

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

February 27, 2003

Chairman Eileen Sieger called the meeting to order at 7:33 p.m., and she determined there is a quorum for both the planning commission and the Board of Zoning Appeals.

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

Mueller suggested moving Item 4, but Sieger didn't think it would take very long, as there was only one sentence to change. Sieger recapped that last month members wanted to be clear in the Bylaws that the Chairman and Vice Chairman would serve for both the planning commission and the Board of Zoning Appeals. Sieger referred members to page two, article II, section I of the Bylaws. There was this one change, Sieger said, and asked members if this will adequately address the concerns. Unrau made a motion to approve the Bylaws with the one change, and Avery seconded the motion.

In favor: 7; Opposed: 0; Motion carried. It was noticed the date on the front and back page needs to be changed to 2003. Brazil said he will have the date changed and then Sieger may sign it.

Item 5: An application for Dean Armstrong, requesting a variance from required front setback of 30 feet to eight feet on the east side. Members are acting as the Board of Zoning Appeals for this application. This application was published in the February 5, 2003, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. This property is located at Marion County Park and Lake. Reuben Zerger was present to speak about the application. He explained the owners are currently at their winter home. Zerger passed around folders of information to members. Members were reminded this property was before them recently, and it had to be brought back to get the deck approved. The deck will come within eight feet of the property line. Members viewed photos of the property. The deck will line up with the property to the west and will line up with the fence to the east. Sieger asked if it is not a covered deck, and Zerger said no. Sieger asked if it will be level with the foundation, and Zerger said yes. Sieger asked if it will have a railing at a standard height, and Zerger said yes. Sieger asked if the deck will be just one level across, and Zerger said yes. It will have one step down, he added. Eilerts asked who lives behind this property and Zerger said no one lives there, permanently. He said that property used to belong to Judy Christensen's parents and Jeff Christensen used to live there. Sieger asked if all the trees will remain, and Zerger said yes. So, just the deck is the only part of this application?, Sieger asked and Zerger said yes. Sieger asked if anyone from the public wished to speak. Sieger asked if there were any other questions or information. Avery asked if it is a conflict that her family has a cabin close enough to receive a notice on this application. Members did not think it is a conflict. If it was right next-door, Brazil said. As long as we note it, I think that's fine,



Sieger said. Sieger asked Zerger if there was anything else. Sieger closed the public hearing for this application and opened the floor for discussion and determination.

Normally, I wouldn't have recommended a variance that is this close, Brazil said. But, comparing the adjacent properties, it does line up and we're not obstructing views or anything, Brazil said. On the other hand, so many things go on at the lake, it's hard to determine, Unruh said. No neighbors opposed it, Sieger said. Because there have been times when neighbors have had concerns, she added. Sieger reminded members that everyone present at this meeting is on the Board of Zoning Appeals. Unruh made a motion to approve the application for a front yard variance of 22 feet, an increased variance of 12 feet, for the construction of an open, uncovered, wood or plastic deck only, and not for the construction of any enclosed structure. Mueller seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Sieger explained this is a final action and does not go on to the county commission.

Item 6: An application for Lawrence Winkley requesting a rezone from agricultural to rural residential for property in Wilson Township. This application was published in the February 5, 2003, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Winkley was present to speak about the application. Members are acting as the planning commission for this application. This property is located three miles west of Marion. Winkley said he is getting too old to take care of the buildings, and the like, and it has been a rental, but no one lives there now. He showed members the layout on a diagram he made. Members also viewed the property on an aerial photo. Sieger asked if the shape of the 10 acres is a rectangle, and Winkley said not entirely. It has not been surveyed. Unruh showed members where the property is located off old highway 56, and showed where the driveway is. The property goes all the way west to the side road. Winkley explained a hedgerow runs along where the property doglegs. It's an "L" shape with a dogleg. Sieger asked if the property has a lagoon, and Brazil said yes but it needs some work. Sieger asked if there is access to rural water, and Winkley said yes, but it also has a well. Sieger pointed out the proposed odd shape of the 10 acres, and said it can lead to future problems. Sieger asked if just part of the property was included with the house, how many acres would it be, and Winkley said two or three acres. Sieger asked if there is any way to make it more rectangular, but Winkley said if he does that he will have no water for the pasture. So, the pasture has no other water source?, Sieger asked and Winkley said no. That could cause some problems if that's the pasture's water supply, Sieger said. Eugene Just was present and said he farms the ground. Just said there are people who want a little pasture for horses, and such. But what about the other piece of pasture?, Sieger asked. That would probably have to be put to meadow and hay, Just said. Sieger suggested different boundaries. She said the 10 acres does not have to be fenced off. But, you'd have pasture without water, Unruh said. You're not going to get away from that, Just said. He added that they have talked about cutting it for hay or renting it for pasture. Unruh asked where the lagoon sits, and was told it is south of the house. Just and Winkley showed Unruh on a map. Unruh asked and Brazil said the lagoon needed to be cleaned out and fenced. If you had a family of three or four it'd be too small, but a family of two or three should be okay, Brazil said. Unruh asked if Winkley would consider three acres, would the lagoon have enough setback room, and



was told it would be okay. There are other minor things, like a cracked pipe, Brazil said. It won't be difficult to fix, he added. The tough thing will be to put the fence up, Brazil said. I'm going to stay with 10 acres, as the purpose for this was to have a buffer between ag operations, Brazil said. I would make it more squared off, Brazil said. He showed members a suggested boundary on a map. That would take my farm ground, Winkley said. The house meets separation differences, as it's well over 50 feet from the eastern property line, but it creates less impact with ag operations and less headaches down the road, Brazil said. We've worked hard to keep 10 acres, Sieger said. Unrau asked if the house is livable, and Winkley said yes. Any way you go some, or part, of the pasture will be without a water source, Sieger said. Just asked if members would not grant a rezone unless it is squared off. Sieger explained it is better to have the house centrally located in the acreage, for setbacks. We've pushed one of the boundaries close to the house and it creates less headaches not to push the house so close to the boundary, Brazil said. Sieger asked if there was anything further. I'm bothered by the point that we had something similar east of Lehigh where they asked for a jog and reduction of acreage and we held them to 10 acres, and to be fair to them we need to hold to it, Ediger said. Be consistent, Sieger agreed. We snaked all around on one near there, Unruh said. That was 19 acres, Brazil said. Brazil looked on the zoning map and said Unruh was right, that we went with the draw on that one. That was on the E.P. Klassen place, Ediger said. Sieger asked if anyone from the public wished to speak about this application. Sieger asked if any written comments were received about this application, and Brazil said no. Sieger asked if there was anything further. Just asked if there is any other recommendation other than squaring things completely off. I think the objective was not to sell the farmland, he said. And I wouldn't have water for the pasture, Winkley added. But either way you wouldn't have water, Sieger said. Probably have to go straight east to the neighbor's property to square it off, Winkley said. Is that a possibility to give up five or six acres?, Ediger asked. You'd cut my water off from the pasture, Winkley said. I don't understand, because your water is clear up in the yard, Ediger said. Winkley said he does not want to cut it all. Sieger closed the public hearing for this application and opened the floor for discussion.

Members are acting as the planning commission for this recommendation. Mueller asked Brazil about the proposed layout. I want to see it squared off, Brazil said. I recommended it for approval, but not with a dogleg, he added. I think there are too many unknowns, Unrau said. We don't have an interested buyer, we don't know the wishes of the buyer, they may not want the pasture, Unrau said. Are you thinking because of the unknowns we table the recommendation, or what?, Sieger asked. I don't think that's the issue, Unruh said. Whether they're going to sell it, or not, is not the issue, he said. How it fits the zoning regs is the issue, Unruh said. We don't have to put this on the back burner today because there's not a buyer, Unruh said. I think the question tonight is to the applicant, he said. If we're not comfortable with the outline, then maybe they want to work with it and refigure it, he said. I think that's the question, he added. Come back on their shoulders, do they care to pursue it, or not, Unruh said. I guess you can give them an option to withdraw, Sieger said. Maybe they can think about it and come back with new configurations, Unruh said. Eilerts pointed out that it was the neighbor's property that was highlighted on the map members received in their packets, because there it was a squared off property. Brazil said it is 330 feet by 330 feet. Brazil showed members



another configuration that is rectangular and slides it to the east and you'd be giving up a little farm ground, but not a lot, he said. If we make a recommendation they could withdraw, Sieger said. You could make a recommendation and if a survey wasn't turned in on time, that would kill the application, Brazil said. So, we could recommend it a certain way and if they didn't like it they could just not accept it, Sieger said. This bothers me because the commissioners are wanting us to make a recommendation and I don't like sending an ambiguous recommendation, Avery said. Members asked Winkley if he is willing to look at it and change the boundaries, and Winkley said he did not know. What happens if we deny the application?, Unrau asked. They would have to wait one year before they can reapply, if it is denied, Brazil said. If they withdraw, they can come back with a new application, he added. Brazil suggested to Winkley that the application be continued for one month and he thinks about it. I thought you said it would be okay, Winkley told Brazil. I know you said it should be squared off, Winkley added. What I tried to communicate to you is that doglegs are a problem, Brazil told Winkley. The comprehensive plan is before the commissioners and this property may qualify for five acres, Unruh said. But, that's a ways down the line, Sieger said. Sieger explained the process with the comprehensive plan, and said there is no way of knowing how long it will take. The five-acre rule has a density of one per 40 and that leaves this one out, Brazil said. I recommend we continue it, and that way he doesn't have to pay another fee and he has 30 days to think about it, Unrau said. I think that's a good idea, Ediger agreed. Unrau made a motion to continue this application to the March meeting, and Unruh seconded the motion. In favor: 7; Opposed: 0; Motion carried. Members asked Brazil to confer with Winkley to help him through the process. Sieger explained things to Winkley and Just.

Item 7: An application for Jana and Dale Dalke, requesting a Conditional Use Permit (CUP) for a retail greenhouse operation. This application was published in the February 5, 2003, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. This property is located in Gale Township. Jana Dalke explained her business is mainly wholesale, but she wants it to be legal if someone wants to buy some plants. Brazil explained that wholesale greenhouses are allowed by right in a construction zone, but require a CUP. If we don't get it approved, we just won't do it, Dalke said. She said there are no plans for regular hours or a big sign. Eilerts asked Dalke how long she has had the greenhouse, and Dalke said she just started it. Sieger asked should someone drive in, do you have a designated parking area? Dalke said there is parking between the greenhouse and the house. Unruh asked and Dalke said right now we are growing perennials. Sieger asked and was told the property has a lagoon. It doesn't relate to the application, but I noticed the lagoon needs to be fenced, and I will wave the \$10 fee, Brazil said. Sieger asked how close it is to the house, and Brazil said quite a distance. Dale Dalke asked if the permit is for the business, and Brazil said it is for the house. The permit protects your liabilities, Brazil explained. Sieger asked if there are no plans to expand or put a sign up, or anything?, and Jana Dalke said no. Sieger asked if we approve it for retail, does that open it up? You'd want to put a limit on it, Brazil said. So, if they want to do more, they would come back again?, Avery asked and Brazil said yes. Sieger asked if there was anything further. If retail is the existing greenhouse only and if they expand, would it apply onto the wholesale part?, Eilerts asked. Place some kind of



limit on it and if the retail does take off we can come back and look at the expansion, Brazil said. How do you define that?, Mueller asked. That's why I say the existing facility, as is, Brazil said. So, if they expand for wholesale, there's no problem, but if they expand for retail, they would come back?, Mueller asked and Brazil said yes. Sieger asked if anyone wished to speak from the public about this application. We're on old 56, which is paved, and Karl Funk has a welding business there, and I don't think we'll have any more traffic than he has, Dale Dalke said. Sieger closed the public hearing for this application and opened the floor for discussion and determination.

Avery asked and Brazil said the CUP stays with the property, if it's sold. If the business ceases for six months, or more, the CUP dies, Eilerts said. Good point, Brazil added. Eilerts made a motion to recommend application number ZPO3.001 for a CUP for Jana and Dale Dalke on up to six acres, with conditions: A-reconstruct the existing waste water system; B-recommend parking off the public right of way; and C-the CUP is for the existing greenhouse structure, only. I'm thinking of it being the amount of retail business, not so much which greenhouse is for which, but more the level of business, Sieger said. Mueller seconded the motion. Eilerts explained the motion to Unruh. In favor: 7; Opposed: 0; Motion carried.

Sieger explained this is a recommendation and it goes to the county commission for final approval. Brazil explained the timeline. Brazil will send a wastewater application with no fee.

Item 8: An application for Paul and Phyllis Unruh, requesting a rezone from agricultural to rural residential for property in West Branch Township. This application was published in the February 5, 2003, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Paul Unruh spoke about the application. He gave members a survey to view. He also pointed out the highlighted area was off on the map sent with his information, too. He said they have a young couple wanting to buy some acres and another man wanting some pasture, so they decided to sell, and they have bought a house in Goessel. They have sold 40 acres, out of 60 acres, and are in the process of selling 20 acres with the house. This property is about three miles from Unruh's, as the crow flies, Unruh said. Sieger asked if the potential buyers have lived in the country before, and Unruh said yes, they grew up in Marion County. Brazil said the wastewater system needs a fence and the trees need to be cleaned out. Brazil asked if there is rural water access, and Unruh said yes. So, the house is served by rural water?, Sieger asked and Unruh said yes. There was no one present from the public. Sieger closed the public hearing for this application and opened the floor for discussion and determination.


Mueller asked about Unruh referring to the property as 20 acres, but Brazil has 19 acres in his report. Brazil said the property is 19.9 acres on the survey and that will work, but at 20 acres the person could divide it. Mueller made a motion to recommend application number ZPO3.005 for Paul and Phyllis Unruh to rezone up to 19.9 acres from agricultural to rural residential and recommend the wastewater system be brought up to code. Unruh seconded the motion. In favor: 7; Opposed: 0; Motion carried.



Unruh asked and was told yes, the ground around it can still be farmed. If you don't want to change any boundaries, you can still farm around there, but if the new owner wants to fence it off, they could, Brazil said. Sieger explained it will go to the county commission for final approval. Unruh asked if a letter will be sent to inform them of the outcome. We publish the resolution in the newspaper, but if you call, we can send you a copy, Brazil said. Brazil asked about a copy of the survey, as Unruh had given him the original. Brazil explained he'd need a copy of the survey before the second Monday in March. Unruh said Brazil could keep the original survey, as he had a copy at home. I didn't have contact with them, and this was the easiest one, Brazil remarked. Unruh said they had a good coach.

Off agenda items: Ediger asked about calls from people on the agenda, to members. What is acceptable, and what is not?, he asked. Do we cut them off right away?, Ediger asked. Sometimes you can't, Sieger said. I always tell them they need to talk to David, Unruh said. The thing I caution you not to do is give any indication on how you feel about the application, Brazil said. I've had people ask how I think members will vote and I say there are nine members and it's hard to predict, Sieger said. Sieger told members to just say they've had a conversation with someone about an application. Avery asked about a work session on wind farms. Brazil told members he recommends they read articles on the subject. Brazil has come up with an example of zoning for wind farms. Unruh asked if he has contacted Gray County?, and Brazil said he has not received any information from them. I think we need to let the county commission get going on the comprehensive plan, Brazil said. Tomorrow they have a work session on the plan, he added. Perhaps at our next meeting we can set up a work session, Brazil said. If you all want to work together, that's fine, but I think they need to provide a list of changes and then you can view it, Brazil said about the plan. But, we're talking about the wind farms, Sieger said. Wind farms aren't in the plan, now?, Ediger asked. Not specifically, Brazil said. I guess I'd wait until your next meeting and then if you want to set up a work session, okay, he said. I think we need to just take steps along as they come up, because things will come up down the road, Unruh said. I agree with continually updating your comprehensive plan and I think it's a huge advantage to kill two birds with one stone, Brazil said. But, do we need to get zoning regs for wind farms by the June deadline?, Sieger asked. We can address wind farms through a CUP, now, Brazil said. The end result is to get specifics in the plan about the wind farms, he said. Scott Mickey provided a digital map of the soils in the county, which can be included in the comprehensive plan, which will be huge advantage, Brazil told members. Sieger asked if there was anything else. Sieger reminded members the next meeting is March 27. Eilerts made a motion to adjourn and Ediger seconded the motion. In favor: 7; Opposed: 0; Motion carried and the meeting adjourned at 9:37 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



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Eileen Sieger,  
Chairman