

**MADISON CITY BOARD OF ZONING APPEALS**

Minutes  
2020

August 10,

The Madison City Board of Zoning Appeals held a regular meeting on Monday, August 10, 2020 at 6:30 p.m. in City Hall. Scott Baldwin, chairman, presided over the meeting with the following board members present: Nancy Burkhardt, and Bob Waller. Also present: Brian Martin, Building Inspector; Devon Sharpe, attorney; and Louann Waller, secretary. Absent: Rick Farris, board member.

**Minutes:**

There were no additions or corrections to minutes of the previous meeting.

B. Waller made the motion to accept minutes as written – seconded by N. Burkhardt – roll call – all ayes.

***Minutes approved as written and distributed.***

**Renewals:**

1. Kevin D. & Denise Brierly – Conditional Use permit for a wedding barn and reception venue.

Location: **193 N. Music Dr.**

Zoned: Residential Agriculture (RA)

Two-Year Renewal

***Renewal fee received; No complaints***

2. Cara Fox – Conditional Use permit to utilize the middle section of building for weddings and/or receptions.

Location: **602 W. Main St.**

Zoned: Historic District Residential (HDR)

Two-Year Renewal

***Renewal fee received; No complaints***

3. Southeastern Indiana Voices for Children – Conditional Use permit to provide an office for staff and volunteers for children advocacy.

Location: **319 W. Second St.**

Zoned: Historic District Residential (HDR)

Two-Year Renewal

***Renewal fee received; No complaints***

4. Libby Mann – Conditional Use permit for a Bed & Breakfast.

Location: **409 W. First St.**

Zoned: Historic District Residential (HDR)

One-Year Renewal

***Renewal not fee received; No complaints***

5. Angela Tharp – Conditional Use permit for a mobile home.

Location: **988 Saddle Tree Lane**

Zoned: Medium Density Residential (R-8)

One-Year Renewal

***Renewal fee received; No complaints***

6. Margaret Seifert-Russell, Estate – Conditional Use permit for a folk art and doll museum; and learn center.

Location: **113 E. Third St.**

Zoned: Historic District Residential (HDR)

One-Year Renewal

***Renewal fee received; No complaints***

N. Burkhardt made the motion to approve renewals #1 (Brierly), #2 (Fox), #3 Southeastern IN Voices for Children), #5 (Tharp); and #6 (Seifert-Russell) – seconded by B. Waller – roll call – all ayes.

***Renewals approved in accordance with motion and vote.***

S. Baldwin made the motion to direct L. Waller to send Ms. Mann a letter stating if renewal fee is received in the Plan Commission office by the next BZA meeting her renewal will be approved. Motion seconded by B. Waller – roll call – all ayes.

**Renewal approved in accordance with motion and vote (contingency).**

**New Applications:**

7. Jacob Varble – Variance from Development Standards, Setback variance of a zero lot line setback from the west property line to allow for construction of 5-ft. x 9-ft. accessory building.  
Location: **1031 W. Main St.** Zoned: Medium Density Residential (R-8)

Mr. Varble said he is asking for a variance to allow for a storage shed on his property line; building 5-ft. x 9-ft.; picture representative of shed submitted with his application. Said he didn't think the building would be a detriment to the community.

S. Baldwin told Mr. Varble for a variance there has to be something peculiar about the property, something that is out of the ordinary. Then asked Mr. Varble if there is something peculiar about the property in seeking this variance. Mr. Varble explained that his backyard is all driveway and he has 5-ft. on either side so in order to utilize a shed it would either have to be in his driveway or in that 5-ft. area.

N. Burkhardt said she drove by the property today and it is tight back there, and as soon as you back your car out you would be hitting the shed if it were placed in the driveway. She told Mr. Varble that board members appreciated the pictures and drawing. Shed is to be about 6-ft. tall although he had not thought a lot about it. S. Baldwin said he had walked in the alley where the three (3) new houses were built and could see there is only 5-ft.

N. Burkhardt asked Mr. Varble if his neighbors had any problem with this – had he talked to them? Mr. Varble answered that he had sent out the letters, no replies. B. Waller then asked Mr. Varble if the house next to him is occupied. Mr. Varble said that neither one of the houses are occupied – he is in the middle house, however, he thought one of them is sold but not yet occupied.

No further questions or comments from board members. No questions or comments from the audience.

**Findings of Fact**

1. Will approval of this application will be injurious to the public health, safety, morals, and general welfare of the community?

**Yes No Why?**

N. Burkhardt I don't believe so. The size of the building isn't that large and I think there would be no safety issues. I don't think it would be injurious to the general welfare.

B. Waller I would agree. Given the rather small footprint that it provides, I can't see any way it would affect any of the listed conditions.

S. Baldwin I agree with those comments. It is a small building, he's correct, everything back there is driveway and paved except for that small grassy area in between the houses so I think it will not injure anything.

2. Will the use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner?

**Yes No Why?**

N. Burkhardt No I don't believe so. It's a new building and it's a nice looking building from the pictures he has shown us so I don't see any problem with that.

B. Waller I don't think it would be adversely effected. I think by having this building one would hope that any lawnmowers or anything else like that would be stored and not left out. It would make the area look clean so I think it would be an improvement. I think he is fine.

S. Baldwin I cannot see any substantially adverse effect on the value or use since there appears to be ample ability to pull into the driveways of those three (3) houses. I think that one is met.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

**Yes No What are the practical difficulties?**

- N. Burkhardt I believe that strict application would not allow him to have a storage building.  
B. Waller In looking at it in that aspect from previous board member I would agree.  
S. Baldwin Sheds are a very common thing even downtown. I think that's about the only way to do that. So, I think that would be a practical enough difficulty.

4. Is this request contrary to public interest?

**Yes No Why?**

- N. Burkhardt No I don't believe so. In fact you would have to drive back through that alley to even see it.  
B. Waller I would agree and I have nothing to add.  
S. Baldwin I agree too. I cannot see any great problems with public interest there.

5. Are there conditions peculiar to the property?

**Yes No What are the peculiarities?**

- N. Burkhardt I believe so. The way the driveway is set up that's about the only place he could put a storage unit.  
B. Waller I would agree with that also just given the width of the property. This is always a tough one but I think the condition is met.  
S. Baldwin I will go along with that due to the nature of the pavement back there, the driveway, the little 5-ft. grassy area, and the fact that it is totally behind everything there. I think that is met.

6. Are the peculiarities to the property a result of the applicant?

**Yes No Why/Explain**

- N. Burkhardt No, I don't believe so. I believe that's the way it was laid out when it was built.  
B. Waller I would agree with Ms. Burkhardt.  
S. Baldwin I agree. It's the way the place was built.

7. Will owner sustain an unnecessary and undue hardship?

**Yes No What is/are the hardship(s)**

- N. Burkhardt Yes as he wouldn't be allowed to have a storage building on his property.  
B. Waller I would agree.  
S. Baldwin Storage building nowadays are an extremely common, ordinary, and needed thing, so I think that one is met.

N. Burkhardt made the motion to allow this variance of a zero lot line setback from the west property line to allow for construction of a 5-ft. x 9-ft. accessory building – motion seconded by B. Waller – roll call – all ayes.

**Application approved in accordance with motion and vote.**

8. Cottage Green, LLC – Variance from Development Standards, Setback variance of a zero lot line setback from the north property line to allow for construction of an 18-ft. x 20-ft. accessory building (garage).

Location: **613 Mulberry St.**

Zoned: Historic District Residential (HDR)

9. Cottage Green, LLC – Variance from Development Standards, Setback variance of a zero lot line setback from the south property line to allow for construction of an 18-ft. x 20-ft. accessory building (garage).

Location: **615 Mulberry St.**

Zoned: Historic District Residential (HDR)

S. Baldwin announced as #8 and #9 are the same applicant, adjoining properties, essentially the same thing, both would be considered at the same time.

Property owner, Judy Koehler – 414 Broadway St – said that she owns both of these properties, they were platted about a century ago, are very narrow lots, back before people had automobiles. She said

she would like to build garages behind each of the houses and the only way to do that is to have a common wall. She noted that the lots are 25-ft. wide each so the only way to get a garage is to do a common wall. She further stated that she thought the garages would provide secure off-street parking, reduce the opportunity for vandalism, and this would make the overall community look better so there aren't cars parked all up and down the street, will add a lot to the property for the future.

N. Burkhardt ask Ms. Koehler for 613 – will come in from the alley? Yes, per Ms. Koehler. And for 615 Mulberry – it will have its own driveway? Yes, there will be a driveway along the north side of 615 from Mulberry to the back of the house per Ms. Koehler.

N. Burkhardt asked Ms. Koehler if 200 Cottage Lane has a separate living area. Ms. Koehler said, yes, that's hers, the house will be sold but the garage on Cottage Lane is hers, going to keep that one.

Audience member, Link Ludington – 601 Mulberry – spoke in favor of Ms. Koehler's two (2) applications.

No further questions and/or comments from board or audience members.

S. Baldwin asked D. Sharpe if it would be acceptable to combine both applications into one (1) Findings of Fact, motion and vote. Yes, per D. Sharpe

### **Findings of Fact**

1. Will approval of this application will be injurious to the public health, safety, morals, and general welfare of the community?

**Yes                  No                  Why?**

N. Burkhardt      No. I think it will be the exact opposite. I think it will improve safety, morals, and general welfare of the community by fixing up these old properties.

B. Waller              I would agree. Its been a blight on the community. I know there's been transient quarters for people there. This will start towards removing that from happening.

S. Baldwin            I agree this will certainly not be injurious to anything.

2. Will the use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner?

**Yes                  No                  Why?**

N. Burkhardt      Again, I think it will be the exact opposite. I think it's going to improve the area.

B. Waller              I would agree. I can't see any reason that it would not improve anything in the area.

S. Baldwin            I agree this is going to improve that neighborhood because those houses have been abandoned for so long. I think that one is well met.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

**Yes                  No                  What are the practical difficulties?**

N. Burkhardt      Yes because just the area of the lots for these garages, couldn't put anywhere else.

B. Waller              I think that's a reasonable assumption. I agree with that.

S. Baldwin            I agree. They were laid out a long, long time ago without any planning for anything like this. The practical difficulty would be storage of automobiles.

4. Is this request contrary to public interest?

**Yes                  No                  Why?**

N. Burkhardt      No. Again, I think it is the exact opposite. I think it is in the best public interest to have this there for security, for off-street parking, and enhancement of the neighborhood.

B. Waller              I would agree. The request is in the public interest.

S. Baldwin            I agree. This is rejuvenating a part of Madison in downtown that has had a lot of problems in the past. I think this is just exactly the opposite against public interest.

5. Are there conditions peculiar to the property?

**Yes                  No                  What are the peculiarities?**

N. Burkhardt      I think we've talked about the lots being narrow.

B. Waller I agree – the lot size.  
S. Baldwin I agree the lot size, the layout, I think that is an abundance of peculiarities.

6. Are the peculiarities to the property a result of the applicant?

**Yes No Why/Explain**

N. Burkhardt Again, I think we've discussed that that the peculiarities were \_\_\_\_\_ a long time ago.  
B. Waller I'll echo the board member's comments.  
S. Baldwin Those peculiarities began in 1838.

7. Will owner sustain an unnecessary and undue hardship?

**Yes No What is/are the hardship(s)**

N. Burkhardt Yes, I believe so. She wouldn't be able to have the garages needed to enhance the neighborhood and allow for secure parking.  
B. Waller I would agree again with the board member.  
S. Baldwin Given the fact that nowadays you have to have a garage and the fact also that we've done this for another property, I think this is sufficiently an undue hardship.

S. Baldwin made the motion to approve the variances for both 613 & 615 Mulberry Street according to the plans that are submitted in the application – seconded by N. Burkhardt – roll call – all ayes.

**Application approved in accordance with motion and vote.**

10. Estate of Darrell Powell – Variance of Use to allow for a hilltop vehicle repair service to relocate the business downtown.

Location: **1019 N. Walnut St.**

Zoned: Medium Density Residential (R-8)

Mrs. Alice Powell present. She stated that she was just told to come to the meeting because someone is interested in the property.

S. Baldwin stated this is the old Darrell's Tire, it's right at the foot of SR 421/Walnut St. and Crooked Creek, in the floodplain.

Mrs. Powell said she just knew of someone wanting to purchase the property, did not tell her what they wanted to do with it. The proposed purchaser not present at meeting.

B. Waller said he thought without someone being present to state specifically what they want to do with the property, didn't see how the board could act on it.

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

**Application tabled until the next regular BZA meeting.**

11. Eric Thompson – Variance from Development Standards, Setback variance of a zero lot line setback from the south property line to allow for a 5-ft. x 18-ft. residential addition.

Location: **409 Mill St.**

Zoned: Specialty District (SD)

Mr. Thompson – 409 Mill St. – explained to the board members that this was an addition put on sometime between 1937 and 1967, it's a shed type addition to the south side of the property, zero lot line, property line actually runs east to west and jogs out around this room. They have found a lot of mold and leveling problems so they want to remove this room and place it back exactly like it is now. They have the other three (3) sides of the property done and this is their last part of this renovation. They have received an okay from the Historic board. N. Burkhardt confirmed with Mr. Thompson it will be the same footprint.

No questions or comments from the audience.

### **Findings of Fact**

1. Will approval of this application will be injurious to the public health, safety, morals, and general welfare of the community?

**Yes No Why?**

N. Burkhardt No, in fact it is the opposite. He is trying to bring things back to safety improving the

- general welfare of the community.
- B. Waller I would absolutely agree. I had a chance to look at the building closely and look at the work they have already done. I think this is going to improve all of those issues.
- S. Baldwin I agree. Removing mold and so forth is going to improve the public health. I think that one is met.

2. Will the use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner?

**Yes No Why?**

- N. Burkhardt No. I think it is the exact opposite. I think it should improve the values in the area.
- B. Waller I think it would definitely improve. I know that the resident next door on that side will be happy to see this done.
- S. Baldwin I agree. Improvement downtown or anywhere, repairing, and maintaining your property increases value of properties.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

**Yes No What are the practical difficulties?**

- N. Burkhardt I say yes to that. He is using the same dimensions of what was previously there.
- B. Waller I would agree. It is the same footprint. He's dealing with some probably originally shoddy construction that he is going to correct and bring it into conformance. I think it's met.
- S. Baldwin Yes. It's the layout of the lots. Happens to almost every house and lot downtown, the way they are laid out and the way they have been built so I think those are practical difficulties.

4. Is this request contrary to public interest?

**Yes No Why?**

- N. Burkhardt No I don't believe so. I don't even know how it would be seen from most area of the street.
- B. Waller It is not contrary in any way to the public interest.
- S. Baldwin I agree. Maintaining your property is certainly not contrary to public interest.

5. Are there conditions peculiar to the property?

**Yes No What are the peculiarities?**

- N. Burkhardt Yes. I believe the lot lines were laid out several many years ago.
- B. Waller That's a good one. Where do you start? The size of the lot, the way the lines run. There is barely enough room to move, so, yea, real peculiar.
- S. Baldwin I couldn't say that any better. It's met.

6. Are the peculiarities to the property a result of the applicant?

**Yes No Why/Explain**

- N. Burkhardt No. As we've said many times before those lot lines were laid out a long time ago.
- B. Waller I agree with the board member.
- S. Baldwin I agree. It's not his fault the way they built Madison way back when.

7. Will owner sustain an unnecessary and undue hardship?

**Yes No What is/are the hardship(s)**

- N. Burkhardt Yes. He wouldn't be able to make improvements to his property.
- B. Waller I agree. It would possibly cause more damage that is known and the next door neighbor would sustain a hardship. I think it meets the criteria.
- S. Baldwin I agree. It's an undue hardship downtown not to be able to repair things.

B. Waller made the motion to approve this variance from development standards – seconded by N. Burkhardt – roll call – all ayes.

**Application approved in accordance with motion and vote.**

12. Gene Armel – Variance from Development Standards, Zoning Ordinance Section 6.11 – Residential Agriculture (RA) (C) (d) which states that a manufactured mobile home is to be manufactured less than 15 years before the date of a conditional use permit application. Proposed mobile manufactured home was manufactured in 2001.

Location: **3634 W. Long Way**

Zoned: Residential Agriculture (RA)

Mr. Armel told the board members that he owns three (3) lots on Long Way, have been empty for a long time which is not conducive to adding to the neighborhood; wooded lots; plan is to bring in a mobile home. Noted that he really does not need to renovate it. The price he is paying for the mobile home he would never consider paying this price for a 2001 except this is a one (1) owner, single lady had it, Wirt Baptist Church bought it from her to enlarge their parking lot, and the house is in excellent condition – probably better than most that are out there.

Mr. Armel said that he hoped the board members had had a chance to look at the pictures as he took a lot of pictures of inside and out. The house is in excellent condition.

Mr. Armel explained that basically he buys and renovates houses. Has done that for ten (10) years. He has taken some like Judy Koehler talked about, dilapidated, renovated them, made them into beautiful homes for people in the neighborhoods.

All he has to do to this mobile home is put in new flooring, paint, and then it is ready to go.

Mr. Armel said it will cost him close to \$50,000.00 to get this mobile home bought and moved. This does not include clearing the lot.

Further, Mr. Armel said he thought the condition of the mobile home is what makes it available for a variance.

B. Waller asked Mr. Armel if he had already purchased the home. Mr. Armel answered that he has made a deal to purchase the property from Wirt Baptist Church. They are just waiting on getting the title for him and him getting the variance. Mr. Armel confirmed with B. Waller that at this point he doesn't actually own it.

Also Mr. Armel told the board that he thought the folks in the neighborhood at Jordan Estates has to be sick and tired looking at the three (3) empty lots, wooded lots, taking away from their little subdivision when he can add to it. And there is so much of a need for rentals and homes being renovated with the market as it is now. Every realtor that you talk to today will tell you that they can't find enough homes. As soon as get one renovated someone is on it immediately. There is not enough houses. So said he puts the double wide in there it will be in very nice condition, will add to the neighborhood. It will be put on a concrete foundation, not going to be underpinning or anything like that.

S. Baldwin said that the ordinance, which is the law and is pretty clear, Section 6.11 (c)(2)(d) – The mobile manufactured home data plate must indicate that the mobile manufactured home was manufactured less than 15 years before the date of Conditional Use permit application.

S. Baldwin reminded Mr. Armel this is a five (5) member board, currently have four (4) members in which one (1) is not present, so Mr. Armel would have to win all three (3) votes here tonight in order to have the variance and Conditional Use approved. Mr. Armel asked if it would be to his advantage to table until next month. It might be because it could be that three (3) members would sympathize per S. Baldwin. Mr. Armel said he has another application for the next BZA meeting so could deal with both on the same night.

S. Baldwin made the motion to table both of Mr. Armel's applications until the next regular board meeting – seconded by B. Waller – roll call – all ayes.

**Application #12 and #13 tabled until the next regular BZA meeting.**

13. Gene Armel – Conditional Use permit for a 2001 mobile manufactured home.

Location: **3634 W. Long Way**

Zoned: Residential Agriculture (RA)

14. Victoria Demaree – Variance from Development Standards, Zoning Ordinance Section 6.12 – Low Density Residential, sections A and B (lot size and setbacks) to allow for construction of a triplex residential unit.

Location: **1938 Michigan Rd.**

Zoned: Medium Density Residential (R-8)

**Per L. Waller – application withdrawn per applicant.**

**Business – Old or New:**

From the July BZA meeting –  
Cory Perry application withdrawn applicant.

Past Due CUP's:

Barry Speer	Renewal fee received – CUP renewed
7 <sup>th</sup> Day Adventist	From August 2019 BZA meeting – renewals extended to every five (5) years
Darrell & Terry Bright	Sold property – CUP no longer in effect

Susan Smith – 926 Vaughn Dr.

Has not filed a new Conditional Use permit application; RV's and campers remain on the lot. S. Baldwin made the motion to instruct D. Sharpe to write Ms. Smith a letter asking her to file a new (Conditional Use permit) application no later than in time for the October BZA meeting – seconded by B. Waller – roll call – all ayes.

**D. Sharpe to send Ms. Smith a letter asking her to file a new Conditional Use permit application no later than in time for the October BZA meeting.**

L. Waller noted another past due Conditional Use permit fee – James Gurley, tobacco packaging business at 2600 Wilson Ave. She stated that per the board's direction, counsel did send Mr. Gurley a certified past due notice, letter returned unclaimed.

S. Baldwin made the motion instructing Building Inspector to make a personal visit to 2600 Wilson Ave. utilizing means he deems necessary to try and resolve this by the next regular BZA meeting. If Mr. Gurley pays his fee, his Conditional Use permit will be renewed. Seconded by N. Burkhardt – roll call – all ayes.

**Building Inspector, Brian Martin, to make a personal visit to 2600 Wilson Ave. utilizing means he deems necessary to try to resolve past due Conditional Use permit fees – James Gurley.**

No further business to be brought before the board.

S. Baldwin made the motion to adjourn – seconded by B. Waller.

Meeting adjourned at 7:19 p.m.

**BY ORDER OF THE MADISON CITY BOARD OF ZONING APPEALS**

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Scott Baldwin, Chairman

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Louann Waller, Secretary