

February 28, 2019
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 8:00 p.m. on Tuesday, February 28, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Craig Cultice, Stan Klotz, Dan Voreis, Bob Yoder, Terri Barnhart and Dave Hostetler. Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Members absent were Mr. Berger, Mr. Miller, and Mr. Roose.

The first item of business was the review of the minutes from the January 24, 2019, meeting. **Mr. Hostetler moved and Mr. Cultice seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-02 FRAZIER, Greg & Sara – A request to vacate a portion of the alley to the west of their property and vacate a portion of the ROW to the south of property to allow for septic repair; located at 849 Queen Rd., Walkerton, IN Zoned T-1. Mr. & Mrs. Greg and Sara Frazier were present to represent their request. Mr. Adley presented the findings of fact.

The subject property is approximately 7,200 square feet (.17 ac) and currently has a failed septic system. The applicant is seeking relief in the form of a vacation of a platted alley and Right of Way (Polk Street). They are seeking to vacate their half of the alley which is approximately .007 acres as well as a 1,495 sq ft portion of Polk Street. Based on discussions with the Health Department, the Frazier's are in need of additional property in order to accommodate a new system.

Mr. Cultice doesn't have a concern with the alley, but has a concern with vacating 23' of a 60' street that drastically reduces the roadway.

Mr. Frazier commented that the surveyor was the one who came up with the 23' roadway vacation. The applicant's only need is to get the minimum of whatever is required by the Health Department.

Ms. Stinson from the Health Department stated that the Frazier's need to get as much land the board will give them. Even with the request the proposed system will have to encroach

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on the existing system which is not optimal. Their current yard is all septic system. The Health Department understands the proposed system will be a best judgment and will not meet code. The only system that will fit on this property is a new technology called Inline Sand System which has a smaller footprint than the typical systems.

This area in Teegarden has an incredibly high-water table that the Health Department is not even sure if they can adequately modify the system which may require other deviations from the code that will allow a pump assisted perimeter drain.

The Frazier's have lived at this residence for ten years and to date have not had any issues. The tank was pumped for the first time in the fall of 2018 when they listed the house for sale. They do have a sump pump that runs 24/7.

Mr. Yoder had a concern why the Plan Commission would want to allow a chunk taken out of an alley that is not used anymore and why not vacate the whole alley. Also, questioned whether the board should vacate the whole road portion. Mr. Cultice asked Ms. Stinson if the board allowed a vacation of the roadway which would be the complete length of the house, but shorten the width of the request. Ms. Stinson said the further portion of roadway will not be helpful as it's too far away from the system. Which is why they are making the request they did as it's the only option for them.

Mrs. Barnhart made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

1. Joe Rodick – 837 Queen Rd. In Favor of the request.

There being no one else to speak for or against Mrs. Barnhart moved and Mr. Cultice seconded the motion to close the public hearing.

It was discussed whether the board could request to vacate the whole alley. Due to the legal advertisement, the board can only act on what was advertised. The board has the option to bring this back at a later date to vacate.

Mr. Hostetler made a motion to make a favorable recommendation to the Marshall County Commissioner's that 19-PC-02 FRAZIER, Greg & Sara – A request to vacate a portion of the alley to the west of their property and vacate a portion of the ROW to the south of property to allow for septic repair; located at 849 Queen Rd., Walkerton, IN Zoned T-1, seconded by Mr. Voreis. Motion carried with a voice vote 6-0.

The third item of business was 19-PC-04 MARSHALL COUNTY PLAN COMMISSION – Amend the Marshall County Ordinance, Article 6 Section 060, Fences, Hedges & Walls to add visibility requirements and setback requirements. Mr. Adley presented the findings of fact.

(All CAPS are edits) Fences, Hedges, Walls A. Permitted Fences, hedges, and walls are permitted in required yard setbacks. B. Fence Standards The following fence and wall standards apply: 1. Must present the non-structural face outward; 2. Are permitted up to the property line SO LONG AS THOUGH THE VISIBILITY REQUIREMENTS ARE MET IN ARTICLE 6 SECTION 250 VISIBILITY STANDARDS;

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C. Restricted Fences: Fences, hedges, and walls, except necessary retaining walls, are subject to the following restrictions in the front yard setback in T-1, Town Residential and the FRONT AND lakeside setback in L-1, Lake Residential Districts: 1. No fence, hedge, or wall may exceed three- and one-half feet in height; 2. A fence, hedge, or wall shall have at least 75% of its surface area open to permit visibility. 3. All side yard fences are limited to six (6) feet in height and must be of uniform color, and style construction materials. 4. FOR COMMERCIAL MULTI-PRIMARY STRUCTURE LOTS THE SIDE-YARD FENCE MAY BE EXTEND UP TO THE MEDIAN FOOT MARK BETWEEN AN ADJACENT SIDE YARD LIMIT AND THE LAKESIDE/FRONT SETBACKS. (SPECIAL USE REQUIRED) D. Swimming Pool Fences Swimming Pools, access to residential swimming pools shall be restricted by one (1) of the following means: 1. Walls or fencing not less than five (5) feet high and completely surrounding the pool and deck area. Doors and gates must be self-closing, latching, and capable of being locked. 2. Other means not less than five (5) feet high and deemed by the Zoning Administrator to be impenetrable and completely surrounding the pool and deck area when the pool is not in use.

Mr. Yoder doesn't believe there be many commercial structures on lake lots if any. It was his opinion if this request were to come in that it should go through a special use for review and approval.

Mr. Voreis made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

1. Lori Howshaw – 16945 12th Rd. Plymouth – Believes the proposal is confusing and doesn't understand the possibility of neighboring 3' fence then a 6' fence then another 3' fence.

Mr. Adley explained that will happen when the side yard fence can only be from the front foundation line to the rear foundation line. Unless all the houses are built at the exact same setback there will be varying fences from property to property.

Mr. Adley presented a drawing which showed multiple lake properties and the different setbacks of the homes and where fencing lines would stop and start. A lengthy discussion was had by board and attendees.

Ms. Hoshaw suggested there be an allowance for an interior fence at or near the house for privacy that doesn't require 75% opacity. Mr. Adley explained that in today's standards Ms. Hoshaw would have to go before the BZA to request a Variance of Developmental Standard if she wanted to build a 6' fence in her rear yard.

2. Joe Skelton – 3329 Lake Shore Dr., Bremen – Questioned the drawing and wanting to make sure lake views are not obstructed.

Mrs. Barnhart moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Yoder believes that under the current standards and commercial requests having to go to the BZA for approval he would suggest striking the section in the proposal on commercial.

Mr. Yoder made a motion to make a favorable recommendation to the Marshall County Commissioners 19-PC-04 MARSHALL COUNTY PLAN COMMISSION – Amend the

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Marshall County Ordinance, Article 6 Section 060, Fences, Hedges & Walls to add setback requirements, seconded by Mr. Cultice. Motion carried with a voice vote 6-0.

The fourth item of business was 19-PC-05 MARSHALL COUNTY PLAN COMMISSION – Amend the Marshall County Ordinance, Article 6 Section 6 Section 250 add a new section on Visibility Standards. Mr. Adley presented the findings of fact.

... Street, Alley and Driveway Intersection Visibility Requirements Corner Lot - All Districts -No fence, hedge, wall, sign or other structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2.5 feet and 8 feet above the established grade level of the intersecting streets or streets and alleys, in the area bounded by the property lines of such corner lots and a line joining points along said property lines 50 feet from the point of the intersection; except that the location of principal buildings, traffic control devices and public utility fixtures shall not be affected by this requirement. All Lots-All Districts - At the intersection of driveways, streets, sidewalks, or trails; no fence, hedge, wall, sign or other structure shall be erected, placed or allowed to grow in such a manner as to impede vision between a height of 2.5 feet and 8 feet above the established driveway grade level in the area bounded by the driveway, or sidewalk and lot lines and a line joining points along said lines 10 (is this sufficient) and (should this be larger for commercial and industrial lots or uses) feet from the point of intersection of such driveway, or sidewalk and lot lines.

Currently corners on a county road are 50'. You can't put anything in that 50' triangle each direction. As of now there is nothing in the ordinance about driveways, sidewalks and alleys. For safety in more dense areas there shouldn't be fences or hedges that could impede the vision.

Mr. Yoder asked how good are we at maintaining the 50' triangle opening today and how are we going to police this? Several commented that many farmers farm all the way out to the road.

Mr. Yoder also commented that he would like to see easements protected. When people put shrubs and fencing in the right of way it creates many difficulties.

Mrs. Barnhart made a motion to open for public hearing, seconded by Mr. Voreis. Motion carried by acclamation.

1. Tiffany Bohm – Asked if this rule only affects roadways/intersections or will it include easements. Mr. Adley said that it will include driveways.

Mr. Cultice seconded the motion to close the public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

Mr. Adley asked the board to exempt mail boxes from the proposal.

After a lengthy conversation the board agreed that they need further explanation and examples of scenarios to be able to make a decision.

Mr. Yoder made a motion to table the request until March, 2019, seconded by Mrs. Barnhart. Motion carried by acclamation.

2018 Marshall County Plan Commission/Board of Zoning Appeals Year-end Report

In 2018 new construction in Marshall County decreased to 749 permits from the 2017 total of 815 permits. Total estimated value of construction increased to \$ 68,416,914 in 2018 versus \$53,172,823 in 2017. Even with the slight dip in number of permits the valuation of those permits has raised yet again by 28%.

In 2016 the income for permits, contractor registration and fees totaled \$94,981 compared to last years \$78,610.

There was a total of 49 Board of Zoning Appeals cases heard, 11 Plan Commission cases heard, and nine new cases added to the 25 active violation cases.

Other

Lori Howshaw – 16945 12th Rd. Plymouth – Recalls the Plan Commission meeting on December 6th and the ruling to have Mr. Berg’s illegal fence down in 30 days. At the January hearing it was her understanding that a stop work order was issued to Mr. Berg, but doesn’t understand nothing has been pursued when the board said the fence was to be taken down in 30 days. Mr. Adley commented that the Stop Work Order was issued for the fence. At that time Mr. Berg was asked to come in and discuss his options. After contacting our legal counsel, it was his recommendation to take no more action until the Board of Zoning Appeals hears the case. The case will be heard on March 12, 2019. Ms. Hoshaw didn’t agree with legal counsels’ advice. Mr. Adley re-iterated that on the 6th the board finalized the discussion with recommending Mr. Adley speak to the board’s attorney.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Bob Yoder