

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

December 14, 2006

Chairman Eileen Sieger called the meeting to order at 7:34 p.m. Sieger explained member Ervin Ediger is having surgery next week.

Roll Call was answered by Sieger, Marquetta Eilerts, Glen Unrau, Willis Ensz, David Mueller, Mary Avery and Bob Maxwell. Ediger was absent. Marion County Commissioner Dan Holub, Zoning Administrator Bobbi Strait, and Consultant Dave Yearout were present. Sieger said there is a quorum for both the planning commission and the Board of Zoning Appeals. Sieger asked if there are any items for off agenda and no one had anything to address.

Item 3: Record of Proceedings from the October 26, 2006. Sieger asked if there were any additions or corrections. Mueller made a motion to approve the Record of Proceedings as written and Maxwell seconded the motion.
In favor: 7; Opposed: 0; Motion carried.

Item 4: Application for Phillip and Lorene Smith, requesting a variance from required minimum width of 22 feet to 16 feet, for property located in Clear Creek East Township. This application was published in the November 1, 2006, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Sieger reminded members they are acting as the Board of Zoning Appeals for this application. Sieger asked members if they wished to appoint Maxwell to the Board of Zoning Appeals to fill Ediger's position at this meeting. Mueller made a motion to appoint Maxwell to fill Ediger's position on the Board of Zoning Appeals for this meeting and Ensz seconded the motion.
In favor: 6; Opposed: 0; Abstained: 1; Motion carried. Maxwell abstained from voting. Yearout asked that we note this meeting was continued from November 30, 2006, due to the weather. Sieger thanked the applicants for waiting. Phillip Smith explained they have a 16x80 manufactured home that was built in 1987. It is wood sided and has a pitched asphalt roof, Smith explained. Smith asked Strait if she brought the photos of the home and she said no, but it is in really good shape. Sieger asked and was told it is an existing manufactured home site. Sieger asked if there is a foundation and Smith said yes. Is this close to your home?, Sieger asked. It is one mile from my home, Smith said. It is a short quarter mile from my mother's house, but in another section, Smith said. There was an old farmstead there and we had a manufactured home in there from 1975 to 1984, Smith said. There is an old septic system that won't be used and there is a garage on the site, Smith said. Mueller asked Smith to explain why he wants a manufactured home there. It is just for now, Smith said. The place where my mother lives, which is down the driveway on the opposite section, when the time comes that will be the kid's home, Smith said. He said his mother is 90 years old.

So, this is a transition?, Mueller asked and Smith said yes. So, this is a temporary situation?, Sieger asked. Yes, it could be 10 years, Smith said. If we could have the option to renew it in 10 years, Smith added. I lived in a manufactured home for four years and I don't want to see my kids living in one all their lives, Smith said. Maxwell asked if they would move it off the property once the mother isn't living in her home and they are ready to move. I suppose so, Smith said. You said there is a well, is there electricity?, Mueller asked and Smith said yes. Ensz asked and Smith said he owns a total of 160 acres. The nearest resident to the north is three miles and to the south is three to four miles, Smith said. We are one mile off the Chase County line, Smith said. So, it wouldn't exactly be disturbing anyone, Mueller said. No, the only one they are disturbing is me right now, cause they are living with me!, Smith laughed. Ensz asked if this property is on a gravel road and Smith said yes. When we set the septic up back in 1975, we were just starting to get down to the clay, Smith said. Maxwell asked if the well is being used now, to water livestock, or anything, and Smith said no. Eilerts asked if they know the well is okay. This was probably a two, to two and a half gallon well when we drilled it, Smith said. Everything you drill you run into sulfur, but the springs run clear as can be, Smith said. The well was drilled in 1975, Smith said. It's a PVC well, not an old metal casing, he said. We'll test it, he added. It's still got a sealed casing on it, Strait said. You may have to flush it, but it should still be good, Strait said. Sieger reminded members to look at what we've done in the past. Sieger asked if there was any other information, or questions. Tell them about your wife, Strait told Smith. Part of the reason the kids are coming back is Jan's health, Smith said. She has Alzheimer's, Smith explained. Our other son got a variance a year or so ago from you, and these kids are just trying to get back closer, too, he said. Apparently we haven't received any public comment, Sieger said. Sieger asked if there was anything else. I think we pretty well covered it, Smith said. I understand the zoning laws, and we need some guidelines, but at the same time this is how Jan and I started back in '75 and I think they should have the opportunity, Smith said. I said I don't want them to live there all their lives, but this is an economical solution for them, Smith said. Sieger closed the public hearing for this application and opened the floor for discussion.

Avery asked for a staff recommendation. The staff recommendation is to let him do it, Strait said. You have allowed previous applicants to do it with other mobile homes, Strait said. Manufactured homes, Mueller said. There's a water connection, there's electricity, the pads are still there, so I see no reason to make them build a permanent home there if they plan to move into grandma's house in the future, Strait said. And, especially to build a house if you're not going to live there, it would be almost impossible to sell, Mueller said. It's alienated out there in its own neck of the wood, Strait agreed. I agree the way this situation works out, that it would be advantageous for everyone, Mueller said. We have approved these in the past, and I was one that got one, Mueller said. Wood siding and a pitched roof are good, and the 10 years with a temporary permit would be in line, Mueller said. If the situation warrants, when they are no longer in it, it would be

good to move it off, Sieger said. Maxwell and Mueller agreed. I think that's their intent, Mueller said. Mueller made a motion to recommend approval of the application for a variance for a 16x80 manufactured home for Lorene Smith as outlined in the application, for a 10 year variance with the stipulation that when the home is vacated it is to be removed. Eilerts seconded the motion.

In favor: 7; Opposed: 0; Motion carried.

When did you say your family arrived out there?, Maxwell asked and Smith said 1870.

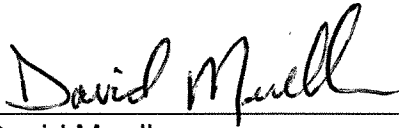
Sieger said there are no off agenda items. Sieger reminded members the next regular meeting is scheduled for January 25, 2007. Ensz had to leave at this point. Avery made a motion to adjourn the regular meeting and Unrau seconded the motion. In favor: 6; Opposed; 0; Motion carried.

Members began the work session by reviewing a draft handout from Dave Yearout. Sieger asked members to begin with the first page. Sieger asked if this is the one time split outline and Yearout said yes. It would not require a rezone or a plat, Sieger said. The theory behind it is to create another lot and rather than go through a debate on rezone, it allows it to be done, Yearout said. This also pick ups the issue of mortgage splits, he said. The administrative kicker is the owner has to agree to do it as a one time split, Yearout explained. In exchange for no rezone and no plat, the owner agrees no other splits, Yearout said. My experience has been this has worked well when people truly just want to accommodate family situations, Yearout said. The kicker is the covenant, Yearout said. The covenant requires you rezone and plat everything people who split off the first time are balking at, Yearout said. I ask why the reluctance to participate and no one knows, Yearout said. This has been upheld in the courts, Yearout said. So, the covenant has held up, because I wondered how much teeth this covenant has, Sieger said. You've got the latitude to craft your subdivision regs how you want, Yearout said. Yearout pointed out at the bottom of page two of his draft, where it refers to 1992. Sieger questioned having subdivision regs in 1992. She said we had zoning in 1992. Basically, it is an ag lot split agreement that is recorded and carries the weight of being a recorded document, Yearout said. The county is given consideration in this agreement, Yearout said. One part of the first page is the first split can't be greater than 10 acres, right?, Sieger asked. It can be whatever, Yearout said. Is that what you recommend?, Sieger asked. Part of this is going to be driven by why are they dividing off to begin with?, Yearout said. Yearout talked about mortgage splits. He said the average is five acres, but some go up to 10 acres. The only exception I've seen in one case was if they had existing improvements on the acreage, Yearout said. What happens if someone has a tract and then they get the mortgage paid off, what happens then?, Sieger asked. Most people will not go back and have it reattached, but they could have it released if they want to, Yearout said. There are other players in the game, Yearout said. I just want everyone to be aware that this is happening, Yearout said. It depends on what your local lenders are doing, but a lot of people are also Internet shopping for the

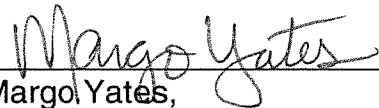
best interest rates, Yearout said. Eilerts said she would think 10 acres would cover most situations. You don't want an uninhabitable lot, either, Strait said. There are things happening that are changing so rapidly, Yearout said. You try to match up the rules so they work well together, Yearout said. Sieger mentioned water and sewer systems. We need to get a consensus on how to handle transactions and have all the documents work together, Yearout said. Eilerts asked about the progress on determining how many properties less than 40 acres are in Marion County. You don't want to know, Strait said. Yearout explained what they have been working on with the mapping department to determine this information. He said they forgot to take out mobile homes sites, to separate them. He said there are a lot of cemeteries and some old school sites. He said they used enlarged aerial maps, but it took nine maps just for West Branch Township. Now, he said, they are trying to match up properties. Yearout showed members a large map and how properties are mapped out and the challenge of identifying the different classes of zoning. There are obviously a lot of nonconforming lots, Yearout said. Those maps are going to be very helpful, Sieger said. This is more complicated than we anticipated, Eilerts said. So, you almost have to go through each one, Sieger said. So, what happens with what has already been split?, Sieger asked. You can't go prior to zoning, Yearout said. If a property is nonconforming and they want to add a room, or a garage, they have to go through the process because the administrator can not issue a permit as it is, Yearout said. That would create a lot of hardship, Eilerts said. I hate paying property tax as much as the next person, but I really hate when someone is not paying taxes because that means I'm paying their taxes, Yearout said. On the flip side, if you were ever to have an uninsured loss such as flood damage, FEMA (Federal Emergency Management Agency) will only pay what the county tax record says it is worth, Yearout said. We have the ability to kick out a set of maps for the entire county and you create the whole zoning map, Yearout said. So, if it is a single owner that has parceled these out, individually, how will that play into what you are doing?, Avery asked. We will determine the date it happened, either before or after zoning, Yearout said. Strait reported the county is going to get color copiers so they can produce color copies and they can go on-line to get the overlays. Avery asked how long it will take to do all this. It's going to take some time, Yearout said. Ideally, all this will go into a data base and we can have power point capability in the commission room, Yearout said. We plan to have that capability, soon, Holub said. We can get software and have the ability to pull up individual properties and information, Yearout said. Maxwell asked about the draft from Yearout and if there is language that would forgive nonconforming land. It's not a forgiving issue, Yearout said. I'm not a big fan of telling someone you are nonconforming, Yearout said. We can go through and color code the map and see what we've got, Yearout said. There isn't a mechanism to forgive, Yearout said. It's not a problem until you want to refinance, or sell, Yearout said. If a house burns down, can we rebuild?, Yearout asked. No, because it's nonconforming and state law says if you are nonconforming and whatever is nonconforming is lost, you can't reestablish, Yearout said. There just isn't the latitude, Yearout said. I understand what you

are saying very well, Yearout said. There are a lot of other dominos that fall, depending on what you are doing with the property, Yearout said. How would you all like to proceed, and are there any other questions?, Sieger asked. Or comments on the draft handout?, Sieger added. I think he said he needs to continue, Eilerts said. As for the draft, just digest it and we will go back to it in January, Yearout said. Unrau will not be at the January meeting. Terms are expiring for Sieger and Eilerts, and there is still an open seat in Bob Hein's district. Avery asked about an article in the newspaper about trailers at the county lake, and if that will involve this board. It shouldn't, Strait said. We are looking at it, and seeing what kind of input we get, Holub said. It's just in the discussion stages, we've got a long way to go, Holub said. Eilerts made a motion to adjourn and Mueller seconded the motion. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 9:43 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



David Mueller,
Chairman



Margo Yates,
Secretary