

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

January 23, 2003

Meeting was called to order by Chairman Eileen Sieger. Sieger explained that Elora Robinson had resigned, and has not yet been replaced with another representative from District Two. Sieger referred members to the revised agenda.

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

Sieger asked members if anyone would object to moving agenda items five and seven, until after item 11. No one objected to the reorder.

Item 3: Election of Chair and Vice Chair for 2003. Sieger opened the floor for nominations for Chair. Members discussed if the Chair for the planning commission is also the Chair for the Board of Zoning Appeals. It was decided to avoid confusion, it will continue as in the past, and Chair and Vice Chair will be elected to serve both boards. Mueller nominated Sieger as Chair. Unrau made a motion for nominations to cease and to cast a unanimous ballot, and Ediger seconded the motion. In favor: 7; Opposed: 0; Motion carried. Sieger opened the floor for nominations for Vice Chair. Eilerts asked if Unruh would serve, again. Ediger nominated Unruh. Mueller made a motion for nominations to cease and to cast a unanimous ballot, and Avery seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Item 4: Appoint expired term Board of Zoning Appeals members. There are seven members on the board. Ediger and Unrau were reappointed, Brazil said. We really need to have seven of us eight to be on there, Sieger said, just because we've been here and Ensz is brand new. Sieger told Ensz no offense, and he said he understood. That's a logical conclusion to do it that way, Eilerts agreed. Mueller made a motion to appoint the seven senior members of the planning commission to the Board of Zoning Appeals, and Unrau seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Item 6: Sieger asked for corrections or additions to the Record of Proceedings for the November 21, 2002, meeting of the Marion County Planning Commission/Board of Zoning Appeals. There were no changes. Avery made a motion to approve the Record of Proceedings as presented, and Ediger seconded the motion. In favor: 7; Opposed; 0; Motion carried.

Item 8: An application for Don Fruechting, requesting a variance from required side setback of 10 feet, to four feet, on the east side. Members are acting as the Board of Zoning Appeals for this application. This application was published in the December 31, 2002, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette*

Bulletin. Fruechting passed around plans for the remodeling they want to do, and a couple of photos of the property, which is located at the Marion County Lake. Currently a wall of the existing home and the existing garage are almost in line, and will remain so. There is 16 feet between the existing house and the garage. They plan to put a bedroom addition between the existing buildings. It will all connect?, Sieger asked and Fruechting said yes. Just recently we approved a variance of five feet on the adjacent property, Brazil said. Sieger asked if anyone from the public wished to speak. Sieger asked if there were any written comments received, and Brazil said no. Is there anything further?, Sieger asked. Brazil asked if he may add the photo Fruechting brought to the meeting, to his file on this property, and Fruechting said yes. Sieger closed the public hearing for this application.

Sieger reminded members if anyone has had any ex parte communication with anyone concerning any application, or if anyone has a conflict of interest with any application, they should say so. She asked members to remember this for each application. Sieger referred members to the staff report for this application. Are there any problems with this?, Sieger asked. Apparently, the neighbors have no problem, she added. Mueller made a motion to approve the application for a side yard variance of no more than six feet, in light it meets all criteria and also is in line with the existing structure. Unrau seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Sieger explained this is a final action, and does not go to the county commission for final approval. Brazil told Fruechting he would get the permit out to him tomorrow.

Item 9: An application for Harvey Jantz, requesting a rezone from agricultural to rural residential. This application was published in the December 31, 2002, issues of the *Marion County Record, Hillsboro Star Journal and Peabody Gazette Bulletin*. Julie Jantz and Vincent Jantz were present to speak about this application. Brazil said he has viewed the property. Sieger asked if there is a total of 157 acres, and Julie Jantz said yes. Sieger asked if there is one home site on this property, and Julie Jantz said yes. It's a compliant non-conforming lot, previous to zoning, Brazil said. That small parcel was grandfathered in, he said. They listed two tracts on the deed, he added. The house sits on the deeded off property, Sieger said, and Brazil showed members on the zoning map. It's compliant for construction because it was grandfathered in, Brazil said. The application is to add onto the parcel and make it 10 acres?, Sieger asked and Julie Jantz said yes. This proposal would still be the desirable option, Mueller said, and Brazil agreed. The person interested in buying it wants the 10 acres, anyway, Vincent Jantz said. Sieger reviewed the outbuildings on the property. Is it currently occupied?, Sieger asked and Julie Jantz said yes, it's rented. Brazil asked and was told it is at least 50 feet from the buildings to the property line. Sieger asked if there is rural water, and Vincent Jantz said yes, a half mile away. Sieger reminded members the septic system is not compliant. The house looks to be structurally sound, Sieger said, and Julie Jantz agreed. Sieger asked if anyone from the public wished to speak. Sieger asked if there have been any other comments received, and Brazil said no. The road this property comes out to is Falcon, which is a gravel road. Sieger asked if there is anything further. Sieger closed the public hearing for this application, and opened the floor for discussion and determination.

It hasn't been surveyed, yet?, Sieger asked and Julie Jantz said no. That's fine, but it is a rectangular, straight piece, Sieger said. All this is in line, it just needs the septic system to be updated, Brazil said. Mueller asked Brazil if he wanted members to recommendation or request that the system be updated. We can handle it through the health department, but I like having it included in the motion, Brazil said. Mueller made a motion to recommend approving a rezone for a total of 10 acres, from agriculture to rural residential, and include recommending they install a compliant waste water system, and as it meets all factors for a rezone. Ediger seconded the motion. In favor: 7; Opposed: 0; Motion carried. Brazil explained the timetable and that a survey is needed by the second Friday in February.

Item 10: An application for Ebenfeld Mennonite Brethren Church, requesting a Conditional Use Permit (CUP). This application was published in the December 31, 2002, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. LaVerne Esau was present to speak about the application. He explained they want to add a couple portable classrooms, and maybe a new sanctuary and educational space, in the future. The property is on six acres. The church purchased three acres back in the mid-90's, Esau explained. It has a nonconforming use on part of the property, so the best thing is to put it all under the same, Brazil explained. You cannot expand a nonconforming use, so that's why we're looking at a CUP, Sieger said. Esau showed members plans for the improvements. They are conventional stick buildings, built in 1998 and 1999, that have not been used in the past year and will be moved to the property and put on a concrete foundation, he explained. Sieger asked and Brazil said we want a CUP on the total six acres. Sieger questioned and Brazil told members it is number seven under CUP and church and church-related facilities. In about 1996, when we added the fellowship hall, we put in a new septic system at that time, Esau said, with chambers as laterals. It's a very large system, he added. We won't be increasing the number of people, and the system is very adequate, Esau said. Although you're not adding extra people, you are adding extra use, so I'd like to go back and reevaluate to make sure you're in the ballpark, Brazil said. I'd hate to see you expand and the system fails in six months, he said. It may be just fine, it's just a matter of going through an evaluation, Brazil said. Sieger asked if a septic system is used only once a week, are there any problems with that? Resting the system is actually a good thing, Brazil explained. Sieger asked if anyone from the public wished to speak. Sieger asked and Brazil said no comments have been received on this application. Ediger asked about parking, and Esau showed on the plans that there is plenty of parking available. There was nothing further and Sieger closed the public hearing and opened the floor for discussion and determination.

Sieger referred members to the staff recommendation for this application. There is one space to park per five people. Esau said there is also overflow parking across the street, and that property is also owned by the church. Ediger made a motion to recommend a CUP for six acres for Ebenfeld Mennonite Brethren Church, located in Liberty Township, and recommend the Sanitarian review the existing sanitation system and see if it is adequate for the expansion of the church. Brazil questioned the potential to expand in the future. Esau said the sanctuary expansion could be two years down the road, or it could be 10 years down the road. What do you define as expansion?, Brazil asked. When we

come for future building permits, could we work it out, then?, Esau asked. What if they are a growing church and it puts stress on the wastewater?, Unrau asked. As long as the property is compliant, we can just handle it through the wastewater application and administration, Brazil said. You don't want to leave an expanded use open, Brazil said. They could come back in the future when they want to expand, again, Ediger said. If we make the motion right, they wouldn't have to go through this whole process, again, Sieger said. Ediger revised his motion to say, recommend a CUP for six acres for Ebenfeld Mennonite Brethren Church, located in Liberty Township, and recommend the Sanitarian review the existing sanitation system and see if it is adequate for the expansion of the church and related activities, on six acres. Mueller seconded the motion. In favor: 7; Opposed: 0; Motion carried. Brazil explained the timeline to Esau.

Item 11: An application for Floyd Nickel, requesting a rezone from agricultural to rural residential, for property located in Liberty Township. This application was published in the December 31, 2002, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Sieger asked members if anyone has had any ex parte communication with anyone concerning this application, or if anyone has a conflict of interest with this application. This is an existing farmstead. It is 4.6 acres, now, but they want to expand it to 10 acres. They have an interested buyer. No one lives there, now, and it has been vacant for a number of years, Nickel said. Brazil asked if there is rural water across the road?, and Nickel said yes. Sieger asked if there is adequate well water?, and Nickel said yes, but it has not been tested. Brazil said he could not find the well, and Nickel told him where the pump house is located on the property. There have been people living there for many years, up until the past few years, Nickel said. The house needs a lot of work, Sieger noted. Is it structurally sound?, Sieger asked, and Nickel said he is not sure. The buyer has fixed up a home, before, and is not concerned about taking it on, Nickel said. The foundation looks pretty good from the outside, and the corners look pretty square, Brazil said. There's one room coming off one side that I question, but the main structure looks pretty good, Brazil said. You will farm around it?, Sieger asked and Nickel said yes. Ediger asked if there is a septic system, and Nickel said yes. It needs updating, Brazil said. They will need to replace it, he added. We want it rezoned so the new owner can do what he wants to do to fix it up, Nickel said. Sieger asked if the new owner understands that he will need to make improvements. The potential buyer was there when Brazil came out and viewed the property, Nickel said. I would have pretty good confidence that they would make it a nice place, Nickel said. It's on a good road, Nickel added. Some outbuildings probably need to go, Sieger said. Sieger asked about the boundaries. Nickel said 503 feet north to south, and 866 feet deep from the road to the back of the property. If someone is willing to buy 10 acres instead of one, or two, then they have more of an investment there, Sieger said. Sieger asked and Nickel said it is surrounded by cropland on three sides. The farm boundaries could remain the same, Sieger said. Sieger asked if there was anything further, and asked if anyone from the public wished to speak. No comments were received on this application. It makes sense to fix it up, Nickel said. I thought this is the better option, and when the previous owner heard about it, he agreed, Nickel said. Sieger closed the public hearing for this application and opened the floor for discussion and determination.

Mueller asked if the new buyer can be the one to take care of the septic system, and Brazil said yes. The only time we had a problem with this, is when we approved an application to update and then the house burned down, Brazil said. That's a good point for clarification, Sieger said. This is a win/win for everyone, Mueller said. My only hesitation is the property needs a lot of improvement, Sieger said. Sieger reminded members they are acting as the planning commission for this application. Ediger made a motion to recommend a rezone for 10 acres for Floyd Nickel for pt of SE/4 of 22-21-1, from agricultural to rural residential, and include a recommendation to construct a compliant waste water system. Ensz seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Item 5: Annual review of the comprehensive plan, zoning regulations, and bylaws. What plan are we reviewing?, Sieger asked, and Brazil said the current one. The county commission has not taken action on updating the comprehensive plan, Sieger said. They tabled it until they have their solid waste issues taken care of, Brazil said. Sieger explained to new members that the county commission preferred to send informal comments back to the planning commission, and then the planning commission commented on their comments. My hope is they'll put together a formal statement of changes they want to make and send it back to you, Brazil said. And then I recommend we have a public hearing on it, again, not because we have to but it's good PR, Brazil said. Once that happens we'll start working on zoning reg changes that'll come from changes in the plan, Sieger said. I recommend you start making notes, Brazil suggested. Sieger said new members need a copy of the comprehensive plan. Ensz needs a copy. Does anyone want to bring anything up regarding zoning reg issues, or do you just want to wait, and I assume we'll have a consultant helping us through it?, Sieger asked and Brazil said yes. Has anyone noted anything on the bylaws?, Sieger asked. Mueller said the third paragraph under membership talks about member's terms would be staggered. As they are already staggered, Sieger said. That's satisfactory, Mueller said. Mueller asked about officers and electing a chair of the Board of Zoning Appeals, separately. Sieger explained the document is titled planning commission/Board of Zoning Appeals. Members could add a sentence to say the chair and vice chair shall serve for both boards. At the beginning it says the commission refers to the planning commission/Board of Zoning Appeals, Sieger said. Sieger pointed out it just says commission throughout the document. After more discussion, it was suggested to just put under the election of officers that they will also serve as chair and vice chair of the Board of Zoning Appeals. Last time I took a change to the county commission, and then we approved it at our next meeting, Brazil said. Unrau proposed making the addition to Article 2, Section 1. This will be taken to the county commission and action will be taken at our next meeting, Sieger said. Is there anything else with the bylaws?, Sieger asked. Is there anything else on Item 5?, Sieger asked.

Item 7: Consider moratorium for wind farm land use. Sieger asked if members have been following the news about wind farms. Butler County now has five county commissioners, Sieger told members. They voted to increase from three to five, and they also voted that four is a quorum, which allows them to discuss items outside meetings when there's just a couple of them, she explained. I put it together for you to review and approve and it will

go back to the county commission to sign off on, Brazil explained about the moratorium. They want to do this for six months and they want the clock to start December 2, 2002, so it will be retroactive, even though you're signing it tonight, he explained. We have had an individual come in and pickup an application and ask questions, but we have not had anyone submit an application, Brazil said. Some people just make a snap judgment on this, but there's a lot to read and learn about it, so I recommend you do some reading on it, Sieger told members. Butler County is trying to get some guidelines in place on this, she added. We'd like to understand what all is involved with this kind of land use, Brazil said. I had a conversation with one of Butler County's commissioners and he said this issue split Butler County more than the landfill did, Sieger said. I know it was brought up in Chase County one time, Sieger said. Of course they don't have any zoning, but we need to step back and take some time, she said. So what action is going to be taken in the six months?, Mueller asked. There are not a lot of regulations out there, Brazil said. I have contacted Butler County and talked with their planning director to see what direction he is taking, Brazil said. Brazil said in the development plan and construction guidelines there are a lot of variables. You're talking about a big structure that you want to put restrictions on, Brazil said. There are service roads involved, too, Sieger said. I would think the county commission would be very concerned about this, Ediger said. I think the county and the state cannot collect taxes on it, he said. This doesn't seem fair to me that they're going to come in and they're going to need certain roads, and is there anything in this county that can go in and reach up there and help an injured person?, Ediger asked. Oh, that even involves EMS, Sieger said. I'd like to see some profits, Ediger said. Some of it doesn't fit into planning and zoning, and some of it does, Brazil said. It's like you have it and when they're finished using it, who is going to clean it up and where is it going to go?, Ensz asked. And what about the noise level?, Ensz asked. I've heard they're noisy, he added. Better do some homework, Ensz said. Are there some farmers doing their own research on this?, Eilerts asked. Avery has had someone ask about it. We're talking about large pieces of ground, Sieger said. Sieger asked if Brazil had some legal help writing the moratorium, and Brazil said yes. Personally, I was glad we are discussing a moratorium, Eilerts said. I initiated a discussion with the county commission and this came from the discussions I've had, Brazil said. Good things are not just rushed into, Sieger said. It would be nice to address the major issues in this, and not have division in our community, Brazil said. Being unprepared can be very overwhelming, Unrau said. Did the county commission indicate they would want to meet with us to start discussing this?, Ediger asked. For the moratorium, no, Brazil said. After that, to make some guidelines we all understand, Ediger said. That's not a bad plan, Brazil said. The thing is, we've got some time to go on, where if we do need to make some changes to our regs, it's good timing, Brazil said. You could as a group, recommend a work session to the county commission, during the six months, Brazil said. They really put the responsibility on you to do all the legwork and make recommendations, Unrau told Brazil. I think that's appropriate for me to go out and bring information back, and if you all want to have a work session, that's a good idea, Brazil said. You could even take someone with you, Unrau told Brazil. Is wind power a common thing, overseas?, Eilerts asked and Brazil said yes. Unrau asked what Brazil typed in on the Internet to search for information. Sieger showed Unrau the website www.nationalwind.org to look for information. You've given us a lot of information, but

what we need to see is some actual examples of zoning regs, and that's what you're hunting for, Sieger told Brazil. Avery made a motion to approve the resolution as presented and Unrau seconded the motion. In favor: 7; Opposed: 0; Motion carried. Do you want to ask the county commission about a work study?, Sieger asked Brazil. Put it in the minutes and I'll take it to them, Brazil said.

Item 12: Application and income reports for 2002. Brazil handed out 2002 activity reports and ag exemptions for the year. Compared to the previous year, there were 113 total applications in 2001, and 112 in 2002. If you remove the handful of applications that were withdrawn, you approved 80 percent of the rezones, 83 percent of the variances, and 100 percent of the CUP's, Brazil told members. Brazil passed out income reports for 2002. It's interesting that structure applications jumped from 27 to 39 percent for rezone structures, with accessory structures going up, and primary going down, Sieger noted. One of the things I look at with the income report is are we covering postage and publishing expenses, and I think we can continue without increasing at this time, Brazil said. Brazil handed out travel log pages to members. He explained about adding mileage to his budget and each planning commissioner can use up to \$100.00 for mileage per year. This is available when they view property and they can include mileage to meetings, if they want, Brazil explained to members. If you could turn in your mileage every couple of months, or so, that would be better than turning all of it in at the end of the year, so we be sure not to go over \$100.00 at 33 cents per mile, which is the current rate, Brazil said. Brazil also gave out an updated member information sheet and member terms sheet, and said he will update this again, when Robinson is replaced. It's worthwhile to view property, Brazil told members. It's a lot different than what's on paper, he added. I appreciate your efforts here on a lot of this and this is the first time we've had mileage offered to us and this is really good as an encouragement to visit the sites, Sieger told Brazil. I get help from the county commission, Brazil said. The next meeting is February 27, and Brazil said there are two applications for that agenda, so far. Ensz made a motion to adjourn the meeting, and Ediger seconded the motion. In favor: 7; Opposed: 0; Motion carried and the meeting was adjourned at 9:53 p.m.

MARION COUNTY PLANNING COMMISSON/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman