

Minutes

February 10, 2025

MADISON CITY BOARD OF ZONING APPEALS

The City of Madison Board of Zoning Appeals held a regular meeting on Monday, February 10, 2025, at 6:00 p.m. in City Hall. Scott Baldwin presided over the meeting with the following additional Board Members present: Mark Acosta, Nancy Burkhardt, Rick Farris, and Karl Eaglin. Also present: Nicole Schell; Director of Planning. Joe Jenner; Attorney participated by phone.

Minutes:

There were no corrections or additions to the January 13, 2025, meeting minutes. S. Baldwin made the motion to approve the January 13, 2025, minutes – Seconded by N. Burkhardt - Unanimous Consent Vote – Final vote is five (5) in favor and none against – Motion carries.

Minutes for January 13, 2025, approved in accordance with the motion and vote.

Renewals:

1. Harold Perry, Jr. – Conditional Use Permit for a mobile home.
Location: 212 Sixth St
Zoned: Hillside District (HS)
One-Year Renewal
2. Mike & Melissa Hess – Conditional Use Permit for a mobile home.
Location: 318 W Fifth St
Zoned: Central Business District (CBD)
One-Year Renewal
3. Stephen & Dawn Whalen – Conditional Use Permit for a single-family short-term rental/Airbnb.
Maximum of four (4) guests and two (2) cars.
Location: 715 E Main St
Zoned: Historic District Residential (HDR)
One-Year Renewal
4. Matt & Daniel Chandler – Conditional Use Permit for an eight (8) room boutique hotel.
Location: 111 E Second St
Zoned: Central Business District (CBD)
Three-Year Renewal
5. Oystercatcher LLC – Conditional Use Permit for short-term rentals.
Conditions: - Adhere to House Rules submitted with application.
Location: 312 Poplar St
Zoned: Historic District Residential (HDR)
One-Year Renewal
6. Matt Chandler/Vintage Lanes – Conditional Use Permit for duckpin bowling and an apartment.
Conditions: (1) parking on public streets and other nearby lots is permissible and (2) the Conditional Use Permit would be valid in case the property is split into separate addresses for these buildings.
Location: 301 Jefferson St
Zoned: Central Business District (CBD)
One-Year Renewal
7. Jerry Shields – Conditional Use Permit for short-term rentals.
Conditions: (1) The House Rules be adhered to. (2) A maximum of six people be allowed. (3) Mandatory use of all screening procedures by Airbnb.
Location: 107 E Third St

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

M. Acosta: No. I think by improving the dwelling, it should benefit the adjacent areas.

R. Farris: I agree.

N. Burkhardt: I don't see any problem.

K. Eaglin: No, I think it will help.

S. Baldwin: We have heard no testimony, either from neighbors or from a recognized authority, like a realtor or a property assessor, that there will be any adverse effects. So I think that one is met.

3. *The need for the variance arises from some condition peculiar to the property involved. And what is it?*

M. Acosta: The building pre-dates the zoning ordinance and the strict application does not allow for the home to exist.

R. Farris: The strict application of the ordinance prevents the use of this property.

N. Burkhardt: I agree with Mr. Farris.

K. Eaglin: I agree.

S. Baldwin: The peculiar condition is that the building is already there. The landowner is trying to bring the property into conformance.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

M. Acosta: Yeah, I think previous comments about the inability to even use the property, let alone improve it.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: I agree.

S. Baldwin: It's been there a long time. There have been no adverse effects. And if you can't maintain it, then that seems to me to be unreasonable.

5. *The approval does not interfere substantially with Madison's comprehensive plan.*

M. Acosta: I don't I don't think it does.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: I see no problem with the comprehensive plan.

S. Baldwin: Since the building has been there for a long time without interfering with anything, I think that it's met the general meaning of the comprehensive plan.

M. Acosta made the motion to approve the application as submitted – Seconded by K. Eaglin – Roll Call Vote – all ayes - Final Vote is five (5) in favor and none against – Motion Carries.

Application BZVU-25-1 was approved in accordance with the motion and vote.

2. **BZVD-25-1:** David Joe Craig – Variance from Development Standards for setbacks.

Location: 904 Lanier Dr

Zoned: Medium Density Residential (R-8)

Joe Craig – the applicant approached the podium and explained the reason for the request. The presence of an old city sewer line complicated the building plans.

The board noted that the property's shape and size posed practical difficulties in adherence to existing setback requirements.

S. Baldwin asked the Board and audience if they had any further questions.

Findings of Fact

1. *Will this variance be injurious to the public health, safety, morals, and general welfare of the community?*

M. Acosta: No, that doesn't seem to be any impact at all to that. It's actually using some vacant land that has a uniqueness in the size and shape of the lot.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: Yeah. I don't see any problem with safety. As a matter of fact, there's several homes there that's been rebuilt. That one area is starting to look a lot better. So, I think it's just improved with safety and everything else involved.

S. Baldwin: I see no problem with public general welfare. I think he's doing this to avoid problems of covering up a sewer, which helps the general welfare immensely, and also to widen one side of it for better entrance.

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

M. Acosta: I don't see any impact of that. Again, it's going to develop a lot that is currently vacant.

R. Farris: I agree.

N. Burkhardt: Yeah, I see no problem in that area.

K. Eaglin: Yes. I think all the properties in that area will see an increase in value.

S. Baldwin: We have heard no testimony from a neighbor, from a realtor, from anybody with legal standing in Indiana, so I think that one is met.

3. *Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?*

M. Acosta: Just the uniqueness of the shape of the lot. I mean, long and narrow and then encumbered with the sewer line that runs through it. It kind of limits it.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: I agree.

S. Baldwin: The practical difficulty is the location of the sewer and the width of the lot.

K. Eaglin made the motion to approve the application as submitted – Seconded by N. Burkhardt – Roll Call Vote – all ayes - Final Vote is five (5) in favor and none against – Motion Carries.

Application BZVD-25-1 was approved in accordance with the motion and vote.

3. **BZVD-25-3:** Thomas Cheatham– Variance from Development Standards for lot acreage.

Location: 1166 E River Bluff Lake Dr

Zoned: Residential Agricultural (RA)

Paul Kelly – the applicant’s representative approached the podium and explained the reason for the request. The request for a variance was needed to rebuild a home on a property that had burned down.

The board revisited previous cases where similar variances had been granted, emphasizing the need to adhere to new zoning laws despite historical precedents.

S. Baldwin asked the Board and audience if they had any further questions.

Findings of Fact

1. *Will this variance be injurious to the public health, safety, morals, and general welfare of the community?*

M. Acosta: No.

R. Farris: No.

N. Burkhardt: No.

K. Eaglin: No.

S. Baldwin: No.

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

M. Acosta: No.

R. Farris: No.

N. Burkhardt: No.

K. Eaglin: No.

S. Baldwin: No.

3. *Will the strict application of the terms of the zoning ordinance result in practical difficulties in the use of the property?*

M. Acosta: Yes.

R. Farris: Yes.

N. Burkhardt: Yes.

K. Eaglin: Yes.

S. Baldwin: Yes.

4. *Will this use not be hazardous or disturbing for existing or future neighboring uses?*

- M. Acosta: I mean, I'm assuming all the neighbors were notified of the intent, and none are here to protest. I assume they do not see any disturbance or anything coming from this.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: I agree.

5. *Will this use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, 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?*

- M. Acosta: Yeah, everything's in place already. There'd be no additional need for anything.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: There's adequate utilities for this. There's no problem there.

6. *Will this use not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community?*

- M. Acosta: No. No impact to that. I mean, if anything, it's offering a service that doesn't exist currently.
- R. Farris: I agree.
- N. Burkhardt: I see no detriment to the economic welfare.
- K. Eaglin: Yeah, it's going to benefit a lot of a lot of folks, so they do not have to go on the hill and drop their children off.
- S. Baldwin: I agree.

7. *Will this use 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?*

- M. Acosta: No, I don't see any impact at all on that.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: The only possible one would be traffic. And I think they're going to deal with that by off street parking.

8. *Will this use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares?*

- M. Acosta: No, I think the explanation the applicant gave concerning how they intend to handle the parking and the drop off, does not cause any disruption.
- R. Farris: The applicant recognizes the issues and has come up with a thought-out plan.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: I think the off street parking will handle that.

9. *Will this use not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance?*

- M. Acosta: No, no impact at all on that.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: I don't even think that applies.

S. Baldwin made the motion to approve the application with the following conditions:

1. Renewal Term: 1 Year
2. Hours of Operation: 6:30am-4:30pm
3. Parking: parking to be provided onsite.

Seconded by M. Acosta – Roll Call Vote – all ayes - Final Vote is five (5) in favor and none against – Motion Carries.

Application BZCU-24-65 was approved in accordance with the motion and vote.

5. **BZVU-25-2:** Joel Ferguson – Variance of Use to allow for a photography services business.
Location: 723 W Main St Zoned: Specialty District (SD)

Joel Ferguson – the applicant approached the podium and explained the reason for the request.

Joel Ferguson applied for a variance to operate a photography service at 723 West Main Street, a location previously used for similar purposes.

The board recognized the inconsistency in zoning regulations that allowed other similar services but not photography.

S. Baldwin asked the Board and audience if they had any further questions.

Findings of Fact

1. *The approval will not be injurious to the public health, safety, morals and general welfare of the community.*

- M. Acosta: No. It'll be offering a service that once was in that facility and be able to benefit the public.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: There has been a history of photography studios there, and there is no report of anything that's adverse. So, I think that one's met.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

- M. Acosta: No, I mean down all the way down Main Street there are commercial properties, stores, and shops. I think this actually adds a flavor to the main street.
- R. Farris: A photography business fits into the area.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: Yeah, and there has been no testimony from any recognized authority that there will be adverse effects on property values. I think that's met.

3. *The need for the variance arises from some condition peculiar to the property involved. And what is it?*

- M. Acosta: This is a commercial area.
- R. Farris: I think the original definitions and list of businesses suitable for this zoning district were not perfect and the strict application of the ordinance would prevent this business.
- N. Burkhardt: I agree. There's a wide variety of businesses allowed within this district.
- K. Eaglin: I agree.
- S. Baldwin: I agree.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

- M. Acosta: The strict interpretation states that the business couldn't operate and probably shouldn't have been operating even previously.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: I agree the unnecessary hardship since there has been a studio there previously doing the same thing and possibly even using more modern chemicals than the old-fashioned ones. The unnecessary hardship is. Maybe I should call it inconsistent zoning, but I think that one's met.

5. *The approval does not interfere substantially with Madison's comprehensive plan.*

M. Acosta: No, I think using the using the facility on Main Street, offering a service to the public, um, even mentioning the costumes and stuff. That's something that especially enhances tourism and all those types of things. So, I think it very much so supports the comprehensive plan.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: I agree.

S. Baldwin: I agree.

S. Baldwin made the motion to approve the application as submitted – Seconded by R. Farris – Roll Call Vote – all ayes - Final Vote is five (5) in favor and none against – Motion Carries.

Application BZVU-25-2 was approved in accordance with the motion and vote.

6. **BZCU-25-3:** Mikel & Ligia Thornton – Conditional Use Permit for an in-home daycare.

Location: 1110 N Borcharding Rd

Zoned: Residential Agricultural (RA)

Mikel & Ligia Thornton – the applicant approached the podium and explained the reason for the request.

Local resident Doug Purcell raised issues regarding prior animal control incidents and potential safety risks for children.

The board addressed these concerns by stipulating conditions regarding fencing and state regulations. They emphasized the importance of following legal guidelines to ensure safety.

S. Baldwin asked the Board and audience if they had any further questions.

Findings of Fact

1. *Is this use in fact a conditional use as established under the provisions of Article V and appears on the Official Schedule of District Regulations adopted by Section 7.00 for the zoning district involved?*

M. Acosta: Yes.

R. Farris: Yes.

N. Burkhardt: Yes.

K. Eaglin: Yes.

S. Baldwin: Yes.

2. *Will this use be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and/or the Zoning Ordinance?*

M. Acosta: I think so. It's offering a service that's needed in the area.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: I agree.

S. Baldwin: I agree.

3. *Will this use be designed, constructed, operated, 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?*

- M. Acosta: I don't believe it changes the character. The applicant has explained that there's a fenced-in area already. He would add additional fence if necessary and obviously the space would be inspected and regulated by the either state or federal authorities.
- R. Farris: I agree. Even with the additional fencing, it is still going to look like a residence.
- N. Burkhardt: I don't think it will change the essential character.
- K. Eaglin: It should be okay.
- S. Baldwin: I agree.

4. *Will this use not be hazardous or disturbing for existing or future neighboring uses?*

- M. Acosta: Appreciating the neighbor's comments. I think whatever those situations were, I don't see those affiliated with an operation of this type.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I think it could be hazardous. It has been disturbing to the neighborhood.
- S. Baldwin: This use as a daycare center with sufficient conditions applied, and with the fact that any injury or harm to a child is going to have repercussions. I think those are constraints. So I think that one could be met.

5. *Will this use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, 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?*

- M. Acosta: Yes.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: I agree.

6. *Will this use not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community?*

- M. Acosta: No, it doesn't require any public expense and offers a service that's needed.
- R. Farris: I agree.
- N. Burkhardt: I agree.
- K. Eaglin: I agree.
- S. Baldwin: We've heard no testimony about property values or whatever, so I think that one's met.

7. *Will this use 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?*

8. *Will this use have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares?*

M. Acosta: No, they look like quite adequate.

R. Farris: I agree.

N. Burkhardt: I agree.

K. Eaglin: Traffic should not be a problem.

S. Baldwin: I agree.

9. *Will this use not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance?*

M. Acosta: Yeah, not relevant on this.

R. Farris: Yeah, I don't see any issues with any of those.

N. Burkhardt: I agree.

K. Eaglin: I agree.

S. Baldwin: I don't even think that one applies.

S. Baldwin made the motion to approve the application with the following conditions:

1. Renewal Term: 1 Year
2. Hours: 5am-6pm
3. Maximum of 12 children
4. Yard enclosed in such a way that children and animals cannot escape
5. Any complaints to police or state authorities shall be cause for a hearing by the Board of Zoning Appeals
6. All state regulations followed

Seconded by M. Acosta – Roll Call Vote –

S. Baldwin: Approve

M. Acosta: Approve

R. Farris: Approve

N. Burkhardt: Approve

K. Eaglin: Disapprove

Final Vote is four (4) in favor and one (1) against – Motion Carries.

Application BZCU-25-3 was approved in accordance with the motion and vote.

