

Minutes of the April 28, 2005
Regular Meeting of the
Marshall County Plan Commission
112 West Jefferson Street, #203
Plymouth, Indiana 46563

MINUTES

President David Dinius called the meeting to order at 7:30 p.m. on Thursday, April 28, 2005, in Room #307 of the Marshall County Building. Present were: Commission Members Ralph Booker, Thomas Chamberlin, Gary Davis, David Dinius, Larry Fisher, Ronnie McCartney, Harold Van Vactor, Robert Yoder, Plan Director Troy Kiefer, Secretary Leesa Kolter, Doug Feece, City Officio, and interested parties. Absent was member Max Watkins.

The first item of business was the review of the minutes from the March 24, 2005 meeting. Mr. McCartney moved and Mr. Davis seconded a motion to pass the minutes with corrections. The motion passed by acclamation.

The second item of business was case 05-PC-07, Cornerstone Fellowship, A request for a Special Exception to permit a Church and related recreational areas on property located on 1B Road, in an A-1, Agricultural District, Section 28 of North Township. Mr. Stephen Cox, 4291 Michigan Road, and Mrs. Sue Gobel, 3624 Nutmeg Road were 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 Board of Zoning Appeals who would make the final decision. He stated that the proposed church would be 70' x 130' with proposed additions in the future. He stated that the church would be accessed by Maple Road. There were various recreational areas proposed at the site. Mr. Kiefer asked if the areas would be open to the public. Mr. Cox stated that it was not intended as a public park. Mr. Kiefer stated that if the park were to be open to the public and charged admission, they would need to come and receive approval for that use.

Mr. Kiefer stated that on the plan a septic area was shown and on site well. He stated that there was the possibility of accessing service from Lapaz for waste water disposal.

Mr. Fisher asked if the whole site plan was to be reviewed or just the church site. Mr. Kiefer stated that the whole site would be reviewed. Mr. Fisher stated that some of the recreational areas were infringing upon the required setbacks for regulated drains. Mr. McCartney asked if they had right of entry, 75' from the bank? Mr. Fisher stated from the top of the bank. He stated that a variance from the drainage board would be required to infringe the right of entry. Mr. Kiefer stated that if approved by the BZA, the plan set forth would be locked into place. He stated that any changes would require approval from the BZA.

Mr. Fisher stated that he talked with the Architect in charge, and he had failed to tell him of the regulated drain on the West side of the property. He stated that there was a tile that parallels the railroad from the open ditch to Lapaz along the railroad right-of-way. Mr. Cox asked if that would require another 75'. Mr. Fisher stated that was correct, and they would also be able to consult with the Drainage Board for a variance.

Mr. Fisher moved and Mr. Van Vactor seconded a request to open the public hearing. The motion passed by acclamation.

- Tim St. Claire, 17521 Ireland Road, South Bend, spoke regarding the request. He stated that regarding the 75' setback, the church had plans to plant trees at some point. Would the trees have to steer clear of the setback?

Mr. Fisher stated that approval would need to be received from the Drainage board.

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

Mr. McCartney asked if there were setbacks imposed upon the parking lot. Mr. Kiefer stated that they would not be able to have parking within the right-of-way, but they were not required to adhere to the standard building setbacks.

Mr. Fisher asked if there would be further review. Mr. Kiefer stated that upon application for building permit, he would review it to be sure it meets all criteria.

Mr. Booker moved and Mr. Davis seconded a motion to forward the request to the Board of Zoning Appeals with a favorable recommendation. The motion passed with a unanimous vote of approval.

The third item of business was case, 05-PC-08, Roland Swank, A request for a Final Plat Amendment to Barabra Washnock's Addition Lots 32, 33, North ½ 34 located on East Lake Shore Drive, Lake of the Woods, in an L-1, Lake District, Section 6 of German Township. Mr. Swank was present to represent the request. Mr. Kiefer gave the details and presented the Findings of Fact. The Plan Commission would have the final say on the request. Mr. Kiefer stated that the request was to create two lots. He stated that the lots would not conform to current standards, but they would become more in compliance. He stated that Lake of the Woods has sewer district, so septic is not an issue. The lots would be subject to current setbacks. He stated that on the North lot, a variance would be required for a new home, as there would be two front yard setbacks.

Mr. Booker stated that the proposal would place two homes where there was one before. Mr. Kiefer stated that was correct, but he could do that without any action from the Plan Commission, although the lots would be smaller; forty foot instead of fifty foot. He stated that the lots were grandfathered. Mr. McCartney asked if the home was still on the half lot; what

would the required setback be? Mr. Kiefer stated that the home was still there, the required setback would be ten percent of lot width, six feet.

Mr. Swank stated that he is representing his father's estate. He stated that the goal was to keep one of the lots in his family.

Mr. Van Vactor moved and Mr. McCartney 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. Booker moved and Mr. Fisher seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Booker stated that the Plan Commission would be approving a lot that they know could not meet the setback requirements. Mr. Kiefer stated that the lot already exists, if approved it would be come more in compliance. He stated that a variance would be required whether the requested plat would be approved or not.

Mr. Fisher moved and Mr. Davis seconded a motion to approve the request. The motion passed with a unanimous vote of approval.

The next item of business was case, 05-PC-09, Jerry Hahn, A request for a Vacation of a 150' unimproved Right-of-Way between Lots 3 & 6, Block 10 of the Original Plat of Tyner, Section 10 of Polk Township. Mr. Hahn 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. He stated that if the vacation were approved, it would leave a dead end and he would propose bringing the last section of alley before the Plan Commission at a later date, so as not to leave the dead end.

Mr. Hahn presented a survey, which shows that 2 ½' of his garage was within the right-of-way. Mr. Davis asked if vacated, would it be split between the land owners. Mr. Kiefer stated that was correct.

Mr. Hahn stated that he would like to place a fence on the property. He stated that he has propositioned the neighbors to purchase their portion as well. Mr. Dinius asked if the neighbor was opposed to the vacation. Mr. Hahn stated that he did not want to pay taxes on it. Mr. Hahn stated that he told him he would be willing to purchase his half. Mr. Dinius stated that the neighbor was notified and was not present to object. Mr. Kiefer stated that he has not had communication with the neighbor.

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

- Charles Griggs, 4748 Allen Street, spoke regarding the request. He stated that he rents the home beside Mr. Hahn. He stated that he has talked to Mr. Peacock about petitioning to have the alley closed, with no luck.

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

Mr. Van Vactor asked if they close the right-of-way and the owner does not pay taxes what would happen. Mr. Booker stated that he would lose his property. Mr. Kiefer stated that Mr. Peacock was given notice, and could attend the Commissioner's Meeting to object. Mr. Yoder stated that if Mr. Hahn had talked to the neighbor, he was aware of what was petitioned.

Mr. Dinius asked how many property owners would be involved with the right-of-way that would be a dead end. Mr. Kiefer stated that he does not know who would be involved. Mr. Yoder asked if there would be any utilities within the right-of-way. Mr. Kiefer stated that there were not. Mr. Dinius stated that if the Plan Commission takes action, it would be appropriate to include the dead end at the same time.

Mr. McCartney asked if the request should be tabled and the additional right-of-way be considered, then taken to the County Commissioner's as one package. Mr. Dinius stated they could vote on the request before them, but hold it until they could take it to the County Commissioner's as one request. Mr. Dinius stated that since they would be reviewing the possible vacation of another portion of the alley, it would possibly be June before the matter would be brought for consideration by the County Commissioner's. He asked Mr. Hahn if that would be okay with him. Mr. Hahn stated that would be okay.

Mr. McCartney moved and Mr. Davis seconded a motion to forward the request to the County Commissioner's with a favorable recommendation. The motion passed by a unanimous vote of approval.

Mr. Kiefer stated that Mr. Hahn works during the day and would have a hardship attending the Commissioner's meeting. He asked Mr. Chamberlin, County Commissioner, if he could be exempt from having to attend the Commissioner's meeting. Mr. Chamberlin stated that it would not be a problem for Mr. Kiefer to attend without Mr. Hahn.

There being no other business before the Plan Commission, Mr. Booker moved and Mr. Van Vactor seconded a motion to adjourn to Executive Session to discuss Personnel Matters. The motion passed by acclamation and the meeting adjourned.

Respectfully submitted,

Ralph Booker,
Secretary