**

Petition: 2008-V-015 Zoning: AG
Address: 7971 South CR 250 East, Markleville, 46056
Location: West side of CR 250 East, South of CR 700 South
Petitioner: Goodwin, James & Cathy
Request: A variance of the 25' side yard development standards to provide for the construction of a new barn on an existing cement slab 5' from the side property line.

No one was present representing this request.

Director Wilson stated after reviewing this petition it has been determined a variance was not required. An Improvement Location Permit is all that is required. The ordinance provides an exception for existing foundations and permits construction within the same footprint. The Planning Commission will apply the filing fees to the cost of the ILP and the remaining funds will be refunded to the petitioners.

This is a policy that has been in place and I believe it should be included in the ordinance. I plan to present an ordinance amendment in the coming month.

BZA - Minutes –January 27, 2009

743

Several of the Board members felt this type of an issue should be dealt with on a case by case bases and go before the Board for approval or denial.

Miscellaneous – Director Wilson informed the Board a petition was received by the Plan Commission for a permit for a meteorological tower to be erected at the corner of St. Rd. 13 and 1400N for a wind farm. The tower will not exceed 200 feet in height and this will be for a two year time period.

Mr. Shine stated the K.C.C.A. litigation has obtained a judge that will hear it. It is a judge out of Indianapolis who is an environmental court judge for Marion County.

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

Adjournment: 9:38:42 A.M.

Mary Jane Baker, Chairman

Beverly Guignet, Secretary