

August 22, 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 7:30 p.m. on Tuesday, August 22, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members James Berger, Craig Cultice, Stan Klotz, Bob Yoder, Jack Roose, Dan Voreis, Matt Miller and Terri Barnhart. Plan Director Ty Adley and interested parties. Member absent was Dave Hostetler.

The first item of business was the review of the minutes from the July 2nd, 2019, meeting. **Mr. Miller 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-09 BENNINGHOFF, Frank & Kathryn -A request to Vacate Boyce St. south of Walnut Street between Lots 1 and 2 of Block 15 and Lots 7 and 8 of Block 16, in the Village of Tyner, Polk Township, Marshall County, Indiana. Frank & Katherine Benninghoff were present to represent their request. Mr. Adley presented the findings of fact.

Looking back into the history of the plat "Addition to Tyner City", we found that in 1989 the alleys for Block 10 were vacated as well as the North Easterly section of Boyce Street. In 1990, the alleys as well as the interior lot lines were vacated creating two singular lot blocks. The applicant is seeking to now vacate the South Westernly section of Boyce Street. Per the application the applicant is seeking to construct a pole barn within this space in the future. Based on the review of the Subdivision Ordinance, the process follows IC 36-7-3-10 through 16. Under IC 36-7-3-12 it is identified that the item be brought before legislative body. It has been in practice though to bring the item before the Planning Commission to review and then present the case to the County Commissioners.

Recommendation:

Based on the historical information, information provided under application and review by the Technical Review Committee which gave a favorable recommendation, Staff would recommend approval of the proposed vacation of platted right of way.

Currently there are 60-year-old trees in this area as it's not been used as a road in a very long time. In the future they would like build a garage in this location.

When asked if they are requesting the whole street or just half, they replied saying that they are requesting half and the other adjoining neighbors would receive the other half.

The applicants did speak with the adjoining neighbors and they verbally said that they didn't have

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a problem. There has been no written communication received for this request.

Mr. Roose made a motion to open for public hearing, seconded by Mr. Cultice. Motion carried by acclamation.

1. Jeanann Carrington – 17646 Main St. Plymouth – Doesn't have a problem with their request to build a garage.

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

Mr. Roose made a motion to approve 19-PC-09 BENNINGHOFF, Frank & Kathryn -A request to Vacate Boyce St. south of Walnut Street between Lots 1 and 2 of Block 15 and Lots 7 and 8 of Block 16, in the Village of Tyner, Polk Township, Marshall County, Indiana and forward to the County Commissioner's with a favorable recommendation, seconded by Mr. Miller. Motion carried with a voice vote 8-0.

The third item of business was 19-PC-10 MARSHALL COUNTY PLAN COMMISSION - Delete ARTICLE 3 Section 150 Building on Contiguous Lots. This was an Amendment to the Marshall County Zoning Ordinance with Ordinance No. 2016-24 (11-7-2016).

In 2016 under 16-PC-13 the Plan Commission approved as a recommendation to the County Commissioners to pass the creation of the Building on Contiguous Lots Ordinance. There were a couple of options, one to create the now existing process, and another to revise the definition. The concern initially was that "we do not want them sold separately if a structure or a septic system is built across a property line." The ordinance currently reads "A. Contiguous Lots – 1. Any construction for any single-family residence or accessory building or septic systems upon any adjacent contiguous parcels owned by the same party must have a recorded Contiguous Lot Form recorded with the Marshall County Recorder's Office. The definition of a lot is currently "Lot – A contiguous area of land separated from the other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot."

Recommendation:

Staff took the revision of the ordinance before the Technical Review Committee. The recommendation of the ordinance was favorable, but would like to get additional information before making a final recommendation to the Plan Commission. Therefore, the current recommendation is to Table the proposal for additional time and consideration with the remainder of the Plan Commission weigh in on the proposed ordinance revision. Staff would then recommend that the Plan Commission provide the necessary feedback in order to move the revision forward as well as to table the matter for any necessary additional information and bring the revision back before the Plan Commission at its next available meeting.

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Mr. Miller made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation. There being no one to speak for or against Mrs. Barnhart moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Yoder made a motion to approve 19-PC-10 MARSHALL COUNTY PLAN COMMISSION - Delete ARTICLE 3 Section 150 Building on Contiguous Lots. This was an Amendment to the Marshall County Zoning Ordinance with Ordinance No. 2016-24 (11-7-2016) and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mrs. Barnhart. Motion carried with a voice vote 8-0.

The fourth item of business was 19-PC-11 MARSHALL COUNTY PLAN COMMISSION - Amend Article 13 Definitions of the Marshall County Zoning Ordinance to read - Lot Definition - A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. The boundaries of the lot shall be determined by its lot lines.

In 2007 the Zoning Ordinance was amended and replaced in its entirety. Which by the best available information is when the definition of a lot was revised. The definition previously read "A tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street or a permanent easement of access, at least (20) feet wide, connecting to a public street." The current definition of a "Lot" is "A contiguous area of land separated from other areas of land by separate description for a purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot." Under the Subdivision and Control Ordinance the definition of a "lot" is "A single recorded tract or plot, which is the smallest unit of a subdivision or another parcel of land. A lot serves as a unit for the purpose whether immediate or future, of transfer of ownership or lease." The proposed definition of a "Lot" is "A contiguous area of land separated from the other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. The boundaries of the lot shall be determined by its lot lines."

Recommendation:

Staff took the revision of the ordinance before the Technical Review Committee. The recommendation of the ordinance was favorable, but would like to get additional information before making a final recommendation to the Plan Commission. Therefore, the current recommendation is to table the proposal for additional time and consideration with the remainder of the Plan Commission weighing in on the proposed ordinance revision. Staff would then recommend that the Plan Commission provide the necessary feedback in order to move the revision forward as well as to table the matter for any unnecessary additional information and bring the revision back before the Plan Commission at its next available meeting.

Multiple definitions of a Lot from surrounding counties were read to the board. The proposed revision is as follows:

A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. ~~It may be a single parcel separately~~

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~~described or a combination of such parcels when adjacent to one another and used as one (1) lot.~~
**** Add: The boundaries of the lot shall be determined by its lot lines.**

Alternative Proposed Revision

A piece, parcel, or tract of land designated by its owner or developer to be used, developed, or built upon as a unit under single or multiple ownership or control. The boundaries of a lot shall be determined by its lot lines.

If this revision is approved and someone wishes to build over the property line, they would be required to combine the lots legally before a permit is issued. If the parcels are in a subdivision and they are only removing the interior lot line a re-plat can be created and signed by the Plan Director administratively.

Mr. Cultice was in favor of the proposal.

Mrs. Barnhart made a motion to approve the Alternative Proposed Revision (as shown above) 19-PC-11 MARSHALL COUNTY PLAN COMMISSION - Amend Article 13 Definitions of the Marshall County Zoning Ordinance to read - Lot Definition and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mr. Cultice. Motion carried with a voice vote 8-0.

Attorney contract with Derek Jones

The proposed attorney contract with Derek Jones and his firm was presented to the board for their review. Mrs. Barnhart made a motion to approve said contract, seconded by Mr. Roose. Motion carried by acclamation.

Public Comment - Robert Demis

Mr. Demis wanted to bring to the attention to the board that there is fiber optic infrastructure (electrical boxes) being placed in the right of way that is about five feet from the road. There is a concern with this electrical box being placed so close to the road. Mr. Adley stated that Highway Department does have to approve this infrastructure, but Mr. DeWitt, the Building Commissioner, also has to inspect and approve each infrastructure and notify each electric company. Mr. Adley will speak to Mr. DeWitt about Mr. Demis' concern.

Public Comment – Don Abbott

Mr. Abbott would like to rent out part of his property to someone who sells yard barns. He wanted clarification if the front yard setback pertains to this situation or if he can put the yard barns that are for sale up to the property line. The consensus of the board was that the yard barns are material not necessarily structures. The yard barns can be placed just outside the right of way.

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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