

Minutes of the November 18, 2004
Regular Meeting of the
Marshall County Plan Commission
112 West Jefferson Street, #307
Plymouth, Indiana 46563

MINUTES

President David Dinius called the meeting to order at 7:30 p.m. on Thursday, November 18, 2004, in Room #203 of the Marshall County Building. Present were: Commission Members David Dinius, Larry Fisher, Fred Lintner, Wayne Neidlinger, Harold Van Vactor, Max Watkins and Robert Yoder, Doug Feece, City Officio, Plan Director Troy Kiefer, Secretary, Leesa Kolter, Planning Assistant Dave Rockaway and interested parties. Absent were board members Clifford Allen and Ronnie McCartney.

The first item of business was the review of the minutes from the October 28, 2004 meeting. Mr. Van Vactor moved and Mr. Watkins seconded a motion to pass the minutes as written. The motion passed by acclamation.

The second item of business, case 04-PC-19, Joseph Roush, A request for a Vacation of Knox Street between Lots 21 & 22 of the Village of Dante, Hibbard, in an A-1, Agricultural District Section 2 of Union Township. Mr. Roush was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the Plan Commission would forward a recommendation to the County Commissioners who would make the final decision. Mr. Kiefer stated that the right-of-way is 55' x 350' in size. He stated that presently it is unimproved, but the neighbor to the North does use it as a driveway. He stated that there is also an electric line that runs along the right-of-way that feeds several of the homes in the area.

Mr. Roush stated that the County does not maintain the right-of-way and there are trees that are twenty five to thirty years old. He stated that he would like to be able to do some work to change the drainage. Mr. Roush stated that he owns property all the way to the railroad right-of-way on the South side. He stated that Carl Johnson owns the property East of Lot 22, which would be landlocked if approved. He stated that Mr. Johnson did not have concern. Mr. Kiefer stated that he would have access via an alley North of Yartlett street. It was decided that Mr. Johnson would not be landlocked.

Mr. Dinius asked Mr. Roush if he realized that if vacated he would need to pay property taxes on the property. Mr. Roush stated that would not be a problem. Mr. Dinius

stated that if approved; Mr. Roush would receive half and the neighbor would receive half of the right-of-way. Mr. Roush stated he understood.

Mr. Fisher asked if vacated, the property to the Northeast would not be eligible for a building permit. Mr. Kiefer stated that was correct. Mr. Fisher stated that a road to the North would not be adequate, as it would need to be fifty feet.

Mr. Neidlinger moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak either for or against the request. Mr. Lintner moved and Mr. Fisher seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Neidlinger asked where the property lines would be located? He stated that it appears as if the right-of-way is located close to the house, and if vacated there would not be enough room for a drive. Mr. Roush stated that he discussed that with his neighbors. He stated that he had offered to sell them a portion of his half (approximately fifteen feet) if approved. He stated that they did not want to purchase it. Mr. Fisher asked if they were in favor of the vacation. Mr. Roush stated that they were going to file the vacation themselves. He stated that he pointed out to them that if someone were to build a house on the property behind them, they would no longer be able to use the area to park their semi.

Mr. Neidlinger asked Mr. Roush why he is requesting the vacation. Mr. Roush stated that it would give his neighbor the right to park his semi there. He stated that it also gives him access to the land behind his house, he would be able to put up a fence East of the Northsouth alleyway to use the land for agricultural purposes. Mr. Neidlinger asked if Mr. Roush considered asking for the portion of the back alley to the East to be vacated only. Mr. Roush stated that was his next suggestion, if his request was to be denied.

Mr. Neidlinger stated that he is familiar with the property, and the right-of-way is the only way to legally get to the neighbors home. He stated that he would not see a problem with vacating the East portion from the back alley. He stated that he could not agree to close an alley that is being used. Mr. Roush stated that he would agree to modifying his request.

Mr. Lintner asked if the power lines run along the alley? Mr. Roush stated that the power line run along the alley and then cuts across to the Southeast.

Mr. Neidlinger moved and Mr. Yoder seconded a motion to forward to the County Commissioner's with a favorable recommendation to vacate the portion of Knox Street East boundary to the railroad. The motion passed by a unanimous vote of approval.

The third item of business, Case 04-PC-20, A request for a Special Exception to expand an existing Home Workshop, 3,000 sq. ft. addition to an existing building, on property located at 2860 Birch Road, in an A-1, Agricultural District, Section 32 of German Township. The item had been tabled at the request of the applicant. Mr. Dinius stated that he felt the item should be opened for public hearing, as there were patrons in the audience who had traveled to speak regarding the request. Mr. Kiefer gave a brief introduction of the request and history for those in the audience.

Mr. Neidlinger moved and Mr. Waktins seconded a motion to open the public hearing. The motion passed by acclamation.

- Pheanis Wickey, 2640 Birch Road, spoke in opposition of the request. He stated that Mr. Yutzy placed his building running East and West instead of North and South as he had proposed in the original hearing. He stated that the change blocked the natural waterway creating drainage problems for the neighborhood. He stated that an extension of the building will only add to the existing drainage problems. He stated that at the time of the original request, Mr. Yutzy agreed to numerous other conditions, and has overstepped every one. He stated that Mr. Yutzy agreed to no further additions, he has added a 32' x 32' spray room addition, a couple of small additions and currently there is a 28' addition being completed to the diesel room. He stated that Mr. Yutzy was planning to add the diesel room on the North side of the shop facing their home, until his wife intervened. He stated that it was placed on the East side of the building. He stated that it was agreed that there would not be more than six employees, but he has had thirteen to fourteen. He also agreed not to conduct manufacturing, but has bought a double head drum sander and dust collector, he does manufacturing within the building. Mr. Wickey stated that he is for home business, but Mr. Yutzy is conducting factory work within the farm community. He stated that a factory needed to be located in the factory environment. He stated that the neighbors also feel the same as he does.

Mr. Fisher stated that Mr. Wickey brought some issues before the board. He stated that if correct, Mr. Yutzy is in noncompliance with the Special Exception and the approval should be withdrawn. Mr. Van Vactor stated that it appears that Mr. Yutzy's operation is too large for the area.

There was no one else to speak either for or against the request. Mr. Van Vactor moved and Mr. Watkins seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Kiefer stated that it appears that he would need to do some investigation as to whether Mr. Yutzy is in compliance or not. He stated that if Mr. Yutzy is not in compliance the Board of Zoning Appeals would need to take action.

Mr. Niedlinger asked if the building permit would show where the building was to be built. Mr. Kiefer stated that it would. Mr. Neidlinger asked if the County inspector has a layout of where the building is to be located when he conducts his inspections. Mr. Kiefer stated that he would not. Mr. Fisher stated that there is not comparison as to where Mr. Yutzy stated he would build the building and where it was built. Mr. Lintner stated that there are three issues, the location of the building, too many employees and additions being built to the building.

Mr. Feece stated that there would also be a serious issue, if there was a spray booth added without the proper disposal, i.e. treatment plant. He stated that young families are being exposed to VOC's, volatile organic compounds being released into the air. He stated that creates a potential threat of lung disease, cancer etc. to those in the area. Mr. Fisher stated that he felt that Mr. Yutzy's operation should have been located in an industrial park initially, as he was bring in finishing materials by the drum. Mr. Feece stated that if there was a spillage all those chemicals would be released into the local water supply. He stated that if everyone else has to follow the rules, Mr. Yutzy should also have to follow the rules as others that are in the business do.

Mr. Wickey stated that Mr. Yutzy approached him to purchase the business. He stated that he left his job and worked for Mr. Yutzy as a salesman. He stated that he was not willing to take on the responsibility as he knew the business was not in compliance.

Mr. Dinius asked what action would need to be taken? Mr. Kiefer stated that he would investigate and bring his findings to the Board of Zoning Appeals meeting next month.

Mr. Fisher moved and Mr. Lintner seconded a motion to table the request. The motion passed by a unanimous vote of approval.

The last item was other business. Mr. Yoder stated that there would be an excellent program on Septic System Awareness on November 29, 2004 in Warsaw.

Mr. Lintner stated that he would be recommending that Mr. Booker be elected County Council representative to the Plan Commission. He stated that he has enjoyed his time on

the board, but felt that the board will be well served by Mr. Booker as he is a very knowledgeable and important member of the community.

There was no further business before the board. The meeting was adjourned.

Respectfully submitted,

Harold VanVactor
Secretary