

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

May 27, 2004

Chairman Eileen Sieger called the meeting to order at 7:38 p.m., with a quorum present.

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

Sieger called attention to the agenda, and said members need to elect a vice chairman to replace Bob Unruh and members need to officially elect Bob Maxwell to the Board of Zoning Appeals. Sieger explained the Board of Zoning Appeals membership to Maxwell. She said there are nine members on the planning commission, but all positions are not currently filled. She continued to explain there are seven members on the Board of Zoning Appeals, so we currently need all members on the Board of Zoning Appeals. She also explained that the planning commission members appoint members to the Board of Zoning Appeals. Sieger asked to add this to off agenda items. Brazil said he would discuss timing and completing zoning regulations during off agenda items.

Sieger asked for corrections or additions to the Record of Proceedings of the April 22, 2004, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Avery made a motion to accept the Record of Proceedings as written, and Ensz seconded the motion. In favor: 4; Opposed: 0; Abstained: 1; Motion carried. Maxwell Abstained.

Item 4: An application for Russell Abrahams, requesting a rezone from agriculture to rural residential, for property located in West Branch Township. This application was published in the May 5, 2004, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Abrahams was present to speak about the application. Sieger reminded members they are acting as the planning commission for this application. Abrahams explained he wants a zoning change so he can deed property to his son and daughter-in-law. Abrahams showed members photos of the property. Brazil showed members where the entrance is on a diagram of the property, and he also compared it to a photo of the property. Sieger asked Abrahams to highlight the property on a map. So, basically it's a rectangular 10 acres, Sieger said. The drive is on the 10 acres?, Sieger asked and Abrahams said yes. So, is the field access by that drive, too?, Sieger asked. Yes, it can be, Abrahams replied. Is that the only field access?, Sieger asked. It's the easiest, Abrahams replied. So, is the 70 acres all crop?, Sieger asked. There is some pasture, Abrahams said. And, there is only a house there?, Sieger asked. A newly constructed house?, Sieger added and Abrahams said yes. There was an old house there a long time ago, more than 50 years ago, Abrahams said. All the other out buildings are all cleaned up and gone?, Sieger asked. Yes, they left the trees, Abrahams said. Do you farm around there?, Sieger asked. It's actually rented, Abrahams said. The wastewater is compliant and you have rural water, which is good, Sieger said. So, access

is off K-15, Sieger said. And, set backs are all fine with the house?, Sieger asked and Brazil said yes. Does anyone from the public wish to speak about this application?, Sieger asked. Are there any other questions, or information?, Sieger asked. Sieger closed the public hearing for this application and opened the floor for discussion.

It meets all the requirements, Brazil said. He's pretty much met everything we'd ask for, Brazil added. There are six other rural residential districts in this section, Brazil said. This is one of the easier applications I've processed in a while, Brazil said. Ensz made a motion to approve a recommendation to rezone 10 acres from agricultural to rural residential, as this application is comparable to the precedent set by approval of similar applications. Unrau seconded the motion.

In favor: 4; Opposed: 0; Abstained: 1; Motion carried. Maxwell abstained.

Brazil asked Abrahams if it was okay to add the photos he brought to the file, and Abrahams said yes. Sieger and Brazil explained the timeline for this application to Abrahams.

Item 5: An application for Norman Epp, requesting a rezone from agricultural to rural residential for property located in Lehigh Township. This application was published in the May 5, 2004, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Brazil said Epp may have gone a different direction, but he did not withdraw his application. Avery made a motion to continue this application to the July 22, 2004, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Unrau seconded the motion. In favor: 5; Opposed: 0; Motion carried.

Item 6: An application for Brad Putter, requesting a rezone from agricultural to rural residential, for property located in Wilson Township. Sieger reminded members they are acting as the planning commission for this application. This application was published in the May 5, 2004, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Putter was present to speak about his application, and told members he took Brazil out to the property to show him his plans. Putter said there is a hay meadow with a deep raven in the middle on the property. Putter said he wants to put a farmhouse with a walkout basement on the property, and he wants to keep the property natural with a hay meadow, and put the hay up each year. Putter said the property involves about 14 to 19 acres. How do you want to outline it?, Sieger asked. Sieger asked Putter to highlight the boundaries on a map. Putter showed members where hedgerows run on the property. And the rest of the 80 acres is?, Sieger asked. Alfalfa, Putter said. There is no existing home on the property?, Sieger asked and Putter said no. Sieger asked about water and Putter said he would drill a well. Sieger asked about rural water in the area, and Putter said it is one mile over. We would have a lagoon, Putter said. So, access would be to which road?, Sieger asked. 180th, Putter replied. Is that a dirt road?, Sieger asked and Putter said yes. It is approximately a half-mile from Pawnee, Putter said. How much would the county need to gravel?, Sieger asked. Less than half a mile, because the entrance would be on the east, Putter said. Would you move in a home?, Sieger asked and Putter said yes, an old farmhouse. Have you located this farmhouse?, Sieger asked and Putter said yes. We've narrowed it down to about 1922, Putter said, as to the age of the farmhouse. It's a one and a half story, he added. Does anyone from the public wish to

speaking about this application?, Sieger asked. This is for your own family?, Sieger asked and Putter said yes. Is there anything else you'd like to say?, Sieger asked. I think this is highly eroding land, Putter said. Of course, having to balance that with the cost to the county for the gravel..., Sieger said. Are you aware of some of the zoning regs that are coming?, Sieger asked. The only places you're allowed to put homes is on farm ground, and not wasteland, Putter said. The big thing I see is I'd take a long look at what areas you are trying to develop and not have it on prime farm ground, Putter said. Are you also aware that since regulations began in '92, the board has not chopped out property that has not been a homestead in the past?, Sieger asked Putter. Yes, I'm aware of that, he said. Avery questioned that Putter had stated he feels it meets ground requirements, that it would increase valuation, and what was the third thing?, she asked. And, put tax back in the county, Putter said. The last thing I want to do is take farm ground that can be used to produce, Putter said. I work at an implement, he added. Charles Kannady spoke from the audience. There will be a good neighbor policy that he will respect and understand agriculture use around his property and he will not make unnecessary complaints against his neighbors, Kannady said. It's a good policy, because it doesn't matter if you have two acres, or 1,000 acres, farmers and neighbors need to understand and respect each other's property, Kannady said. I could actually go out there and sell 40 acres, but we're trying to work with you, Kannady told members. In reality, if I want to sell the land and if you go to five acres, I'd put a house on it, he said. It's totally the land use issue, Sieger said. In my opinion, wouldn't you rather see pasture with rock in it used for a home site, or prime ground?, Kannady asked members. Prime ground should be saved for food production and water in the future, Kannady said. It will be different in the future, you meet three conditions and you get approval, Brazil said. One per 40, so you're still talking about one house per 40, and we address marginal ground vs. highly productive, Brazil said. Are there any other comments or questions?, Sieger asked. Is there anything else you want to address?, Sieger asked Putter. If not, I guess my next step is to find 40 acres, but it might be a mile off the gravel road, Putter said. If there is nothing further, I'll close the public hearing for this application and open the floor for discussion, Sieger said.

There are three rural residents in this township, Sieger said. One factor is the dirt road, she said. The other factor is this does not follow any other previous rezone, Sieger said. It does not have an existing home site, she said. How do the rest of you feel?, Sieger asked members. Brazil referred members to Article 3, Rule 101. Precedents we've set with this include rock roads, rural water, and the existing precedent we've set over the years is for existing home sites, he said. Sieger read the requirements to members. I don't see that it meets requirements, she said. And with precedents, you have to be really careful, because there are other people who were denied, or didn't apply because they knew it wouldn't fly, Sieger said. You need to be careful saying yes to one, Brazil agreed. Possible lawsuits, I would say, Sieger added. After the new regs, there will not be any new rural residential rezones created, it would just be fill-ins, Sieger said. I think we're going to have a lot of parcels available for a five-acre lot split, in the future, Brazil said. The five acres will stay ag, Sieger said. That's the way it's set up to be, she added. We have to focus on what's on the books, now, Brazil said and Sieger agreed. Unrau made a motion to deny the application by Brad Putter and Charles Kannady, because the application does not meet criteria established in section 3-101 of zoning regulations, as the parcel does not

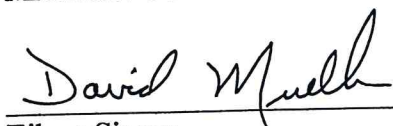
contain an existing home site or other secondary structure, the parcel does not have rural water access, and the parcel is adjacent to a dirt road. Ensz seconded the motion. In favor: 4; Opposed: 0; Abstained: 1; Motion carried. Maxwell abstained. Sieger explained this would go to the county commission for final approval. If you want to protest our recommendation, you can approach the county commission, Sieger explained to Putter. Brazil explained the timeline to Putter. From what I've seen, there have only been two times the county commission has overruled the planning commission, Brazil said. Do I need to sign on to be on the agenda?, Putter asked. Brazil explained his time on the county commission agenda. So, there have been two, or three, that have been overridden?, Putter asked. Yes, in 13 years, Sieger said.

Off agenda items: Sieger asked Brazil to add e-mail addresses to the contact list for members. Maxwell asked about abstaining, if he can, or cannot, ask questions if he abstains from voting. Sieger read members the bylaws pertaining to abstaining. Sieger opened the floor for nominations for vice chairman. Unrau nominated David Mueller and made a motion to cast a unanimous ballot, and Avery seconded the motion.

In favor: 4; Opposed: 0; Abstained: 1; Motion carried. Maxwell abstained. Sieger asked Maxwell to serve on the Board of Zoning Appeals. She explained it mainly involves setbacks and variances. And, if there were ever any appeals of administrative decisions, Brazil added. Like when we did Eastshore, Maxwell said and Sieger said yes. Bob (Maxwell) really worked with us to solve that problem, Sieger said about Eastshore. Avery made a motion to appoint Maxwell to the Board of Zoning Appeals, and Ensz seconded the motion.

In favor: 4; Opposed: 0; Abstained: 1; Motion carried. Maxwell abstained. I don't know if you were comfortable with the zoning regs tonight, Brazil said to members. Do you want another work session, and then the public hearing?, he asked members. Where did we leave off?, Sieger asked. We were ready for Article 12, Unrau said. There are a few more things I have marked, but nothing of real substance, Sieger said. Maybe since not everyone was here, we should wait to include them, Avery suggested. What about the usual meeting day in June?, Unrau asked. What about next week, which would be ahead of harvest and we're on a roll?, Avery asked. We try to notify the public 20 days ahead, but we are not required to notify of work sessions, but I would like for it to be in the paper once before we have a work session, Brazil said. I still recommend the end of June, because if we go into July, if the county commission has changes, that cuts it pretty close, Brazil said. I'm still suggesting a 30-day moratorium on everything, Brazil said. Members continued to discuss when to have a work session, including waiting until July 22. Members decided on scheduling a work session at 7 p.m. on Thursday, July 8. Ensz made a motion to adjourn and Avery seconded the motion. In favor: 5; Opposed: 0; Motion carried and the meeting adjourned at 9:13 p.m.

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Eileen Sieger,
Chairman