

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

July 27, 2000

Chairman Eileen Sieger called the meeting to order at 7:30 p.m., and determined there was a quorum.

Roll Call was answered by Sieger, Herb Bartel, Marquette Eilerts, Terry Eberhard, Elora Robinson and Dean Fincham. Bob Unruh arrived after roll call. Eldon Pankratz arrived at 7:35 p.m. Glen Unrau was absent. Zoning Administrator David Brazil was also present.

Sieger asked if there were questions about the agenda. There were no questions. Sieger asked for corrections to the minutes of the May 25, 2000, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Sieger had a name correction. Jim Vogel should read Dick Vogel, once on page 11 and page 12, and twice on page 13. Fincham made a motion to accept the minutes with this correction and Robinson seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Item 4: Continuation of an application for Amelia Vinduska requesting a rezone from agricultural to suburban residential. This application was originally on the agenda in April, 2000. At the request of the applicant it was continued to May, 2000. It was re-published at no cost to the applicant and continued in a little different format to this meeting, Sieger explained. The applicant was not present and Sieger questioned whether to proceed, or not. We were encouraging this district, so it's not that we need additional information, Bartel said. Sieger asked if anyone was present wishing to speak about this application, and there was not. Sieger reminded members that it was previously decided to request a rezone from agricultural to suburban residential because this property is located directly adjacent to the town of Pilsen. It joins Pilsen, so I think we thought it fell into the suburban residential, Sieger said. And five acres would be in the scope of suburban residential and no variance would be required, Sieger added. Sieger said this application was properly published July 5, 2000. It was agreeable to them, and no one on the planning commission had concerns, so are we ready for

a motion?, Sieger asked. Bartel made a motion to recommend suburban residential zoning on this application, as it's consistent with the zoning map. Unruh seconded the motion. Brazil asked that the motion be amended to include the condition that the property be served by the improvement district for both water and sewer. Bartel and Unruh agreed to amend the motion. In favor: 8; Opposed: 0; Motion carried.

Item 5: Continuation of a variance application for K.C. "Buck" Alley, requesting a rezone from suburban residential to R-1. This application was re-published at no expense to the applicant, because of a change in direction which was agreeably a better way to go. There's no way a house can be built on it as suburban residential, and that's why we're requesting R-1, Alley said. Sieger asked if anyone from the public wished to speak about this application, and no one did. Eilerts made a motion recommending the lots be rezoned from SR to R-1, based on the discussion at the May, 2000, meeting outlined on page two of the minutes. Unruh seconded the motion. In favor: 8; Opposed: 0; Motion carried. Brazil said he would like to note that Tract One is not compliant to SR. Tracts Two and Three are all we are addressing, Eilerts said. Yes, Sieger agreed. Brazil simply wanted this noted.

Members now are acting as the Board of Zoning Appeals to address the variance application. Alley said his set backs are 30 feet from Lakeshore Drive, 20 feet to where the deck would be, and 30 feet to the house. Set backs are further back as the lot goes to the north, he said. At one point off the ravine it is 10 feet, which normally would be 15 feet, but there is no one I'd be encroaching on, Alley said. Brazil asked if there would be 10 feet in variance on the front yard and 20 feet on the rear, and Alley said yes. Unruh made a motion to approve the variance and set backs as presented on Lots 2 and 3. Fincham seconded the motion. Do we want to make the condition that the variance is approved pending approval of the rezone?, Brazil asked. Sieger explained to Alley that the recommendation of the rezone goes to the county commissioners for final approval. I would assume there will be no problem with the approval, but it's the second Monday before it will go to the county commission, and the third Monday before they'll make a decision, Sieger explained. Brazil thinks the variance should be contingent on the county commission's approval, Sieger said. The motion was amended that the variance will be approved subject to the county commission approving the

rezone. Unruh and Fincham agreed to amend the motion.
In favor: 8; Opposed: 0; Motion carried.

Item 6: Continuation of an application for Woodrow and Laura Crawshaw for a variance from set back requirements. Sieger reminded members they are still acting as the Board of Zoning Appeals. This application was not re-published as there were no changes, and we moved to continue this application, Sieger explained. Sieger opened the public hearing for this application and asked Crawshaw to explain any changes which may have occurred since last month's meeting. Crawshaw read a lengthy written statement. So, what is your request at this point?, Sieger asked Crawshaw. With our latest decision to clip our house to get it off our neighbor's encroachment, and since we were grandfathered-in, we do not need a variance, Crawshaw said. He said their house is one and a half to two feet over, so we're going to clip the corner using a professional, and it'll look good when it's done. When it's complete, the entire structure will be on your property?, Bartel asked and Crawshaw said yes. Part of our thinking was how we were going to mix our actions with what the court is going to do, Sieger said. Unruh questioned the dimensions of the old home (12 x 52) and the new home (28 x 56). Unruh said if the new home sits exactly in the place the old home was, the issue is is this grandfathered, or not? We did everything we were told to do, Crawshaw said. The old home was in before zoning and it did not honor set backs, Crawshaw said. Right, Sieger agreed. Since the old home did not honor set backs, would the new home be grandfathered-in?, he asked. We were told to block up the new home just like the old home was, and we did, Crawshaw said. We never talked about if the dimensions were identical, but it's obvious they aren't, Crawshaw said. I guess if you are withdrawing this...?, Sieger questioned. It's not our application, Bartel said. Robert Martin said Crawshaw was found in contempt of court and has until September 4, 2000, to get the mobile home off our property. There would be two variances required, 10 feet on my side and 10 feet on Vogel's side, Martin said. There's another important thing, that if any official makes a mistake, the regulations are the regulations, Bartel said. If I said you could go on the neighbor's property, then I made a mistake, Bartel said. You didn't say that, Herb, and at the time we didn't know we were on the neighbor's property, Crawshaw said. If this is withdrawn, we'll have to re-address this, Brazil said. Jan Vogel asked, if we can work it out among the three neighbors,

together, does he have to come back for a variance at that point? If the application is withdrawn, he'll have to re-file with another application fee, but if we continue is there some way of doing this without having to re-file?, Vogel asked. Laura Crawshaw asked if there was any way to work it out, tonight? Eilerts suggested they come back at the end of the meeting with agreeable set backs. Unruh made a motion to table this matter until the end of the evening. Eberhard seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Item 7: An application for Kevin and Javonni Gresham for a Conditional Use Permit for a Greyhound Farm, located in Durham Park Township. This application was published July 5, 2000. Members are acting as the planning commission. Kevin Gresham explained they are in the business of raising and training Greyhounds and are looking at this property to buy for that purpose, but they will only buy it if they can make a living on the property. They met with Brazil to view the property. It has a natural drainage system, and by adding a dike any run-off will stop and be basically like a lagoon. It will be 75 feet from the road to the start of the pens. There will be no building construction, as they will use existing buildings on the homestead. They will install frost-free hydrants. Pens will be 25 feet wide, with 300 feet in length for dogs and 100 feet in length for the pups. Some pups are raised until they are six months old. Sieger asked how many total dogs are they planning on initially, and eventually? Between 150 and 200 head. Full capacity will be about 200 head, as this is all we can handle to do a good job, Gresham said. The property involves 40 acres. The solid waste is picked up, daily, Gresham said. The runs are not concrete?, Sieger asked and was told no, they are dirt with chain link fence. This operation is now located a mile and a half north of Maize and a mile east. We drive to Abilene and school dogs on a training track up there, Gresham explained. We've been doing it for 10 years now, he said. We've been looking for a place to move closer for a long time. We tried to buy this place before, he said. What attracted us is there are no neighbors, he said. Gresham and his wife expressed concern about not bothering their neighbors. You have purchased this property?, Sieger asked. No, but if all goes well we can close August 1, 2000, Gresham said. You do plan on living in the house?, Sieger asked and was told yes. Eilerts asked if a state license is needed, and was told no. State permits are for any breed but Greyhound, Gresham explained.

But, the national inspections are strict, he added. They check you, regularly?, Sieger asked. Yes, and we are in good standing with them, Gresham said. Members apologized for asking lots of questions. We are glad to answer any such questions, as most people are misinformed, Gresham said. You will put up a fence around the property, and how do you keep strays out?, Unruh asked. No problem, as Greyhounds won't go over a fence, Gresham said. They are raised on a hard surface which strengthens their legs, he said. Sieger asked if anyone from the public wished to speak, and no one did. Brazil said the waste water system needs to be updated on this property, and they now have an application in place to do so. Sieger explained the county commission makes the final decision based on this commission's recommendation. Sieger closed the public hearing at this point. Sieger asked if members wished to finish hearing the other agenda items, or continue with this application? Members wished to finish this application.

I don't have any problem with it, Eberhard said. Bartel said there are three things I want included. I want the owners to live on the property, I want to limit the number of dogs, and 200 is fine, and I want the waste from the dogs handled as special waste, not part of the trash system, Bartel said. Dickinson County has dealt with this problem, as it's a big industry, there, Bartel said. They have to have it trucked away, separately, and not intermingled with the other waste, Bartel said. They could compost it, Bartel added. Just handle it as separate waste and not as part of the regular waste stream, he said. Gresham said he has had trouble finding a company to handle it. Most trash haulers won't pick up dog waste, Gresham said. How much waste is there a week?, Eberhard asked. At least 300 pounds, Gresham said. Is this a trash dumpster full?, Eberhard asked. Not quite full in a two-yard dumpster, Javonni Gresham said. We just had 32 pups, which put us a little over 200, but this weekend some are leaving which puts us back to around 200, Gresham said. Would you be comfortable with a dog limit of 250?, Unruh asked. I wouldn't go over 225, to allow for pups, Bartel said. Bartel made a motion to recommend a Conditional Use Permit on the condition that the owner/operator lives on the property, there not be more than 225 dogs in the operation, and the waste from the dogs be handled as separate waste and not part of the regular waste. Fincham seconded the motion.

In favor: 8; Opposed: 0; Motion carried.

Item 8: An application for Troy Wiebe requesting a rezone from agricultural to rural residential and a Conditional Use Permit for a greenhouse. This property is located in Durham Park Township. This application was published July 5, 2000. Wiebe wishes to grow tomatoes. I own a total of 12.1 acres, Wiebe said. I believe this property was actually broken out in 1995 and sold again in 1998, Brazil said. Brazil said the sewer needs to be updated. Sieger asked if there is rural water, and Wiebe said yes. Bartel asked how many greenhouses are in the plans? Now only one, and if it is a success maybe in two or three years a second and in five or seven years maybe a third, Wiebe said. Can the run-off from those greenhouses be handled on your property?, Bartel asked. Successful greenhouses can be pretty intense, and I'm talking about run-off from rain water on the roofs, Bartel said. Sieger questioned set backs, and Brazil said there is plenty of room. When he gets up to the third one, Herb is right, there probably will be a little drainage, but it drains to the south, Brazil said. Sieger asked if there was anything else. Sieger said she will keep the public hearing open for the CUP request, but asked if there was anything else about the zoning request? Sieger asked Brazil if Wiebe has a storage shed with a sink, will it run into a lagoon, okay? We can tie it in, Brazil said. Sieger asked members if they wished to talk about the CUP, or handle each matter separately? Why change the zoning?, Unruh asked. Because it is not in compliance, Sieger explained. We don't have to change it to do tomatoes, Bartel said, he just needs a CUP. To get building permits for the greenhouses, if a CUP were there, it would fly?, Sieger asked and Bartel said yes. If he wants to build a new house, he couldn't build a new house because it's not part of the CUP, Bartel explained. Sieger explained to Wiebe that if he wanted a permit in the future regarding the residence, it wouldn't be covered. Why not just approve both?, Pankratz asked. Do you think this is a down-side to do a rezone, or not?, Sieger asked members. I think we should rezone, Eberhard said. What's in the area?, Sieger asked. It's ag, Bartel said. It's a non-compliant ag, Sieger said. So, what about down the road?, Eberhard asked. Pankratz made a motion to recommend a rezone from agricultural to rural residential. Eberhard seconded the motion. Any further discussion?, Sieger asked. There was none. In favor: 6; Opposed: 2; Motion carried.

Members addressed the CUP for the greenhouse. Bartel made a motion to recommend a CUP for a greenhouse, independently whether

it's ag or rural residential, and if there are more than three greenhouse structures, we have a chance to take a second look at the run-off from those structures. Fincham seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Item 9: An application for Doug and Cherie Hett requesting a rezone from agricultural to rural residential. This property is located in Wilson Township. This application was published July 5, 2000. This property involves 10 acres, and the Hett's wish to build a new home on it. Sieger asked what the total acreage was this property came out of? Brazil said in October of 1998, Hett's purchased 10 acres out of 80 acres. This property is located four miles west of Marion on old highway 56, and approximately one mile south. Sieger asked if there is rural water, and was told no. Where are you intending to build?, Sieger asked. Within 10 feet of the old house, Doug Hett said. How is the house located on the acreage?, Sieger asked. It's fairly centralized, Hett said. The Cottonwood River runs near the home. The home is located up on a hill. We have no definite plans on a home, at the moment, Hett said. We were told we had to get rezoned, and we wished we would have known this when we bought it, he said. No one from the public wished to speak, so Sieger closed the public hearing and opened the matter up for discussion.

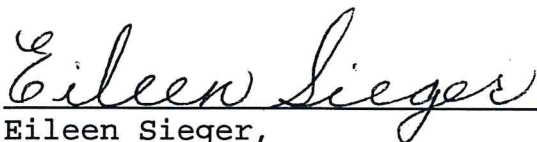
This is a historic farm where the original owner sold off a farmstead, Bartel said. I've got no problem with changing it to rural residential, Bartel said. Since the homestead has been established, then it's not like a new home, Sieger said. Sieger asked Hett's if they plan to demolish the old home? Either demolish it, or use it for storage, but it will not be inhabited, Cherie Hett said. Pankratz made a motion to recommend approval for a rezone from agricultural to rural residential on this property, since it has been an existing homesite. Fincham seconded the motion. In favor: 8; Opposed: 0; Motion carried. Bartel added to put on the permit that the Hett's can only have one residence.

Item 6: Continuation of an application for Crawshaws. Crawshaw reported that Martin got mad and left, but Crawshaws talked with Jan Vogel. Crawshaw said Unruh said he wanted at least one foot on each side, and Vogel said she will sell Crawshaws enough land to have one foot on each side. So, you will not chop off your house?, Robinson asked. No, but we will if we have to by

September 4, 2000, Crawshaw said. We worked out what they need to do to purchase the land from us to give them a foot on each side, Vogel said. They will finish the drainage when they get it settled, Vogel said. Eberhard asked Fincham what he thought. I have no problem with it, Fincham said. From any experience I've had, you can never resolve these things in court, Pankratz said. When people wonder why we have county zoning, send them out to the lake, Eberhard said. It's probably going to be better if I don't vote at all, Bartel said. Fincham made a motion to approve a variance of one foot, as proposed and agreed upon by the parties. Pankratz seconded the motion. In favor: 7; Opposed: 0; Abstained: 1; Motion carried. Sieger explained this decision does not go to the county commission, this is a final act.

Brazil informed members there is a public meeting set up for all those wanting to give input on the comprehensive plan. Sieger called members attention to an article about Harvey County's comprehensive plan. Members discussed a right to farm act passed in Sedgwick County, which protects a farm operation from nuisances. Brazil will request a copy of this. Sieger announced the next meeting is scheduled for August 24, 2000, and there are four applications on the agenda. Fincham made a motion to adjourn the meeting. Robinson seconded the motion. In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 9:47 p.m.

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Eileen Sieger,
Chairman