

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

August 26, 2004

Vice Chairman David Mueller called the meeting to order at 7:31 p.m., with a quorum present.

Roll Call was answered by Mueller, Ervin Ediger, Willis Ensz, Bob Maxwell, Glen Unrau and Mary Avery. Chairman Eileen Sieger was absent. Zoning Administrator David Brazil was present.

Mueller reminded members of the public to please sign in. Mueller asked if anyone had any changes, or additions, to the agenda. There were none.

Mueller asked for corrections, or additions, to the Record of Proceedings of the July 22, 2004, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Ensz made a motion to accept the Record of Proceedings as written, and Unrau seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 4: A continued application for Tom Reid, requesting a variance from required front yard setback of 30 feet, to one foot, and from required back yard setback of 20 feet to one foot. Mueller gave a brief review of this application. Mueller asked Tom and Bev Reid to come to the commission table and remind everyone of their request. Bev Reid said they are proposing to build a garage between an existing garage and an existing two-room cabin. She said they are aware of public concern, but they will be one foot inside their property line. She said the bathhouse currently sits about 11 feet from the road. Dan Crumrine viewed the property and said it should not be a problem. Members had questioned a sketch Tom Reid had presented at the previous meeting. Tom Reid said he had his sketch reviewed and the garage should fit on the property, as planned. He said this is a uniquely shaped piece of property, so members should not be concerned about setting a precedent. Bev Reid reviewed the five conditions to be met to grant a variance, and said they believe their situation meets all five conditions. Maxwell made a larger scale drawing of the property, and presented his drawing to Mueller, and members, for review. Maxwell made two separate pieces, which represent buildings. He said they could go further to the east, if they want, but he is concerned there is no stop sign at Jerome going onto Lakeshore, so it may block the view. I don't know who regulates traffic out there, Maxwell said. I don't know what road and bridge does for setbacks, Brazil said. We were talking before about the overhang, but you've already addressed that, Maxwell told Tom Reid. Of the five items you addressed, I question four out of five, Maxwell said. Only one, number two, may, or may not be true, the rest I did not agree with, Maxwell said. Brazil said he received copies of sewer and water line easements. The sewer line is 10 to 15 feet from the property line, Mueller said. Looking at what he's doing, he's not coming out in back any further than the existing building, Crumrine said. The pump is fine where it's at, Crumrine said. His garage, where it exists now, is in the roadway, or easement, whatever you want to call it, Crumrine said. The two-room house is over the property line, he said. It should not be a problem because only 12 to 15 feet of road is being used, he said. The old house is grand fathered in and he's not moving it out

any further than it already is, Crumrine said. You've got two parcels, and they now own both, Brazil said. If you could pull the building back, we could get it off the property line, Brazil said. The existing garage is within one foot of the property line, Mueller said. Tom Reid said there is not that much room. We want to allow two feet for drainage, he added. Ediger asked if most of the road is closer to the other property. They're going to leave the grass alone?, Ediger asked and Crumrine said yes. Can they use part of the grass?, Ediger asked. That's not for us to determine, Brazil said. I still suggest probably the solution to the roads out there is to include the roads in the improvement district and maintain them, Brazil said. Are there other questions?, Mueller asked. Maxwell showed where he drew in red what the staff recommendation is. They would have a very narrow structure, but I continue to maintain the precedent we've set, Brazil said. What's unique about this property is it's a slice of pie, Brazil said. The issue I'm concerned the most about is public safety, Avery said. Avery told Maxwell his drawing helped members. I'm pretty sure I can get a stop sign put in there, Crumrine said. Are there other questions?, Mueller asked. Does anyone from the public wish to speak about this application?, Mueller asked. Gloria Shapel asked if a nearby tree will stay, and Tom Reid said yes. Crumrine asked if a shed is going to be torn down, and Tom Reid said yes. Are there any other public comments?, Mueller asked. Are there any other comments?, Mueller asked the applicants. Bev Reid reminded everyone that they are planning to remove a portion of an old building. Mueller closed the public hearing for this application.

Mueller reminded members they are acting as the Board of Zoning Appeals for this application. Avery asked Brazil if his recommendation stands. Yes, because of the precedent set, Brazil said. I'm not sure what standards road and bridge uses for visibility, Brazil said. It might not be a problem, at all, Maxwell said. Mueller asked if members had time to view this property. Maxwell went by several times. Ediger was out there on Sunday. And Avery went by. West of the property is used more for landscaping, Maxwell said. As they pointed out to us, we do have five very clear points, Mueller said, and reviewed the five conditions with members. Maxwell questioned number two, asking if they may possibly block any neighbor's view? Brazil said the new regulations have added triangular sites, recommending 90-degree or 60-degree intersections, but you really can't use it, because it isn't in place. Avery questioned new setbacks for Village One, and Brazil said eight feet. Mueller said number four of the conditions again brings up the possible safety issue concerning the view. Would it be possible to subject approval of this to road and bridge viewing the site, for the safety issue?, Brazil asked. I just am still concerned about the one foot setback, if it's going to come back to haunt us, Maxwell said. We can establish this is a unique property line, Mueller said. I believe, personally, there are grounds to establish this as a unique situation, Mueller said. Avery asked if members are going with what we have done before? Brazil said if that's the case, you went from 10 feet to three feet. As long as you can establish this is unique from that, you won't set a precedent, Brazil told members. The one-foot bothers me, so is there a way to come to a compromise and you (speaking to Maxwell) talked about moving the structure, and that would increase that side, Avery said. Maxwell showed members on his diagram. They want to allow for drainage, there, Ediger said. To try and channel the water around a structure is a problem, and the last thing we want to do is make it worse, Mueller said. Maxwell did some measuring on his diagram, but said they would need to cut down the size of the garage. Mueller asked Unrau if he had any comment. Unrau said he is at a disadvantage because he was not present at the last meeting. We do a lot of things because they're unique, Maxwell said. As long as they don't disrupt other people's lives,

or are a safety issue, he added. Maxwell reminded members he suggested going with the staff recommendation, and let the applicants make it work. The whole issue is they are asking for a one-foot setback, Maxwell said. And, this is the only issue that is involved here, he said. Can we set a three foot?, Maxwell asked. Over the years, it was 30 feet front, 20 feet back, and 10 feet side, Brazil said. Precedents we've allowed for have gone from 30 to 20, 20 to 10, and 10 to three, he said. And that's why I go back to this, is that's the precedent we've established, although this is a unique piece of property, Brazil said. We had one where it was one foot on an alley, and that is definitely a concern, Mueller said. We've always tried to work together to find a solution to a problem, and this presents some unique issues and I know they have a garage they wish for, Avery said. Others all have property lines right up to the street, but here they have 19 feet here, and I know it's not their property, but the land is there, Ediger said. It's hard for me, because I know we're violating our rules, but in actual footage, we're not, he added. I kind of agree with Ervin, this is a unique place and if possible I'd like to see them make it work, Ensz said. Primarily, safety is the main concern, Avery said. And David (Brazil) has a suggestion to help with it, she added. Ediger made a motion to grant a one-foot setback, as stated, with the safety issue met with road and bridge specs for the stop sign and line of site. Ensz seconded the motion. In favor: 4; Opposed: 2; Motion carried. Mueller asked Brazil to explain the process to the applicants. Mueller thanked Crumrine for his assistance with this application.

Item 5: An application for Samuel Hendren, requesting a rezone from agriculture to rural residential, for property located in West Branch Township. Mueller reminded members they are acting as the planning commission for this application. This application was published in the August 4, 2004, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Hendren was present to speak about his application. He told members he is asking to rezone 10 acres of 40 acres, to rural residential from agriculture. Mueller asked Hendren to outline his intentions on a map. The 40 acres is rectangular, and the 10 acres is also rectangular, in shape. The residence is closer to the east side. Mueller asked about setbacks, and Hendren said that should not be a problem. Hendren had the 10 acres surveyed, as the bank required it. Mueller asked Brazil if he needs the survey, and Brazil said he has a copy of it. Maxwell questioned one of the photos of the property, and Brazil said the photo is of a new well. Ensz asked and Hendren said the home is two years old. Hendren said Brazil suggested he show where he eventually would like to put a garage. The lagoon does have a fence. Avery questioned the reason for the zoning change request. Hendren said 40 acres is a burden and the adjacent landowner is willing to purchase the land. David Jost is the interested buyer, and he was present at the meeting. His son in law lives on the property next to mine, and he acquired it because his son in law does not farm, Hendren explained. Maxwell questioned the driveway location. There are two drives, one his son in law uses, and the other goes to my house, Hendren said. Brazil showed members on a map where Hendren's home and the son in law's home are located. The son in law owns 17 acres, Brazil said. Maxwell made a diagram of the property, and questioned the driveway. I assume the acreage includes the drive, Hendren said. Maxwell questioned access to the property. The gravel road turns to a dirt road. Obviously, if the driveway isn't in there, it needs to be, Hendren said. Brazil showed members on a map where the driveway is located. Maxwell showed members on his diagram where the gravel road stops. The gravel road goes right to the son in law's drive, Jost and Unrau agreed. Brazil reviewed the survey. Maxwell said it appears to me his drive is right on the 40-acre property line. Mueller showed members on

a map where the property line is. Mueller asked if there were any other questions. Mueller asked if anyone from the public wished to speak about this application. Hendren said there is a dog trail. I wonder if that's what is confusing us?, Brazil asked. We've got to maintain 50 feet from the house, on all sides, Brazil said. When they surveyed it, did they put up flags?, Mueller asked. Maxwell asked if they could both use the drive. If it was on the 40 acres, we'd need a condition of access easement, Brazil said. I think all the other conditions are met, so can we just put a condition attached to the recommendation that the setbacks are okay with the survey?, Mueller asked. If anything, the road would be on the edge of the 10 acres, Brazil said. It would have to include the road, but we can double check, Brazil said. Are there any other comments?, Mueller asked. Are there any other comments from the public?, Mueller asked. Mueller closed the public hearing for this application.

Mueller reminded members they are acting as the planning commission for this application. Maxwell made a motion to recommend approving a rezone for 10 acres from agriculture to rural residential with the attached condition of verifying the survey for road access and separation distances. Avery seconded the motion.

In favor: 6; Opposed: 0; Motion carried.

Mueller asked Brazil to explain the process to Hendren.

Item 6: An application for Vernon Koehn, requesting a variance for construction of a singlewide manufactured home. This application was published in the August 4, 2004, issues of the *Marion County Record, Hillsboro Star Journal and Peabody Gazette Bulletin*. Koehn was present to speak about his application. He wants to replace a 14-foot by sixty-foot mobile home with a 16-foot by 80-foot manufactured home. This property is near Burns. The reason for this is the cost is a little too much for us to move in a doublewide, and we need three bedrooms, instead of two bedrooms, Koehn said. You did include a drawing, which is appreciated, Mueller told Koehn. We've thought of building, but it would not look good to add on, as the structure there is all metal, Koehn explained. It'll be a nice improvement, Mueller said. We've maintained not issuing permits on singlewides mobile homes, Brazil said. Historically, we have not approved these as a primary structure, but as a secondary residence we have approved them, but only as a secondary residence, not as a primary residence, so really this limits it as a guesthouse, Brazil said. Ediger asked if it will be on a permanent foundation. The present one is not, but this one we'll make more secure, but it will not be unless it's required, Koehn said. The requirements in our zoning regs is for a permanent foundation, Brazil said. So, if we approve this, you will address that with the construction permit?, Avery asked and Brazil said yes. Brazil explained there are three categories: mobile home; manufactured home; and residential designed manufactured home. You've essentially got a singlewide instead of a doublewide, but the requirements remain, Brazil said. He could do the pads to support the structure, Brazil said. After the fact, I've seen people do the cinder blocks to seal it as a permanent structure, Brazil said. The way it was published, I suppose you could attach it, but you're talking about separate points within the regs, Brazil said. Ensz said it hasn't blown away, yet, and Koehn said no. I really believe the intent of those regs was to establish a permanent structure, but really what we came here tonight for was to address the 16 feet, Brazil said. Did you know it was going to be a 20x80?, Unrau asked. I thought it was going to be a 16x80, Brazil said. Does anyone from the public wish to speak about this application?, Mueller asked. So, we're looking at 16x80?, Mueller asked

and Koehn said yes. Are there any other comments?, Mueller asked. Mueller closed the public hearing for this application.

Mueller reminded members they are acting as the Board of Zoning Appeals for this application. As long as he puts it on a good foundation, and it sounds like he has it there, Ediger said. Avery made a motion to approve a variance for construction of a secondary residence only for a 16x80 feet manufactured home, in an agriculture district, only for the purpose of housing agricultural operation personnel. Maxwell seconded the motion.

In favor: 6; Opposed: 0; Motion carried.

Mueller asked Brazil to explain the process to Koehn.

Members discussed zoning regulations. Mueller asked Brazil to give members an update on the regulations. Brazil asked members if they read the letter from the consultant. Brazil reported the regulations have been cleaned up, considerably. Sieger and Brazil found a couple places that still need attention, but we could go ahead to the public hearing with it, he said. Sieger found a blank page, and also that Article 18 on sign regulations is missing, Brazil said. Brazil said he got the sign regulations, today, and inserted them. Brazil handed out a copy of the sign regulations chapter to members. The first few pages are really definitions, and page six is the heart of it, Brazil told members. Brazil said the sign regulations can all be adjusted, if needed. Brazil said he grouped agriculture and rural residential together, and Suburban Residential and Village One, in the same group. He said on page eight there were no changes involving manufactured home parks. On page nine, he separated out Commercial One from Commercial Two and Three. In Section Six, CP2 and CP3 have the same requirements, but with CP3 there is a special billboard section. There are some requirements for illumination, Brazil said. Only CP3 allows for billboards, he said. You wouldn't want a billboard on Main Street, at least I wouldn't want it, he said. You can change it and allow billboard in all sections, he said. We may never have to deal with this, but I prefer it have to come before the planning commission, Brazil said. I went through it several times, and I'd recommend it as an article, he said. I wish it was in there, earlier, he added. Eileen was wise to point that out, Brazil said. I don't know what your comfort level is for this, he said. I'm for pushing it through, he said. You may want to relax what I put down and that would be fine, he added. This would get something in place, Mueller said. I don't think there is anything extreme, Brazil said. Ediger asked about memorial signs, and Brazil showed where this is addressed in the sign regulations. I'd like to go back to the lighting of billboards, Unrau said. When they have floodlights on the ground, and if you are coming from the opposite direction, some of those are very imposing, Unrau said. I think we ought to be strict about it, he said. That the lights come from the top of the billboard, he added. Brazil pointed out where this is addressed. Mueller read the part that addresses this, but it only pertains to other traffic signs and not obstruction to drivers. Unrau pointed out that number three addresses floodlights. That was a good question, but we found it, Mueller said. I'd rather see it put in place just to keep the process going, Brazil said. Where are we on time?, Avery asked. If you choose to send this to the public hearing, we can do that at our next regular meeting, Brazil said. We could meet an hour or an hour and a half early, before our regular meeting, he said. We really need to move, Mueller said. It could be back to you in October and go to them the first or second week in November, and you're pushing the end of their term, Brazil said. Avery asked if members need a work session the first part of September and then a public hearing at the regular meeting. I recommend we take this to public hearing and Ill make any changes you want, in house, Brazil said. I agree,

we need to move to public hearing, Mueller said. The thing about the public hearing, once you've said this is what we're going with to the public hearing, you can't change it, Brazil said. Can we still make recommended changes at the public hearing?, Avery asked. What you take to the public hearing can't be changed, Brazil said. You would probably have to have another public hearing, Mueller said. Maxwell had several things he went over with members. Mueller asked how many copies are printed and Brazil said 11. You're going to end up with a glossy copy at the end, Brazil said. Maxwell pointed out several pages where numbering was off, and where other requested corrections had not been made. Members discussed how to monitor the number of garage sales held in a year. But, who and how will it be monitored?, Maxwell asked. Probably unless there is a complaint filed....., Brazil said. The concern is doing it all the time, like a thrift store, Brazil said. If it's a nuisance, we need to take a look at it, Unrau said. If it's a business, they need to be paying taxes and charging sales tax, Avery said. How do we address it, and at the same time not penalize others?, Brazil asked. I've got to compliment you and Eileen for spending all that time on this, Brazil told Maxwell. Your skills are really going to be a valuable tool, he added. I think you've added a lot to our committee, Avery told Maxwell. An official thank you, Mueller said. I need a picture, Mueller added about Maxwell's diagrams. Any other thoughts, or issues?, Mueller asked. I feel we've pretty well hammered it out, he said. You can make amendments following the public hearing and not have another public hearing, Brazil said. Mueller said he would recommend the zoning regulations for the public hearing, with the changes to Article 18, and pages 44, 51, 94, 98, 122 and 138. And re-number throughout, Avery added. Unrau made a motion to recommend the zoning regulations and subdivision regulations, with changes, proceed to public hearing on September 23, 2004, at 6 p.m., in the courthouse. Ensz seconded the motion. In favor: 6; Opposed: 0; Motion carried. And it will be published, as required, Mueller said. Maxwell asked about the subdivision regulations. It's pretty much a cookie cutter, Brazil said. Brazil asked Maxwell if he has received the By Laws, yet, and he said no. Avery asked if members should bring the copy they have now to the public hearing, or if they will get a new copy with corrections prior to that time. Members decided to wait on new copies. Are there any off agenda items?, Mueller asked. Ediger made a motion to adjourn and Maxwell seconded it. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 9:55 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman