

Page 2
 Madison City Board of Zoning Appeals
 April 13, 2020

9. Russell N. Linville – Conditional Use permit to operate an auto repair business.
 Location: **1801 Allen St.** Zoned: Medium Density Residential (R-8)
 One-Year Renewal

Renewal fee received; No complaints

10. Darlisa Davis – Conditional Use permit for a preschool/daycare facility.
 Location: **431 Ivy Tech Dr.** Zoned: General Business (GB)
 One-Year Renewal

Renewal fee received; No complaints

There were no questions or comments from the board regarding renewals.

N. Burkhardt made the motion to accept renewals as read (#1 Macke, #2 Frasier, #3 Mason & Mefford, #6 Fife, #7 Hanover Baptist Church, #8 Davis, #9 Linville, and #10 Davis) – seconded by B. Waller – roll call – all ayes.

Renewals # 2 Frasier, #3 Mason & Mefford, #6 Fife, #7 Hanover Baptist Church, #8 Davis, #9 Linville, #10 Davis) approved as read.

Renewal #5 – Yong Perry

S. Baldwin noted that there is currently no business in the building; had no idea what's going on there. Likewise for #4 – One Scientific – had no idea.

S. Baldwin made the motion directing L. Waller to write Ms. Perry and One Scientific a letter asking if they are still in business and include the usual if they are in business and pay their renewal fee by the next (BZA) meeting their Conditional Uses will be renewed. Seconded by R. Farris – roll call – all ayes.

L. Waller to send letters to Yong Perry and One Scientific asking if they are still in business and include if they are in business and pay their renewal fee by the next (BZA) meeting their Conditional Use permits will be renewed.

New Applications:

11. Phillip R. & Kitty A. Smith – Variance from Development Standards (Setbacks). Applicant requesting zero lot line setback from the north and south property lines so as to allow for rebuild of a deteriorating wall.

Location: **306 Jefferson St.** Zoned: Central Business District (CBD)

Application removed from agenda.

12. Karen Sue Arvin (Purchaser: Kimberly S. Taylor) – Conditional Use permit for a Jefferson County Transitional Services residential facility.

Location: **309 St. Michael's Ave.** Zoned: Historic District Residential (HDR)

Present for this application via Zoom is property owner, Karen Sue Arvin, and Kimberly S. Taylor (Jefferson Co. Transitional Services).

Ms. Taylor said as the President and Treasurer of Jefferson Co. Transitional Services they operate a recovery home for women at 117 and 115 Presbyterian which is right across the street from River Terrace. The house has been in use in one form or another since Articles of Incorporation were written back in 2001 and beginning around 2004 repairs began and there was a men's recovery home in there called the Scalo House up until about 2008. In 2011 the name continued to be Jefferson Co. Transitional Services but it became a house for women. They have housed women in there. Have the capability of having nine (9) women and have one (1) apartment for a night manager and have an office for an office manager which is a full time paid staff. The women that live in that home come to them either out of recovery, out of jail, out of prison, or from self-referral.

Further explaining, Ms. Taylor, stated:

Page 3
Madison City Board of Zoning Appeals
April 13, 2020

Their program in the past has been four (4) months long and within this last year have changed it to be six (6) months long as a lot of the referring agencies, whether it be Community Corrections or other county probation offices, they are requiring these women to stay for six (6) months so they've gone ahead and tailored their program to where they can service them and have them involved for up to six (6) months.

The women that live there work a full-time job, pay their rent (room & board) at a fee of \$135.00 a week plus \$5.00 for a drug test every week. They are employed in local businesses which are mostly factories in our community and within the first 90 days they are there they have to attend 90 Narcotics Anonymous, Alcoholics Anonymous, or Celebrate Recovery meetings so they are going constantly to outside meetings except for now they are doing a lot of it in-house and on-line.

There is a waiting list of 30 women who are ready to come as soon as can open beds for them. Have in process applications for over 40. The need in our community is great and for about the last four (4) years the various board members have been searching for a property in downtown Madison that would work for an additional house to be run exactly like the one they have now. They would like to house up to nine (9) or ten (10). The way it is with the group they have now is that there is a live-in house manager so that person does not get paid but they get free room and board. They would not be one of the participants but would be living there. Normally it would be eight (8) residents and a live-in night manager.

The property at St. Michael's would allow them for having the ability to redesign the space in there and right now there is just two (2) bedrooms and 1 ½ baths so they would be moving some of the space that is in the part of the property located on Second St. that was in years past used as a commercial business and they would probably be adding a new bathroom and changing to have room for an office, a night manager, and also another bedroom.

Ms. Arvin noted the structure actually has two (1) one-half bathrooms.

Ms. Taylor –
Agreed with Ms. Arvin.
They will just need a shower.

One of the considerations she knows has to do with congestion in the area and parking, too many cars. The women that come to the program generally do not have cars until the very end of their stay which may be the last two (2) months of their stay, but for the most part they come with nothing. By the time they are getting close to their six (6) months stay they have acquired enough money in their savings to get them into some kind of an apartment. The majority of the time they do not come nor do they leave with cars. Sometimes they do. Do not feel there would be a significant increase in parking on the street. Obviously the night manager would have a car and the office manager would be there, although their current office manager just lives up the street who is very excited that she would be able to walk there.

The women are not locked into the building although there are cameras in every room except for bathrooms. The women are not free to roam around town or free to come and go as they want. There is a sign-up sheet that they have to sign in and out every time they leave the building and they are restricted to the certain things she had mentioned before – the recovery meetings, meetings with their corrections or probation officers. Obviously will go to the bank when they get their paycheck in order for them to pay their rent, those kinds of things. That's why it was critical for them to find a location downtown that the ladies can walk to all of those because in addition to just going to work and doing their recovery meetings, they do at least once a week, if not more, have to meet with people from Community Corrections and/or probation and they also meet with therapists as necessary. And like she had said, there are in-house meetings that are open only to them.

N. Burkhardt asked Ms. Taylor if there would be someone there all of the time, either the manager, night manager, someone there 24 hours? Yes, per Ms. Taylor. N. Burkhardt also asked if this will be run

Page 3
Madison City Board of Zoning Appeals
April 13, 2020

like the one on Presbyterian (Ruth Haven) – knew that has been a successful program – has there been any problems at Ruth Haven that they didn't have to deal with in the beginning or was it smooth sailing from the beginning? Ms. Taylor said because it was run as a men's house before she thought they worked out all of the problems before she even got started. She said that obviously things are a little bit different with women than it is with men, but they also are very concerned about safety for their women. Sometimes there could be relationship issues. They've had over the years one (1) or two (2) of those where someone will come looking for a girlfriend. Do have cameras inside and out and they've never had any disturbances in the community. The one (1) or two (2) times that they've had someone come they know they can't get into the building so they stay outside and call on the phone to their significant other and the police were there. That was probably within the last year. Said she knew that the neighbor's they have around them greatly support Ruth Haven and they've developed some relationships with them. She believes there to be a lot of people in the community that don't even know Ruth Haven is there, glad for that, and they would like to keep it that way. There is no signage on the house anywhere, looks like any other house, no plans to have any signage on the other (St. Michael's location).

N. Burkhardt also Ms. Taylor about changes to the buildings as she knows it is kind of like two (2) separate buildings, anything they will need to do different with the building? Ms. Taylor said they will do some interior renovations but on the outside they plan to make no changes whatsoever.

N. Burkhardt said she knew some of the concerns from the neighbors were property values. Said she lives just a block east of this location and maybe a ½ block south – in fact, lives across from the youth shelter. They have never had a problem with the youth shelter, they have been perfect neighbors, property values have not been degraded at all, in fact properties have been selling pretty quickly here and for good money so she didn't see that as a problem. Ms. Taylor noted there should be no evidence other than from the inside, no evidence from the outside that they're doing anything other than the ladies are living in there.

S. Baldwin noted that before the meeting he received a few printouts of emails from folks. There was one concern about property values; another concern is that this is surrounded by historic area, residents, elderly, single parents and parents with small children; concern for their safety and others in the neighborhood. He said he thought Ms. Burkhardt has addressed about the market value of surrounding properties. _____ is a big issue. Hadn't had much time to look over this. Safety seems to be a big issue.

Ms. Taylor said that one of the nice things about this property is that it's in a "U" shape and in the back, which lines up against the apartments, is a fenced in grass area so the women that would like to go outside and smoke will be able to do that in the fenced in grass area which is not visible nor accessible by any street or alley. It is completely surrounded by the building. The other thing is that because they do have someone in the house 24 hrs. a day they don't get visitors and there is a strict policy that the women in Ruth Haven are not allowed to have conversations even with the men in Jefferson House. There is no comings and goings. The only time that people come and go would be board members or prior residents that are maybe teaching a class or people bringing in or dropping off donations, which they do, goes directly to the house manager or night manager. S. Baldwin asked Ms. Taylor if she was basically saying that the women only go to various recovery meetings, probation officer, banks, Community Corrections, and that's about it. Ms. Taylor added that the ladies are required to do community service. If someone comes in and is not employed generally there is a relationship with enough of the manufacturing companies in our community that the ladies can get a job within one (1) to two (2) days. A lot of the ladies work third shift right now and even during this shutdown period all of the ladies are either working currently with the companies or those that have been laid off are currently working with the city through the Mayor's program. They also are required to do community service. If they are working full time they are required to do two (2) hours of community service a week. If for some reason they are on a furlough, they've been laid off, a lot of them that work in plants at Christmas time and the plant is shut down, they are required to do 20 hours of community service. The women are very well received. There are lot of community organizations that want the ladies to work with them. Actually had one (1) of their women last year start working with OVO and they wanted to hire her

Page 4
Madison City Board of Zoning Appeals
April 13, 2020

and actually hired her before she was out of the transitional program. Also part of the ladies coming back in their recovery is understanding that they are now part of the community and talk a lot with them about giving back to others. A number of ladies work with her at Second Stories which is a pregnancy and parenting education forum at Eggleston School. They work in the House of Hope, Goodwill, Salvation Army, OVO and Bob Greene doing community cleanup. There have never ever been any problems with the ladies in this respect.

N. Burkhardt said she thought it worth noting that Ruth Haven has been in the community since 2011 and seems to successful in the neighborhood that it is now. That shows that Transitional Services knows how to run a program and know how to be a part of the community. Ms. Taylor said the other thing is that they have very strict rules – a woman can be kicked out if she drinks an energy drink because they feel that a gateway to something else and so the ladies don’t get one strike, two strikes, three strikes. Had to remove two (2) women today because over the weekend they tested positive for drinking alcohol. Drug test the ladies all the time and if they can’t follow the rules they are asked to leave. Don’t allow a lot of flexibility because that’s what has proved to work with these women.

S. Baldwin said that the big issue in Madison are things like the old Victoria Inn but Ms. Taylor seemed to have addressed that. And said if he understood correctly any women in the facility who need drug counseling, that’s done somewhere else – at a counseling office. Ms. Taylor said, yes, they are either with Centerstone or Life Spring. She said the other thing is that they do not allow any women to come into the program that are on medical assisted recovery. Knew there had been lots of talk in years past about people that are addicts and then we’re giving them more drugs to help come off of their additions. The women that are in their house are not using anything, have a list of medications the ladies are not even allowed to have, i.e. psychiatric medication, don’t accept residents with those kinds of medicine. Added that they do not have heroin addicts living in their house that are on Methadone and that kind of thing. If they have to have medical assisted treatment, they’ve got to go somewhere else.

S. Baldwin noted that one (1) person wrote in saying “We believe that any decision on moving forward with the Conditional Use permit should be deferred until such time a regular meeting can be held that the public can attend to voice any concerns and ask question.” S. Baldwin asked the board members what they thought about that statement – defer this – obviously have no idea how long the board will have to meet like this. Asked the board members if they had any opinion one way or the other about tabling this until can have a regular public meeting like normally have. N. Burkhardt answered that she would like to go ahead and vote on it and like she had said she lives in the neighborhood, not next to it but lives in the neighborhood, and like she had said she lives across from the youth shelter so she would like to go ahead and vote but it’s whatever everybody else wanted. R. Farris said he had no issue moving forward. B. Waller said he would back that – move forward. S. Baldwin offered again if any of the board members had any other concerns, questions, anything they had thought of at all – now is the time, thinking about any restrictions? No responses.

Findings of Fact

1. Do you agree this is in fact a conditional use as established under the provisions of Article V and appears on the Official Schedule of Uses adopted by Section 7.00 for the zoning district involved - or is in accordance with the City of Madison Zoning Ordinance Section 11.71 – General?

Yes No Why?

S. Baldwin noted that category #121 is the proposed use – Rooming and Boarding House

N. Burkhardt I do because category #121 is an approved use in the historic district contingent upon receiving a Conditional Use.

B. Waller I agree with Mrs. Burkhardt’s comment. So, I see no problem.

R. Farris I agree as well. I think the definitions are fairly black and white here.

S. Baldwin A rooming and boarding house, it does appear to be that because they do know as the testimony indicated they don’t do counseling there, they have no people that _____, seems to be essentially a place where the women live in order to go out

Page 6
 Madison City Board of Zoning Appeals
 April 13, 2020

and perform whatever else they are required by law to perform. So, I think that one is met.

2. Do you agree this will be harmonious with and in accordance with the general objectives, or with any specific objectives of the City's Comprehensive Plan and/or the Zoning Ordinance?

	Yes	No	Why?
N. Burkhardt			Yea I agree it is going to be harmonious. I think the way they've run Ruth Haven house it has kind of blended in with the neighborhood there and I'm sure they will do the same in this area.
B. Waller			Yes. If they operate as Ruth Haven does I would believe that nobody would really know the type of facility that is operating there. So I do not have a problem.
R. Farris			I agree as well. I believe that with the amount of residents that we're talking about here and the size of the facility, I don't see any reason to believe that it won't be harmonious.
S. Baldwin			I tend to agree. The general objective of course is business and keep things occupied and also any ordinance is to not allow disruptions and it seems that their track record is nondisruptive. I think that's met.

3. Do you agree this will be designed, constructed, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area?

	Yes	No	Why?
N. Burkhardt			I agree. They are not making any changes to the outside of the building and they are going to run it as a residence.
B. Waller			I agree. I think that other than the appearance that it might be a medium to large size family living there I don't see any problems.
R. Farris			I don't either. I think the plans to remodel the inside have nothing to do with the outward appearance so I think all of the conditions are met.
S. Baldwin			The external appearance is not going to change. According to the way they have ran their business in the past, they're not going to tolerate loitering and needles and drugs and all of that so I think that should maintain the essential character of the area which is a quiet residential area.

4. Do you agree this will not be hazardous or disturbing to existing or future neighboring uses?

	Yes	No	Why?
N. Burkhardt			I agree it's not going to be hazardous or disturbing to the neighborhood. I think they are going to blend in well considering what they've done with Ruth Haven on Presbyterian.
B. Waller			And based on their past operations of similar facilities I don't see how it will be hazardous or disturbing for anybody there now or in the future.
R. Farris			I agree with Mr. Waller. I think their previous track record speaks for itself and there should be no cause for alarm.
S. Baldwin			Provided they operate this the way they have in the past, I don't see this being disturbing to the neighborhood in the sense of loitering or any of those similar problems.

5. Do you agree this will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structure, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services?

	Yes	No	Why?
N. Burkhardt			I agree. It was served adequately before when it was I believe a beauty salon and it's been there for a long time so I don't see any problem with that.
B. Waller			And to the point I would agree, I see no changes.
R. Farris			I agree as well. I think if the facilities are being used by families there is no increased burden on public services or utilities.
S. Baldwin			There are certainly no problems with utilities or fire or anything like that. Police

Page 7
 Madison City Board of Zoning Appeals
 April 13, 2020

protection? I do not foresee, based on their past performance any increase in need for police action there. I think that one is met.

6. Do you agree this will not create excessive requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community?

	Yes	No	Why?
N. Burkhardt			Yea I agree. I don't see any excessive requirements that will be needed and I don't think it will be detrimental to the economic welfare. In fact, these ladies are going to provide a service and seem to do a lot of good for the community.
B. Waller			I would agree with the statement from Ms. Burkhardt. Well stated.
R. Farris			I agree as well. We've got a structure downtown that is occupied. We've got citizens living in that structure that are trying to seek gainful employment so I see this as a positive.
S. Baldwin			Will it be detrimental to the economic welfare of the community? We've heard some testimony from board member Mrs. Burkhardt who lives in the area and has had no problems with a similar facility, and apparently based on past practices it will be almost invisible to the community who is living there so I think they will maintain the property values or at least not hurt them.

7. Do you agree this will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors?

	Yes	No	Why?
N. Burkhardt			I don't think there would be any things going on that would be detrimental. I think that they have rules in place and they enforce the rules as they are needed.
B. Waller			And again basically this is just a family's residence. I don't see anything in #7 that they would be in violation of.
R. Farris			I agree as well. I see no reason to believe there's going to be any activity outside of a normal residence here.
S. Baldwin			And the only relevant thing in my view is traffic and that seems to be a nonexistent problem so I think that's met.

8. Do you agree this will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares?

	Yes	No	Why?
N. Burkhardt			I don't see any problem with traffic. They are on a corner lot. She said they won't have cars there until maybe the very end, but there's plenty of parking there in that area and I don't see a problem with that.
B. Waller			Once again I would be in agreement with the board member.
R. Farris			I agree as well. I don't see any issues with the conditions listed.
S. Baldwin			I'm in agreement. There should not be any problem with parking or traffic in excess because of the nature of the operation.

9. Do you agree this will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance?

	Yes	No	Why?
N. Burkhardt			No I don't see any problem with that. They are filling a vacant building downtown and they seem to have taken care of the building they use on Presbyterian. I assume they will continue so I don't see any problem with that either.
B. Waller			I don't believe that they would do anything that would take this and cost them and having to do any work on it because of damage they may have done. I think it's fine.
R. Farris			The applicant stated that their intent is to blend into the neighborhood so I see no reason to believe that there's going to be any damage or harm caused to the scenic or historic aspects of that facility.
S. Baldwin			I'm not certain that is even a historic building so I see that this one has no problems.

Page 8
 Madison City Board of Zoning Appeals
 April 13, 2020

S. Baldwin made the motion to approve this Conditional Use permit for a period of one (1) year subject to the maintaining of the rules that the applicant said that they use and subject to no more than ten (10) total residents living there, that includes nine (9) residents and the manager. Motion seconded by R. Farris – roll call – all ayes.

Application approved with the following conditions:

1. **One (1) year renewals**
2. **Maintaining of the rules as presented by applicant**
3. **No more than a total of ten (10) residents which include nine (9) residents and the manager.**

13. Prince of Peace Catholic Schools – Variance from Development Standards so as to allow for a 20-ft. x 30-ft. billboard. Said variance is in relation to the Madison City Zoning Ordinance, Section 6.10 – Restrictions – Residential Districts (A)(2)(c).

Property Address: **201 W. State St. (Desired billboard location in field north of 1505 Michigan Rd.)**
 Zoned: Medium Density Residential (R-8)

Tabled Applications:

14. David and Sharon Dagher – Conditional Use permit for cultural education classes – small groups of five to ten people for introductory classes to various arts, heritages and historical education – two (2) per month.

Location: **601 Jefferson St.** Zoned: Historic District Residential (HDR)
 One-Year Renewal

15. Indiana Apartment Holdings, LLC – Conditional Use permit for an apartment complex

Location: **2219, 2223, 2225, 2227 & 2213 Michigan Rd.**
 Zoned: Medium Density Residential (R-8)

16. Anthony Hall – Variance from Development Standards (Setback Variance) – Applicant request a 3-ft. setback from the north (side) lot line and a 3 ½-ft. setback from the east (front) property line so as to allow for construction of an accessory building.

Location: **2711 Lanier Dr.** Zoned: Medium Density Residential (R-8)

For applications #13 (Prince of Peace Catholic Schools), #14 (David and Sharon Dagher), #15 (Indiana Apartment Holdings, LLC), and #16 (Anthony Hall).

B. Waller made the motion to table until next meeting – seconded by N. Burkhardt – roll call – all ayes.

Applications #13 (Prince of Peace Catholic Schools), #14 (David and Sharon Dagher), #15 (Indiana Apartment Holdings, LLC), and #16 (Anthony Hall) – Tabled until next meeting.

17. The White Barn Venue, LLC – Conditional Use permit for the operation of a rustic barn venue with an emphasis on weddings.

Location: **501 Thomas Hill Rd.** Zoned: Residential Agriculture (RA)
 One-Year Renewal

S. Baldwin noted as advised by D. Sharpe he would now turn the meeting over the vice-chairman, N. Burkhardt.

N. Burkhardt Right and Louann do we have someone there to speak about that? Mr. Hershberger or Mr. Dewes?

L. Waller Yes. We have both of those gentleman there on the screen. They are with us.

N. Burkhardt I didn't know if they wanted to say anything.

Mr. Hershberger Yes I would if it's possible to give a brief statement.
 Can everyone hear me alright?

Page 9
 Madison City Board of Zoning Appeals
 April 13, 2020

B. Waller Yes.

L. Waller Yes.

N. Burkhardt You might want to state your name for everyone.

Mr. Hershberger Josh Hershberger to represent The White Barn Venue, LLC. and so just a few statements. I did send in a letter earlier which explained this in greater detail but I just wanted to make a few points and first of all I appreciate the board. I know at times you have to make difficult decisions maintaining the historic and beautiful nature of our town.

So what I'm about to say this is not me coming to you saying here's what the law says. I'm simply restating what the Jefferson Circuit Court as well as the Court of Appeals that has reviewed this issue has said is that the law as it pertains to this particular Conditional Use application. There was a part of the judge's order from 2018 that I wanted to point out where he reviewed everything in contention. Similar to what the neighbors have even submitted to the board today. It says there being no changes in conditions and the Dews having relied on the board's decision in 2016 before investing ten's if not hundreds of thousands of dollars in the venue, the board in 2018 was bound by the 2016 decision to issue a new Conditional Use permit. Absence of evidence of a change in conditions or a failure to meet the previously imposed condition of the 11:00 p.m. ending, the board in 2018 was collaterally estopped from denying the petition.

And so I certainly don't know the mind of the board this evening, but I'm simply stating that the legal principle that the judge stated in the Order applies here. But if there has been no change in circumstances and if there's no evidence that any rules have been violated, then the board's decision is straight forward. It must allow this Conditional Use permit to be granted.

I would mention that the issues raised by the neighbors - light, noise, traffic, property values – all of those were raised in 2016. They were raised again in 2018 in the court litigation and the court dismissed those. There was also some contention last time about this issue of well, what if The White Barn Venue hosted a public event. So the neighbors talked extensively about that public event. In 2016 The White Barn Venue applied to be a rustic event venue with a focus on weddings. And there was specific discussion in the litigation in 2018 about where would it fit in the Schedule of Uses. And we used the Standard Land Use Coding Manual as well as looking through that and said look, this is Other Recreational. This is either events where people are invited, and I used a specific case and I cited this to the board last year in support of our position and this is Green vs. Hancock County Board of Zoning Appeals where the Hancock County Board of Zoning Appeals said a similar venue which fit into Other Recreational. Now I just wanted to point out the facts in that case. Holms who is the business owner had been in the catering business for 18 years and typically caters for women's groups, civic organizations, businesses and wedding receptions and then she petitioned the board to be able to own a similar business as The White Barn Venue, LLC. So when the court made a ruling and said "yes" Other Recreational is the right fit it was talking about the fact that it applied to be a rustic event venue with a focus on weddings. Remember the contrast was Public Assembly and I could read the provisions to you tonight – I know it's been a while, but Public Assembly has to do with a drive-in movie theater or a gymnasium. And the court was simply saying, look, if you focus on weddings that's very different because most of the time you are inviting people

Page 10
 Madison City Board of Zoning Appeals
 April 13, 2020

to the event venue.

There was mention of a Wine Down event which was an event that was sponsored on Facebook but if you look closely there were also requests to RSVP so to say that the Dews could hold a venue or have a venue where they can invite guests to weddings but can't actually hold their own event where they ask people to RSVP, as long as they are complying with the other guidelines, it doesn't make any sense to me. So that entire discussion was where does this fit in the Guidelines. It fits into Other Recreational. And as long as The White Barn Venue is still operating a rustic event venue with focus on weddings there has simply been no change.

So just to summarize all of this I recognize that every time this issue comes up it's a contentious one. And certainly living in Jefferson County we live here and don't live in Indianapolis because we enjoy the more rural setting. However, there is another principle that I think we all follow and we especially value in Madison and such and that's the idea of a handshake. Now that handshake may change because of the Covid-19 crisis but the principle is when you give your word you keep it. And that's exactly...I know the board is in a little bit of a different format right now but in 2016 this board looked at what the Dews proposed just like what this treatment facility proposed to you tonight. They said look, this is how we are going to operate and the board said ok, go ahead and start your business. That's exactly what the Dews did. Nothing has changed since then. And so because of this idea of collateral _____ our argument to you tonight is that look, the judge already reviewed this. Unless there's been a major change from being a rustic event venue with a focus on weddings or they violated something, then we're asking that you keep that promise. The board gave its word back in 2016. Frankly the Dews should not have to hire me every time they come back in front of this board. If nothing's changed, it should simply be rubber stamped. And again I respect this board. I know that there can be difficult decisions but this isn't my opinion. This is the opinion of the Jefferson Circuit Court and that of the Court of Appeals. So for all these reasons we request that you simply grant this Conditional Use permit tonight.

N. Burkhardt

Any questions from the board?

Let me make a comment before I open that up. I read the Court of Appeals Memorandum Decision and I know some of the neighbors said, you know, it shouldn't have been permitted in 2016 and in the Memorandum it says "The legality of the issuance of the permit of 2016 is of no moment." So we're really voting on that we're just like you said, voting on the Conditional Use and of those two (2) conditions – the annual review and conclude events by 11:00 p.m. And also when you look at that Memorandum, I believe it is page 12 of 21 it said "substantial evidence has to be more than speculation or conjecture." And I just don't see much substantial evidence of change from last year. And I think that's what we have to base it on according to the Court of Appeals from the last time they went to court.

I don't know if you guys have any more comments about that.

B. Waller

No. I think it nailed it. It has to be something that we can look at, actually probe and look into to see if it is or isn't happening and I don't think there's been any changes.

N. Burkhardt

Right.
 Any further comments?

Page 11
 Madison City Board of Zoning Appeals
 April 13, 2020

Rick do you have anything to say about it?

R. Farris Well I would just say that, you know, as long as the Dews operate the business as its been defined by the legal proceedings, then I think the decision has been made for us.

N. Burkhardt I agree.
 Are there any other comments then from Mr. Hershberger or Mr. Dews?

Mr. Dews As far as myself, you know, I just want to reiterate what Josh said. You know we have not made any changes to the business. The business is very successful. We bring in a lot of people into the community that has never been in the community just to be able to come to our venue whether it's to be married or to witness that, and so our venue has not changed. We still use the land the same way it was at the beginning, so.

N. Burkhardt And you're still sending times to the neighbors? I think they requested that. At one time you were doing that, at one time.

Mr. Dews Yes ma'am. As we get the times. When we get a booking at the very beginning the times aren't set at that point, so as the times are set as we get closer to the events, so yes, we do get that.

N. Burkhardt Board members have any further questions?
 No response.
 I would entertain a motion.

B. Waller I would make a motion that we approve this Conditional Use.

R. Farris Second.

N. Burkhardt Roll call.

L. Waller	Nancy Burkhardt	Yes
	Rick Farris	Yes
	Bob Waller	Yes

N. Burkhardt Thank you.
 I'll send it back to you Scott

S. Baldwin Okay, thank you.

Mr. Dews Thank you.

S. Baldwin said that concluded the agenda and asked L. Waller if there was any further business.

Business – Old or New:

L. Waller said that she had one (1) outstanding Conditional Use permit renewal fee for 3169 W. Black Rd – Aloda Hendren – mobile home. She noted that she had sent Ms. Hendren the customary renewal notice, D. Sharpe sent a past due notice, and B. Martin spoke with Ms. Hendren all advising her of the renewal fee being due and/or past due. All without a response. B. Martin said his conversation with Ms. Hendren was to confirm that someone is still living in the mobile home in which Ms. Hendren confirmed occupancy. And that he did make her aware that she still needed to pay for the Conditional Use. Ms. Hendren told B. Martin she would do that. L. Waller answered D. Sharpe's question of how long has Ms. Hendren had the Conditional Use – granted March 21, 2016. D. Sharpe noted that he had

Page 12
 Madison City Board of Zoning Appeals
 April 13, 2020

sent her a letter since he has been the attorney for the board which had been about that amount of time.

S. Baldwin asked the board members what their feeling was on having a meeting to discuss litigation. B. Waller said he wondered if this is a financial issue, something this person can't overcome, what it is that keeps her from paying. D. Sharpe agreed with B. Waller and said he would be hesitant to say, especially in the circumstances that we're in now, to make her homeless it sounds like and wasn't particularly comfortable doing that (litigation) just yet. He suggested that the board members table this until the June meeting, see if can get her in, see what the issue is. Added that he didn't mind having a conversation with her either. If it is a financial thing, that's one thing – if it's just not being paid, that's another. B. Waller agreed with D. Sharpe and added that he thought the board needed a little more information before taking such a drastic action. N. Burkhardt and S. Baldwin agreed. R. Farris asked B. Martin when he had talked with Ms. Hendren did she seem to act like it was just that she's forgetful or is this a situation where this is a constant pain in her backside and she wishes this would go away. B. Martin said he didn't get to those specific details because the main reason he reached out was to confirm that someone is still residing in the mobile home. She didn't seem surprised that B. Martin had called and that she would definitely take care of it. R. Farris agreed with D. Sharpe's recommendation, was just curious, seems like a trend with this property.

S. Baldwin made the motion to table this until the June BZA meeting and instruct attorney and Building Inspector to make any kind of contact either face to face or by letter or phone call that they deem appropriate to try to work with her. Motion seconded by R. Farris – roll call – all ayes.

Aloda Hendren – 3169 W. Black Rd. Conditional Use renewal for a mobile home tabled until the June BZA meeting; D. Sharpe and B. Martin to contact Ms. Hendren either by letter, phone call or face to face.

No further business to be brought before the board.

R. Farris made the motion to adjourn – seconded by B. Waller.

Meeting adjourned at 6:47 p.m.

BY ORDER OF THE MADISON CITY BOARD OF ZONING APPEALS

Scott Baldwin, Chairman

Nancy Burkhardt, Vice-Chairman

Louann Waller, Secretary