

**MINUTES**  
**BOARD OF ZONING APPEALS**  
**August 4, 2020 at 5:00 o'clock P.M.**

Held at the Brown Gym, 100 Broadway, Madison, IN 47250

MEMBERS PRESENT: MIKE SHELTON, VIRGINIA FRANKS, DARRELL GINN and DAVID FERGUSON

VISITORS PRESENT: MATT CHANDLER, DANIEL SEVIER, LINDA CHANDLER, and COLLIN OVERTON from the Madison Courier

STAFF PRESENT: MIKE PITTMAN, Surveyor, JIM DIERDORF, Building Inspector/Zoning Enforcement Officer, LYNETTE ANDERSON, Secretary, and by phone, PAT MAGRATH, Attorney

Vice-Chairman Mike Shelton called the meeting to order. A quorum was present with Bob Jacobson absent. Darrell Ginn made a motion to approve meeting minutes of July 7, 2020. Virginia Franks seconded the motion. Motion passed unanimously. There were no communications.

New business as follows:

- **Matt Chandler**, 7606 N Shaw Hallow Road, Madison, IN, Shelby Township, containing 3.1145 acres, requested a variance from lot size in an AG district from 1.72 acres to 1.394 acres. Mr. Chandler requested 1.394 acres to create a new parcel in order to place a one bedroom, one bathroom 400+ square foot Airbnb dwelling. Currently the applicant owns 3.114 acres with a dwelling on the premises. Applicant wants to add another dwelling on the land but does not have sufficient acreage to create a new parcel; per Jefferson County zoning, only one dwelling is permitted per parcel and the ordinance also requires a minimum of 1.72 acres for a parcel in an AG district. The applicant is deficient by .326 acres of creating another parcel. The property is zoned AG. All certified mail return receipt requested cards were turned in. There were no objections; however, Attorney Scott Treadway, representing Beth Ann Breitweiser, an adjoining land owner, emailed a letter requesting a continuance of the variance application as Ms. Breitweiser was unable to attend the August 4, 2020 meeting. David Ferguson asked Mr. Chandler why he wants to split the property. Mr. Chandler stated in order to put another residence on the property he needs to split the land. David Ferguson also asked if the cabin that will be built on the property will be another Airbnb. Mr. Chandler said yes, it would be a one bedroom, one bath, around 500 square feet. David Ferguson also asked if the cabin will be rented out yearly and Mr. Chandler explained an Airbnb is a short term rental, but is available year round for renting. David Ferguson asked if the cabin will be on a foundation. Mr. Chandler said there will be a foundation (*the pictures submitted with the application raised questions about a foundation*), the septic will be on a separate septic and the septic system has been approved. Mr. Chandler said except for the current cabin located on the property the nearest residence is approximately one-half mile. Virginia Franks

mentioned creating the policy for the 1.72 acres was an undertaking several years ago and believes it shouldn't be varied from. Mr. Chandler stated he is a tourism partner, bringing tourism dollars into Jefferson County, and as a result of COVID-19 people are looking for rural get-aways. David Ferguson asked how much road frontage there was. Mr. Chandler said there is more than enough-in compliance with the ordinance; he doesn't have the exact number off the top of his head, but he went over that with Building. Darrell Ginn said to the average eye no one will be able to tell the difference from the acreage shortage. Mr. Chandler also stated he is preserving the land as an AG District/keeping it secluded. David Ferguson asked about how many people will stay at the cabin. Mr. Chandler answered, two (2) guests only, with no minimum night stay, no parties allowed, he has up to \$1,000,000 insurance through Airbnb and Mr. Chandler will be the property manager. Darrell Ginn told the board the acreage is so close, he doesn't think it will make that much of a difference. Mike Shelton asked for public comments. Linda Chandler told the board the Mr. Chandler's Airbnb brings in tax revenue and she is in support of the split (*the audio of Linda Chandler is very hard to hear*). Mike Shelton asked Pat Magrath, Attorney, his advice on the request for continuance (*Pat was reached by phone and put on speaker so all could hear*). Pat told the board it is their discretion if they want to continue the matter or not. Pat told the board the Rules of the BZA say that you may continue it on your own motion or for good cause. The only basis that there has been a request for the continuance on is that the gentleman who sent us the notice said his client wasn't able to attend tonight but didn't provide us any additional information about why they couldn't attend or whether there was some specific reason why they couldn't be participating and the only information that we received was that they might end up objecting but they didn't say what their objection was or what the reason was so the continuance is at the board's discretion based on the information you guys have. David Ferguson asked if there were any more public comments. Daniel Sevier told the board the adjoining land should not be effected by the split of the land/adding another cabin rather it will be beneficial to Madison. Linda Chandler mentioned to the board when researching Reviews on Airbnb, there are good reviews about Matt Chandler's current cabin (listed on Airbnb). Mr. Chandler was asked how long he has had the current cabin listed through Airbnb and he said he has been up and running for three (3) years. His cabin is referred to the #1 Airbnb in Jefferson County. Mike Shelton asked the board about continuing the matter until the next BZA meeting. Virginia Franks said she doesn't like to continue matters, but it might be the best thing on this. David Ferguson said the only problem with this is they haven't given any evidence on why. Usually on other matters, they give us information on why they are against the parcel being done whatever to; I don't know if it warrants a continuance or not. Darrell Ginn said I don't think we should put it off; she could have had her attorney show up tonight. David Ferguson said the only way it would be worth putting it off is if we felt like we need to go visit their place like we did before but from what I am seeing and hearing he (Mr. Chandler) has a reputation it sounds like that he runs a top notch business that I think we can make a decision tonight, but that is everyone else's call. Darrell Ginn said we ought to make a decision tonight. Virginia Franks said well I assume we should to, yes. Lynette Anderson, secretary, mentioned to the board that she received another email from the attorney stating that he and his client plan to appear in person at the next scheduled BZA meeting and it is probable that his client

will oppose the variance petition at that time; he didn't give a reason why-just said they will be here and its probable they will oppose. Darrell Ginn made a motion to not continue the matter. David Ferguson seconded the motion. Motion approved. David Ferguson said he hates to go less than 1.72 acres but the property has plenty of road frontage and wooded area around the property; road frontage is the biggest thing to me more than the size of the parcel. Virginia Franks said it is a great idea but the size of the parcel was set as policy and believes going less than 1.72 is going against the policy. Virginia Franks said she is uncomfortable saying yes to the variance; she would like Pat Magrath's advice on this. Mike Shelton said he is in the middle; he feels yes and no. Mike Shelton asked the County Surveyor, Mike Pittman, his opinion. Mike Pittman said he believes the idea of another Airbnb is a good idea; he (Mr. Chandler) has good history. Mike Pittman agrees with David Ferguson about having plenty of road frontage (having enough road frontage is a bigger issue than the size of the lot) and he is so close to the lot size, he (Mike Pittman) thinks you should do it. Mike Shelton asked Jim Dierdorf, Building Inspector/Zoning Inspector, his opinion. Mr. Dierdorf told the board he agrees the lot size should stay at 1.72 because that is the rule that was set. Mr. Chandler was asked about hunting on his property. He said his renters do not hunt on the property.

**Findings of Fact-**1. The approval *will not* be injurious to the public health, safety, morals and general welfare of the community because *location is not close to anyone*. (Virginia Franks asked Mr. Chandler how long the driveway is. Mr. Chandler said it is easily 100 yards) 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 because *standing timber will not be affected*. 3. The strict application of the terms of the zoning ordinance *will* result in practical difficulties in the use of the property because *rules will not let him split*. **Decision-** The Jefferson County Board of Zoning Appeals voted to *approve* the application for a variance from lot size in this matter with members voting as follows: *3-1 approved*. Conditions of Variance from developmental standards are as follows: *None*. Darrell Ginn made a motion to approve the application. Mike Shelton seconded the motion. The motion passed 3-1, with Virginia Franks voting No. The board wanted to make sure they handled the application legally according to their duties so Pat Magrath was called by phone and put on speaker. Lynette Anderson explained to Pat Magrath the board went through the findings of fact and took a motion to grant the variance at 1.394 acres instead of the 1.72 acres, that Mike Shelton was leading the meeting as Vice-Chairman since Bob Jacobson was absent, Mike Shelton seconded the motion and the motion was voted on with the result of 3-1; 3 to grant and one to oppose. The board also wanted Lynette Anderson to ask Pat Magrath is it ok for the board to grant a variance of 1.394 acres since the policy of the 1.72 acres was established under the Plan Commission in 2004. Pat Magrath explained the 1.72 acres is what is required by our ordinance for a remaining parcel on a split and if there had been a remnant of 1.72 acres then application would not have come before the board because the split would have been approved by the secretary without the need for a variance; the whole purpose behind the variance was seeking a variance from the zoning ordinance in order to grant that and so long as the board has gone through the appropriate findings with the regards to an application for variance and so long as the board believes that there is sufficient factual information upon which to grant the variance for each of the conditions of the variance then that meets the

requirements for a variance. And it is legal for Mike Shelton, Vice-Chairman, who is leading the meeting to vote, make motions and second motions because he is a voting member. Lynette Anderson and/or Pat Magrath will let Mr. Treadway know of the result of tonight's meeting.

- Other business/misc items not on agenda as follows:
  - **Next Meeting: Tuesday, September 1, 2020, at 5:00 o'clock P.M., at the Brown Gym, 100 Broadway, Madison, IN 47250**

David Ferguson moved for a motion to adjourn the meeting. Virginia Franks seconded the motion. The motion passed unanimously. The meeting was adjourned.

Minutes prepared by: Lynette Anderson  
Lynette Anderson, Secretary

APPROVED THIS 1<sup>st</sup> DAY OF September, 2020.

JEFFERSON COUNTY BOARD OF ZONING APPEALS

BY: Mike Shelton  
ROBERT J. JACOBSON, Chairman  
mike shelton