

MADISON CITY BOARD OF ZONING APPEALS

Minutes

January 13, 2020

The Madison City Board of Zoning Appeals held a regular meeting on Monday, January 13, 2020 at 6:30 p.m. in City Hall. Scott Baldwin, vice-chairman, presided over the meeting with the following board members present: Nancy Burkhardt, Bob Waller, and Rick Farris. Also present: Brian Martin, Building Inspector; Devon Sharpe, attorney; and Louann Waller, secretary. Absent: Brandon Taylor, board member.

Minutes:

There were no additions or corrections to the minutes of the previous meeting. R. Farris made the motion to approve minutes – seconded by B. Waller – roll call – all ayes.

Minutes stand approved as recorded and distributed.

Renewals:

- Kentuckiana News – Conditional Use permit for a recording, editing, producing, photofinishing and administrative office.
Category #639 – Other Services (Photofinishing Service)

Location: **402 W. Main St.**

Zoned: Specialty District (SD)
One-Year Renewal

Renewal fee received; No complaints.

S. Baldwin made the motion to approve renewal – seconded by N. Burkhardt – roll call – all ayes.

Renewal approved in accordance with motion and vote.

- Stuart and Kimberly Hizey – Conditional Use permit for a guest house.
Category #581 – Retail – Hotels, Tourist Courts, Tourist Homes, Residential Hotel, Motels &
Other Transient Housing

Location: **215 East St.**
(HDR)

Zoned: Historic District Residential
One-Year Renewal

Renewal fee not received; No complaints.

S. Baldwin made the motion to instruct D. Sharpe to write a letter to owners advising of their past due renewal fee; if fee received by next regular BZA meeting their renewal shall be approved – seconded by B. Waller – roll call – all ayes.

Renewal in accordance with motion and vote.

- Landmark Apostolic Bible Church, Inc. – Conditional Use permit for a church.

Location: **3100 Landmark Lane**
(R-32)

Zoned: High Density Residential

One-Year Renewal

Renewal fee received; No complaints.

S. Baldwin made the motion to approve renewal – seconded by N. Burkhardt – roll call – all ayes.

Renewal approved in accordance with motion and vote.

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- Tom and Melodie Power (Rivercrest Marina) – Conditional Use permit for a maximum of three (3) campers for personal use; and golf carts for rentals – maximum of 15.

Location: **1200 W. Second St.**

Zoned: Heavy Industry (M-2)

One-Year Renewal

Renewal fee received; No complaints.

S. Baldwin made the motion to approve renewal – seconded by N. Burkhardt – roll call – all ayes.

Renewal approved in accordance with motion and vote.

- Lucas Soule – Conditional Use permit for a mobile home.

Location: **2761 E. SR 56**

Zoned: Residential Agriculture (RA)

One-Year Renewal

Renewal fee not received; No complaints.

S. Baldwin made the motion to instruct D. Sharpe to write a letter to owner advising of their past due renewal fee; if fee received by next regular BZA meeting their renewal shall be approved – seconded by B. Waller – roll call – all ayes.

Renewal in accordance with motion and vote.

- Shawn Sands – Conditional Use permit for a wrestling facility.

Location: **2520 Lanier Dr., Suite C**

Zoned: Heavy Industry (M-2)
One-Year Renewal

Renewal fee not received; No complaints.

S. Baldwin made the motion to instruct D. Sharpe to write a letter to owner advising of their past due renewal fee; if fee received by next regular BZA meeting their renewal shall be approved – seconded by B. Waller – roll call – all ayes.

Renewal in accordance with motion and vote.

- Madison Elks Lodge #524 – Conditional Use permit for a lodge to include food service, bar and meeting rooms.

Location: **1251 W. Main St.**

Zoned: Heavy Industry (M-2)
Five-Year Renewal

Renewal fee not received. No complaints.

S. Baldwin made the motion to instruct D. Sharpe to write a letter to owners advising of their past due renewal fee; if fee received by next regular BZA meeting their renewal shall be approved – seconded by B. Waller – roll call – all ayes.

Renewal in accordance with motion and vote.

New Applications:

- Robert M. & Paula J. Waller – Variance from Development Standards (Road Lot Width) – Applicants desire to deviate from the Madison City Zoning Ordinance requirement of 150-ft. of road frontage for two (2) adjoining landlocked parcels (I.D. #39 08 11 000 004 011 006 containing 9.482 acres and I.D. # 39 08 11 000 004 012 006 containing 11.787 acres). Property access to be via 40-ft. wide easement of south neighboring property of

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4571 N. Graham Rd. (Parcel I.D. 39 08 11 000 004 010 006). Said easement recorded in Warranty Deed dated June 18, 2003 and recorded in the Jefferson County Recorder's office April 23, 2004, File # 2004-02368.

Location: **4585 N. Graham Rd.**

Zoned: Agriculture (AG)

S. Baldwin noted for the record that applicants are not related to board member, Bob Waller, or secretary, Louann Waller.

Mr. Waller, 215 Miles Ridge Road, said he is requesting the variance so that a single family dwelling can be built on the property.

S. Baldwin told Mr. Waller he was under the impression that the variance is about the fact that his property is landlocked, has no road frontage. That is true, per Mr. Waller. S. Baldwin noted that Mr. Waller provided the board with a Warranty Deed with a portion of the verbiage stating: Also containing a 40-ft. ingress/egress and utility easement.” S. Baldwin said he understood that the easement is not on the Waller property, it is through somebody else’s property. Again, yes, per Mr. Waller.

Mr. Waller said he thought property owner of the ingress/ingress was in the building, he believed – Mr. Schafer.

R. Farris asked Mr. Waller that in his application response to item #3 he states that the property was purchased with the intent to build a home. During and after the purchase of the property the current owners were no aware or informed of restrictions to build. That is true, per Mr. Waller. Added that he thought when the property was purchased, not sure if the 150-ft. road frontage was in affect. S. Baldwin noted that it was in the 1981 Zoning Ordinance. S. Baldwin stated that our ordinance requires 150-ft. of frontage and on page 14 the definition of a Lot – A lot is a parcel of land sufficient size to meet minimum zoning requirements for use, coverage and area, and provide such yards as other spaces as herein required. Such lot shall have frontage on an improved public street or improved private street and may consist of - -

But it does say that it shall have frontage – shall have. Added that in our law the definition of “shall” is on page 3, Section II – shall is mandatory, but also on page 85, section 6.28 (c) it says that essentially gives wiggle room. Said he wanted to read that because have to follow the ordinance. “That’s Agriculture District where you are – Restrictions for Conditional Uses – All conditional uses listed in section 7.00 – well that’s for conditional uses; lot width not less than 150-ft., but the one he saw is the addition of the following restrictions as appropriate shall be observed. So, it says “as appropriate” which seemed to indicate to him that they could conceivable make a variance.

N. Burkhardt said when you look at the map and the easement the property is on, their frontage doesn’t look that big, and they were allowed to build a house there. S. Baldwin said he looked on the GIS which has a measuring tool and thought those people’s lots are 150-ft., but of course the issue now is that there are two (2) landlocked lots with no frontage whatsoever on an improved road, and so the issue before this board is if can or should they grant a variance to allow building of a house or even access when these lots are just totally landlocked.

N. Burkhardt asked Mr. Waller how he would get back to his property. Per Mr. Waller, through the gravel road. Property owners are fine with that and they have already spoken

with that owner that it will put in the deed that maintenance of that road will be shared 50% by the Weavers and 50% by the new owners of the Waller property.

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Audience member, Jason Schafer, lives 4645 N. Graham Road said he lives in a home directly in front of this property. Said it seems like the sticking point is the 150-ft. of frontage. He stated that in 2003 apparently the Weavers had a variance approved because their home was built in 2003 with that right-of-way. They had zero frontage as well. S. Baldwin told Mr. Schafer would have to check that.

S. Baldwin said he would like to hear from D. Sharpe if there were any legal precedence or anything pertaining to this that he was aware of. D. Sharpe stated that the board has, as usual, three (3) options – approve, deny, table. If the board wants to do any of the three (3) of those things, thought they can do it. If board wants to table giving him more time to provide a better answer, he would be glad to. S. Baldwin explained his reason for asking questions is because there are multitudes of landlocked lots around this county that he has seen on GIS and frankly he was unaware of a 2003 variance being granted but will research to find out about that. B. Waller said given the information that they didn't have at hand he would almost want to table this until the next meeting giving staff time to develop this information.

Mr. Waller said that in speaking with the Weavers, that built their house in 2003, they have been maintaining the road and they are going to draw up an agreement that will go in the deed to where the road will be maintained 50% by each. B. Waller asked Mr. Waller if thought the document could be done by the next BZA meeting. Mr. Waller answered that he would do the best he can. B. Waller said he was just concerned that there were things not sure of tonight, would like to be on solid footage, also not cause harm to any other party out there. R. Farris noted it is important for the board to get the decision right.

Additionally, S. Baldwin noted that the Waller's have two (2) large lots and asked if the easement goes to both lots or just one (1). Mr. Waller confirmed that the easement is for both lots – they are connected, almost 22 acres total.

B. Waller made the motion to table application until the next BZA meeting – seconded by R. Farris – roll call – all ayes.

Application tabled.

S. Baldwin requested a legal brief from D. Sharpe and for L. Waller to research for a 2003 variance.

Tabled Applications:

- Larry & Valecia Crisafulli – Conditional Use permit for a seven (7) unit apartment building.

Location: **420 West St.**

Zoned: Central Business District (CBD)
One-Year Renewal

Mr. & Mrs. Crisafulli present with Mrs. Crisafulli telling the board members when they last came before this board receiving a Conditional Use permit they presented a plan for what they wanted to do with the structure, the former Elks Lodge at 420 West St. and since that time they have completed that plan and it now has seven (7) apartments, six (6) of which are rented. But, it just would seem more reasonable to not to have to come back on an annual basis for this Conditional Use, looking for a longer time period.

N. Burkhardt questioned Mrs. Crisafulli as to when the apartments first started to be occupied. Mrs. Crisafulli said it was in July or August, 2019 with the most recent renter moving in last week.

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Mrs. Crisafulli said there haven't been any questions about parking at all. Very fortunate to have the city parking lot across the street and also there are typically spaces available on West St. N. Burkhardt said she was surprised people have moved in because she drives by the building pretty much every day and didn't even realize people are living there because she hasn't noticed any parking problem. Mrs. Crisafulli advised the board that this spring, once the weather improves, they plan to improve the lots behind the building – will have room for five (5) parking spaces.

In response to S. Baldwin's question, L. Waller said she has not received any complaints about this.

No further questions or comments from board members or audience.

S. Baldwin made the motion to renew this Conditional Use for a period of three (3) years – seconded by N. Burkhardt – roll call – all ayes.

Conditional Use permit approved for three (3) years.

Business – Old or New:

Confirmation of receipt for past due Conditional Use from December, 2019 meeting.

Election of 2020 Board of Zoning Appeals chairman and vice-chairman.

R. Farris made the motion to open the floor for nominations – seconded by B. Waller – all ayes.

Chairman:

N. Burkhardt nominated B. Waller for chairman.

B. Waller declined

N. Burkhardt nominated R. Farris for chairman.

R. Farris declined.

R. Farris nominated S. Baldwin for chairman – seconded by N. Burkhardt – all ayes.

Congratulations to S. Baldwin as the 2020 BZA chairman.

Vice-Chairman:

S. Baldwin nominated N. Burkhardt for vice-chairman – seconded by R. Farris – all ayes.

Congratulations to N. Burkhardt as the 2020 BZA vice-chairman.

No further business to be brought before the board.

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

Meeting adjourned at 7:02 p.m.

BY ORDER OF THE MADISON CITY BOARD OF ZONING APPEALS

Scott Baldwin, Vice-Chairman

Louann Waller, Secretary