

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

March 22, 2001

Chairman Eileen Sieger called the meeting to order at 7:32 p.m.

Roll Call was answered by Sieger, Herb Bartel, Terry Eberhard, Elora Robinson, Glen Unrau and Bob Unruh. Eldon Pankratz, Marquette Eilerts and Dean Fincham were absent. Zoning Administrator David Brazil was present. Sieger said there was a quorum.

Sieger asked for corrections to the Record of Proceedings of the February 22, 2001, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Sieger had a correction on page one where anonymous should be unanimous. Sieger also questioned what Unruh said on page three, third line from the bottom of the page. It was decided to remove the "s" from issues. There were no other corrections. Robinson made a motion to approve the Record of Proceedings with two corrections and Bartel seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 4: Continuation of an application for Mark Makovec, requesting a variance from required 10 acres to two acres in Colfax Township. Brazil announced this application was withdrawn today per phone call.

Item 5: Continuation of an application for Michael and Annette Jacobson, requesting a variance from required side setback of 30 feet to 20 feet and required rear setback from 50 feet to 15 feet in Liberty Township. Members are acting as the Board of Zoning Appeals. There had been a publishing error and this application was republished correctly. Sieger re-opened the public hearing for this application, but there was no one present to speak. Brazil said he had not heard from the applicants. He explained there had been a problem with the difference between a variance and a setback and this application had been republished at the county's expense to clarify. Mike Jacobson arrived at this time. He explained he wished to construct a 30x40 building with a wood frame and metal exterior, with a "dressed up" appearance. He is requesting a variance on the east side from 30 feet to 20 feet and on the rear from 50 feet to 15 feet. He explained he wants room for his kids to play. He showed members photos of the property, and photos of neighbor's property with similar buildings. Unruh said he is requesting a 10-foot variance on the east side and a 35-foot on the south end. Sieger asked if this property is on city sewer, and Jacobson said no. Photos showed laterals on property. Sieger asked about similar buildings in the area and Jacobson said both neighbors to the east and west have similar size buildings. My main concern is the right of way and future use, Brazil said. The road is 45 feet now, with plenty of room for utilities to come through there if need be in the future, Jacobson said. Sieger asked if anyone from the public wished to speak, or if there is anything else? I have a brochure if you want to see the type of building, Jacobson said. Sieger closed the public hearing for this application and opened the floor for discussion.

We continued this last time primarily for the purpose of re-publishing, Bartel said. I think it fits very well with the community right there, Unruh said. Unruh questioned Brazil's recommendation. My original recommendation was in regard to the original application, Brazil explained. I will still stay with not recommending the side variance to protect the right of way and access to utilities in the future, Brazil said. There will be 10 feet of distance between utilities and his building, which may be enough, but I'm just cautious, Brazil said. Sieger asked if the City of Hillsboro received notification on this application. No, but I made contact with their planning director, Brazil said. Did they express concern?, Sieger asked and was told no. Unruh made a motion to approve a variance of 35 feet on the south side and 10 feet on the east side, and Unrau seconded the motion. In favor: 6; Opposed: 0; Motion carried. Sieger explained this is a final action and does not have to go to the county commission.

Item 6: An application for Demitry and Patricia Evancho requesting a variance from required side setback of 30 feet to 20 feet on the North boundary and required front setback from 30 feet to 25 feet on the West boundary, as designated by Eastshore Development restrictions and covenants, in Gale Township. This application was published in the February 28, 2001, issue of the Marion County Record. Demitry Evancho spoke to members, explaining this is the second building permit he has applied for. He applied for a permit in late summer, and did not realize there is a limit of so many days to use the permit. Due to circumstances beyond his control, the permit ran out. He explained there are three oak trees on the lot, which are approximately 20 to 25 years old. He said this property was developed in the early 1970's around 25 foot setbacks. He designed the new house to fit between these trees. He has already contracted for the house. They are purchasing a modular home, which is partially developed in Lebo, Kansas. It will have a sunlight concrete basement, Evancho said. There is complete access from the west to position the home, he said. It is 1,116 square feet, which actually is a small home, Evancho said. I think the variance is reasonable at three feet from the west and eight feet from the north, he said. I think it will be a very attractive residence, he added. Sieger asked if anyone from the public wished to speak. I'm in favor of it, Bob Maxwell said. Maxwell lives at the Reservoir and was in to a meeting before to convert the covenants back out there, he told members. Maxwell said he is in favor of saving the trees. I think Demitry just got caught up between the old and new and if his permit hadn't run out he could have built without a problem, Brazil said. Sieger asked if there was anything further. Sieger closed the public hearing and opened the floor for discussion.

I would agree with the trees, as I think that's something that needs to be protected, Sieger said. Unruh made a motion to approve a front yard variance of no more than five feet and a side yard variance of no more than 10 feet. Eberhard seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 7: An application for Milton Goertzen requesting a variance from required agricultural lot area of 40 acres to 30 acres in East Branch Township. This application was published in the February 28, 2001, issue of the Marion County Record. Milton Goertzen was present, along with sons Myron and Steve. Both sons have 40 acres and the

land is jointly owned between the two of them and we have talked out several scenarios, Brazil explained. The parcel of land we are talking about does not have a house on it?, Bartel asked and was told no. They want it to stay zoned agricultural even though it would be less than 40 acres, Sieger said. The problem is in dividing the property between two sons and making it come out equally, Brazil said. What is the issue here?, Unruh asked. Zoning regulations say the minimum size of any agricultural acres is 40, Sieger said. Agricultural buildings are on jointly owned property, Sieger said. If a 30-acre parcel would be created and they need a building permit to put up a farm building, we would not be able to issue a permit because it was done after zoning, Bartel explained. Sieger asked if anyone from the public wished to speak, or if anyone had anything to add. Sieger closed the public hearing and opened the floor for discussion.

Unruh made a motion to approve an agricultural lot variance of no more than 10 acres and Bartel seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 8: An application for Lloyd and Marlene Schroeder requesting a variance from required agricultural lot area of 40 acres to 37.5 acres on three proposed tracts in West Branch Township. This application was published in the February 28, 2001, issue of the Marion County Record. Schroeders have lived on the property for 50 years, and have farmed all their lives. For 25 years they have had a Christmas tree farm on their property. They are thinking about their future, as they are in their 70's in age. They would like to be able to stay on the property as long as possible. They would like to divide the property into three pieces and start by selling off the east end, one piece at a time. There are no Christmas trees on it, Lloyd said. They plan to invest the money so they can go to a retirement center when necessary. The third piece has the home on it, Lloyd said. We'd like to sell the Christmas tree farm as a business, but most people want a small tract as a Christmas tree farm is usually a second business for most people, he said. They operated this as a wholesale and retail business which was grandfathered which would need to be addressed and they would need a CUP, Brazil said. The lagoon doesn't meet design and construction standards, but it's contained, Brazil said. They are actually requesting a variance on three different tracts and they would all three stay agricultural, Sieger said. So the property with the house and buildings is where you have the bulk of your trees, Sieger said. Sieger asked if there was anything further. Lloyd was asked about boundaries and if they have surveyed, and he said that is the next step. There are no buildings of any sort on those other two?, Sieger asked and was told no. Sieger closed the public hearing for this application and opened the floor for discussion.

Unruh questioned Brazil's recommendation. Because the trees on the tree farm are on two of the proposed tracts and not the third one, Brazil said. It would be the east tract that does not have trees or buildings, Brazil said. Total acreage is 112 plus, Bartel said. It's not a full quarter, Bartel added. Eberhard asked if rural water is on the property and Lloyd said yes, Rural Water District #4. Is this direction for sections along the whole west side or just in this township?, Bartel asked. The whole west side of the county, Eberhard said. Bartel looked at the zoning regulations. Unruh questioned if there is a flood concern in this area. I did not look at the flood hazard map, Brazil said. I think we made provisions for short lots, but I can't find it, Bartel said. Every lot should be a

minimum of 40 acres for agricultural districts, Sieger said. Unruh made a motion to approve an agricultural lot variance of no more than two and a half acres for each of the tracts proposed. Eberhard seconded the motion.

In favor: 5; Opposed: 1; Motion carried.

I voted no because I don't fully understand the implementation of this if this goes all along the edge of the county, Bartel said.

Item 9: An application for Gilbert Loewen requesting a rezone from agricultural to rural residential in Peabody Township. Members are now acting as the Marion County Planning Commission. This application was published in the February 28, 2001, issue of the Marion County Record. Lyle Leppke of Leppke Realty of Hillsboro was present to speak about this application. Loewen owns the entire northwest quarter. This property is located south of Peabody. There are two improvements on the farm; a one and a half story home and a garage. Leppke showed members two aerial photos of the property. Leppke said the intention is to rezone a 10-acre tract so it can be sold. He said they have tried to follow natural boundaries, but the property is not yet surveyed. As for setbacks, the closest improvement to a boundary would be the little garage, which is probably 100 and some feet away. There is a well located south of the home, and Loewen has rural water coming to the site. There currently is a septic system, but Loewen will put in a new lagoon, Leppke said. It's not actually an open line, just washed out at the end, Brazil said. The house has been occupied until the end of last year, Leppke said. We have proposed moving the lagoon to the west of the house, Leppke said. If you come out of the basement on the south and go west, there's only one bathroom in the house on the south side, Leppke said. It will be easy to do a lagoon with where you proposed, Brazil said. The home is not on the market, yet, Leppke said. It's been a rental home for a long time, he added. The roof is good, there's no water damage upstairs, and the basement is better than a lot of homes, Leppke said. Sieger asked how many bedrooms the house has, and Leppke said three. How old of a house is it?, Sieger asked and Leppke said it was probably built in the 1940's. It has central heat, he said. Gilbert recently purchased the property which was owned by Doris Tanner for many years and was rented by one family for 40 years, Leppke said. What about the garage?, Sieger asked. It will probably go, Loewen said. Do you farm around this area?, Sieger asked and Loewen said no. Klingenberg's own and farm most of the area around this property, Leppke said. The east boundary is at the half-mile line and there's a natural hedgerow on the south and we followed it to the west, Leppke said. It allows access, he added. Is it your intent to upgrade the sewer system before putting it on the market?, Sieger asked and Loewen said yes. Sieger asked if there was anything further. Sieger closed the public hearing for this application and opened the floor for discussion.

I first questioned from the photos if this could be a quality residence, but if the house is structurally sound it would be possible, Sieger said. Unruh questioned and Brazil said there is a good road to the property. Unruh questioned and Brazil said there is power and rural water along the road. Unruh asked if the well was drilled? If it's a hand-dug well, then will you close it in?, Unruh asked. As long as a well stays in use during the course of a year, then you can use it as it, Brazil said. Sieger said members need to address Brazil's recommendation about the waste water system. Does this township have any other rural

residences?, Sieger asked. We did one last year to the north, Leppke said. Members viewed the zoning map concerning other properties in the area. Bartel made a motion to recommend rezoning from agricultural to rural residential with the condition that the waste water system be upgraded to meet requirements. Eberhard seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 10: Discussion with Marlene Finney concerning property in Center South Township. Originally Finney was granted permission for construction and to do maintenance but adjoining landowners were not willing to do it as an access easement on their deed. We can republish the application with a setback or whatever direction Finney wants to go. Finney was not present at this meeting. The neighbors are willing to grant written permission for access, but are not willing to put it on their deed which would stay with the ground. Adjacent landowners are willing to give a letter of permission, but are not willing to attach it to their deed, Brazil said. If she is willing to set the corner back three and a half feet, it would not be an issue for maintenance, Sieger said. We acted on it before and they cannot comply with the easement and they are wanting us to make this work as they have contractors ready to go, Sieger said. Since they are not here I wanted to make you aware of this and decide how to continue, Brazil said. They'll probably look at moving the setback and coming back and asking for a variance with a three and a half foot setback instead of a one-foot setback, Brazil said. We acted on what the applicant presented and if they had an alternative setback in mind it wasn't presented, Bartel said. Do you want to have a new application or change the existing application?, Brazil asked. We've acted on the existing application, so you handle it administratively, Bartel said. We'll have it on the agenda for next month.

Next month's meeting is April 26. Bob will not be there. An updated draft of the comprehensive plan has not yet been received, Brazil said. I want to schedule a work session, and I should have the updated draft in a couple of weeks, he said. A work session is scheduled for Tuesday, April 10 at 7:30 p.m. Brazil said members are probably looking at two or more work sessions, plus one with the consultant. Eberhard made a motion to adjourn and Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried and the meeting was adjourned at 9:40 p.m.

MARION COUNTY PLANNING COMMISSON/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman