

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

October 23, 2003

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

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

Sieger asked for corrections or additions to the Record of Proceedings for the September 25, 2003, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Avery made a motion to accept the Record of Proceedings as written and Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Sieger asked members if they have a preference of order for the agenda. Sieger said if there are no objections, she recommends changing Items 4 and 5, around. There were no objections, so Sieger changed the agenda items around. Sieger asked if there were any Off Agenda items, but no one had any items to address.

Item 5: A continued application for Willis Peterson, requesting a variance from required front setback of 30 feet to 20 feet, side setbacks from 10 feet to three feet on the north and south sides, and a rear setback from 20 feet to five feet, for property located in Centre South Township. Members are acting as the Board of Zoning Appeals for this application. This application was originally presented in July, Sieger explained, and as we moved into discussion and determination it was decided we needed more information and a diagram to scale as much as possible, so a motion was made to continue the application to August, and then it was continued again until September, and again until October. This property is located at Marion County Lake. Sieger asked members if they have reviewed the minutes from the July meeting? Sieger offered to read those minutes. Ediger said he is more interested in seeing a diagram. Sieger reminded members the public hearing was closed for this application, but members did require more information from the applicant, so new information will be accepted, tonight. Sieger said she will open the floor to Peterson to present a diagram and any new information, and then she will open the floor to the public for any other new comments, or information. Sieger gave attorney Keith Collett a copy of the July minutes, to review. Peterson showed members copies of a diagram. Sieger asked and Peterson showed members where the front of his property is on the diagram. He said they want to add on, and continue off the same roofline. Peterson explained the diagram and plans to members. Peterson said they may add a patio on the front, which would need a variance. There is a cement slab 2'4" away from the property line. We couldn't approve that tonight without republishing, because we published it as 3', Brazil said. Brazil explained you can back down from what's requested, but you can't go the other direction without republishing. Unruh asked what



the cement slab was for, in the beginning? There's about a 10x12 storm shelter under the porch, Peterson said. We'd like to make the door better, going into the storm shelter, with more of a slope, Peterson said. I wasn't looking at the cement patio as being a structure and being grandfathered, Brazil said. There isn't an existing structure on top of there, so it's a tough call, he said. The patio was poured up against the home and connects to the structure of the home?, Unruh asked and Peterson said yes. Sieger asked and Peterson explained their back yard plans. Is it like you said, before?, Sieger asked and Peterson said no. It's coming within five feet of the property line on the backside, Peterson said. It's either 10 feet or 12 feet away from the south property line, and 15 feet from the north property line, Peterson said. Would the gas meter stay there, or would you move that?, Avery asked. I'm going to ask if they'll move it, Peterson said. So, is the back yard setback the same as your application states?, Sieger asked and Peterson said yes. So, if you can accommodate the storm shelter, all is like your application?, Sieger asked. Except for the 2'4" deal from the property line, Peterson said. Anytime you change something that's grandfathered, you nullify, Brazil said. You look at what is existing, he said. Where you're talking about adding on, you're going to be expanding the footprint and that's what we're wondering about, Brazil told Peterson. So, then you're talking 15 feet from the north property line to the back, so on the south side you'd be needing the setback, Brazil said. Is there anything further?, Sieger asked. The garage is detached?, Brazil asked and Peterson said yes. Is it a two car garage?, Sieger asked. A three car, at least, Peterson said. You're backing out and you're on the street, already, Ediger said. How will it affect the drainage in the back?, Avery asked. It'll go along the south side of the house, Brazil said. You're going to have to fill in between the railroad ties and the house, so will that affect the drainage?, Avery asked. You're adding more water to it, Brazil said. It's the same water that comes on the property, anyway, Peterson said. When you add roof, you have more run off, Sieger said. Unruh said there should not be a significant difference. The water runs off quicker with the roof, Brazil said. You had someone draw this out, so did you discuss drainage?, Sieger asked Peterson. There is a drainage channel there now that is concrete, Peterson said. I hardly ever see any water run in there, Peterson added. Members questioned Peterson about the dimensions of his plans. The neighbors are concerned about blocking their view, but I don't see how as I visualized it and they could still see the whole dam, Peterson said. Karyn Sue Smith was also present to speak. She lives with Peterson. Smith said three of the sisters came and met with me and their concern was the garage would block the view, so they seemed greatly relieved when they learned our plan was different from what they were thinking. Sieger said the neighbors resubmitted the exact same letter in October, but you have talked with them since the letter was received. The letter is dated the 16<sup>th</sup>, Sieger said, and Smith said she met with them on the 19<sup>th</sup>. Reba Schneweis, who came with her mother Josephine Murray, who lives next to this property, asked Peterson if they planned to extend out south of the porch, and Peterson said no. Schneweis asked about a bay window and Peterson said that it overhangs the property. If you build a patio out front, would you put anything over it, because that might be a concern, Schneweis said. We have approved patios with the condition that no structure be built over it, Brazil said. You would still have room for both the enclosure and the slab?, Sieger asked and Peterson said yes. Sieger asked if anyone else wished to speak from the public? John Yoder was present to represent the Marion County Improvement District. He said there is concern



with the garage being 12 feet from the property line, if the sewer ever has to be replaced. So, we would need room on the south side of the garage to get a backhoe in there, Yoder said. Dan Crumrine said if there are any problems getting access, I'd have to pay the cost myself, Peterson said. Should you sell the property, the next owner may not be aware of that, Avery said. We can make them aware of it, Peterson said. I thought about an easement, but I'm not sure people pay any attention to easements, Yoder said. The drain is only 1'9", is all, Murray said. Collett was present to represent Edna Janzen, who lives directly behind this property. Collett said the road there is very narrow, only about 12 feet wide. The lot seems too small for the residence he wants, Collett said. I'm not talking about setbacks, I'm talking about the space between the rear of the garage, he said. The narrow road is a problem for people living on the east side as people continue to build on the other side, as there already is no view left back there, he said. 24x40 is big and is going to be an inconvenience if not a danger and to get moving vans and emergency vehicles back there is going to be tight, Collett said. Collett referred to conditions members review when considering a variance, and he commented on each condition. Ralph Janzen was present and showed members several photos showing the Janzen, Murray and Peterson properties. If you have to get any emergency equipment in there, like when we had the pasture fires, you couldn't get equipment in there, Janzen said. Charlene Janzen said Dale Snelling saved our property when there were pasture fires, because it scorched our house. Hasn't the safety issue already been impaired?, Unruh asked. There tend to be narrow and small buildings, however this is a three-car garage and it's already tight back there, Collett said. There is a storage building that will be gone as soon as we have a garage and the view will be better for the Stockdale's once we get rid of the storage building, Smith said. That doesn't help the road area, Sieger said. What is atypical for the neighborhood for a garage?, Unruh asked. Most are single car garages, Collett said. Is there any additional information?, Sieger asked. Schneeweis expressed continued concern about the patio being enclosed. Technically, the way I understand it, if the variance is approved it could be a covered patio, unless we stipulate it cannot be covered, Sieger said. What if we would approve the project only for a single car garage?, Unruh asked. We might put a temporary carport in there, Peterson said. They are all structures, Brazil said. The footprint all counts the same, he added. We don't have a clue what the new regs will be, Unruh said. We have to deal with what we have right now, Sieger said. Brazil showed Unruh a regulation on structures on page 20, #197. Once again, I think the footprint is what is important, Brazil said. At some point, however you attach them, they become a fixture, Unruh said. That doesn't mean you can't un-attach them, he added. It's the same thing if you apply for a permit on a permanent or a temporary garage, or structure, Brazil said. Is there a building permit required with a carport?, Peterson asked and Brazil said yes. Is there anything further?, Sieger asked.

Sieger opened the floor for discussion and determination. Let's talk about each side at a time, Sieger suggested, starting with the front. They want to extend out and cover over the existing porch and add a patio, either covered or not covered, which requires a setback of 30 feet, Sieger said. It sounds like the structure of the front porch isn't a problem, and if the patio is uncovered it doesn't seem to be a concern, Mueller said. Avery asked Brazil if his recommendation has changed from when he first looked at this application, and Brazil said no. I could support a patio but not a cover over it, Unruh said.



What about the question of a movable gazebo?, Avery asked. If a gazebo was part of the plan, Brazil said. Once a variance is approved you have a year to use the variance as approved, Brazil explained. It's another issue if it steps across the setback we approve, Unruh said. We have approved variances for patios with the condition it not be covered, Brazil said. As long as a gazebo didn't cross over the setback and we approve the setback, do we have any authority over it?, Unruh asked. I still go back to as presented, Brazil said. I think the issue for the sides is how long is the garage going to be?, Unruh asked. We could do the sides and back together, so the garage is an issue, Sieger said. If the goal us trying to create unification in the neighborhood, a similar garage is probably acceptable in my view, because it has to do with what is atypical, Unruh said. Several lots have un-conforming issues, Sieger said. It's hard to be uniform, she added. Looking back at the original application, it says to construct a two-door garage, Mueller said. 24 is nice, but it could go to 20, Mueller said. I think at least 21 would be doable, Peterson said. My car is 20 feet, Smith said. I understand what Bob is saying, but to me the greater issue is for public safety, Avery said. I think it is an issue, but I believe from what I've heard safety is already impaired and perhaps this may impair it further, which we should look at, but I think it's already been impaired, Unruh said. I would not want to approve anything that would further impair it, as change should be an improvement, if anything, Avery said. I think a smaller garage is a possibility, Brazil said. In this neighborhood we have approved a variance on the side of three feet, which is just the minimum to get around to maintain it, so there's a balancing act, he said. I know for one, my vehicle was on the street before I could even see who was on the street, Brazil said. We look at different neighborhoods and their characteristics, and this is one of the more narrow spots on the lake, Brazil said. This is pretty tight, he added. My staff recommendation is always with staying with what we've done, Brazil told members. This won't allow for a garage at all, Peterson said. Brazil explained that in some other similar cases, owners have approached a garage from an angle. As Mr. Collett said if this were a public road it would change things, Brazil said. So, where technically is the property line?, Unruh asked. If I own half of my driveway, where is my property line?, Unruh asked. These roads have always been no man's land, Collett said. Some people have acquired deeds to the roadway, but not in this case, as far as anyone knows the road seems to still be in the original owner's names, Collett said. I would support an open top patio in front, and I would support three-foot setbacks, but I would only support a smaller structured garage in parallel with what the spirit of the neighborhood is, Unruh said. What about a different approach?, Avery asked. It could only be 19 feet, Mueller said. I have a 24x20 garage with two cars, but it's tight, but you do make it work, Unruh said. Is there some reason you didn't want to attach the garage to the house?, Sieger asked. Because of the sewer, Peterson said. The sewer could be moved, Yoder said. Most properties have either no garage or a one-car garage, but there are a couple two-car garages, Brazil said. We hope to improve the neighborhood, Peterson said. So, you would support a single car garage?, Avery asked. I would support a smaller structure, Unruh said. If you enter the garage from the side, you change the dynamics of how the property works, Unruh said. I would focus on what the setbacks do, Brazil said. The way they planned it, it will have well over half the property under a roof, Unruh said. What we're looking at is what was published, which is three feet on the north and south sides, so the garage could be shifted, Brazil said. Avery read Brazil's staff recommendation and asked if it still stands. Covering the



porch in front may limit the view, Brazil said. Yes, we talked about that, Avery said. By doing three-foot lengths on each side, you're gaining room to move the garage around, Brazil said. You could specify where three feet is okay, or let it be okay all the way around, Brazil told members. Unruh made a motion to approve a front yard setback variance of 10 feet, two side yard setback variances of seven feet, and a rear yard setback variance of 10 feet, plus enclosure of the porch, and that the front patio be uncovered, for application number ZPO3.026 for Willis Peterson and Karyn Sue Smith. Mueller seconded the motion. Avery asked and Brazil explained that the three feet would run the length of the property on the sides. He pointed out that the applicant needs three feet for the storm shelter, but if you apply it as is, it will include the length of the property. Traditionally, we haven't segmented it, Unruh said. I think this allows the property owner to do what is typical, Unruh said. There are times we have limited what the variance is, Brazil said. I think it's important to give him some flexibility with the garage, Mueller said. I'd like to see the flexibility, but I don't think I want to see this the entire length in the future, Avery said. And as for the drainage issue, and I think it's a valid one, we've got to look to the future, too, and with a three foot variance I can see more problems out there, too, Avery said. No further than the existing structure?, Sieger asked. I'm not sure we can solve the garage issue, Avery said. Is there any further discussion on the motion?, Sieger asked. No amendments?, Sieger asked. There were no amendments.


In favor: 3; Opposed: 2; Motion carried.

Sieger explained this is a final action. Brazil asked Peterson if it is to put a copy of the diagram and some of the photos in the file, and Peterson said yes.

Item 4: Zoning regulation development discussion. Brazil told members the contract is signed, and a workshop will be planned after members receive the rough draft. Hopefully, by the next meeting you'll have a rough draft, Brazil told members. If you have specific things, or tonight I noticed it wouldn't be bad to have a description for a temporary structure, Brazil said. I've been gathering little pieces like this for quite a while, he added. He can go through item by item and see that each piece fits in there, Sieger said. Does he plan to write up a separate category for five acres?, Sieger asked. I think I would like to see it be a whole separate zone, Brazil said. I still would like to see the 10 acres stay in there, Sieger said. I would formalize the 10-acre precedent in your regs, Brazil said. Unruh asked about new home site requirements. You will either need 40 acres, like you do today, or a five-acre parcel, Brazil said. So, he will give us a draft and we'll have a work session, Sieger said. I would think he could just present the changes, Mueller said. Right, but whatever he presents, we'll go through each item, Sieger said. Some details can be added later and if you have suggestions some can be added now, and once this step is completed we can have him come in and explain how it will all work, Brazil said. Avery asked if county commissioners would come to the work session. They have not come before, but they could come, Sieger said. The procedure is by state statute, how it is all developed, Sieger said. Is there anything else?, Sieger asked. If there is anything you think needs to be changed, I'd like to know and we can get that to the consultant, Brazil told members. Last time we talked about enforcement, Mueller said. We can double fees of applications already, if they build without a permit, Brazil said. Suggestions for enforcement, maybe that's a question we want to put to the consultant, Brazil said. Unruh asked about the state getting rid of all grandfathering on junk vehicles. So, if anyone has

over 10 inoperable vehicles they have to get a salvage license, Brazil said. What about the junkyard we have previously discussed in the southwest part of the county?, Unruh asked. About one year ago I conveyed the legal description to the state, Brazil said. What if you have 10 or 12 vehicles and have a fence around it, and it looks pretty neat?, Ensz asked. What is involved in getting an okay?, Mueller asked. They want current zoning and they want me to sign off, Brazil said. We had one that needed to relocate and the surrounding property owners very much protested, Sieger said. When trash is produced on ag operations, they have a right to dispose of it on site, so when it's a vehicle?, Brazil said. I can make the contact again and see where they're at on it, Brazil said. Remember the next meeting is a week early because of Thanksgiving, Sieger told members. Our normal precedent is we have not met in December, Sieger said. She asked about the work session timeline. I told the consultant it would probably be January, but I wouldn't be opposed to December, Brazil said. Sieger reminded members that three member's terms will expire at the end of the year, so they need to discuss with their commissioner what their plans are. Unruh returned a book he borrowed from Brazil and Mueller took it home to read. Sieger reminded members to turn in their mileage, and Brazil said the last date to do so is December 19. Mueller made a motion to adjourn and Ensz seconded it. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 9:43 p.m.

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Eileen Sieger,  
Chairman