

PORTER COUNTY PLAN COMMISSION
Regular Meeting Minutes
January 27, 2016

The regular meeting of the Porter County Plan Commission was held at 5:30 p.m. on Wednesday, January 27, 2016 in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Mitch Peters presided.

Members present were: Ken Williams, Kevin Breitzke, Mitch Peters, Luther Williams, Lindsay Ploehn, and Kyle Yelton. Also present were Robert Thompson, Attorney Scott McClure, Kristy Marasco, Helene Pierce, citizens, and representatives of the press.

MINUTES:

Kevin Breitzke made a motion to approve the December 9, 2015 meeting minutes as submitted. Ken Williams seconded the motion. A voice vote was taken and unanimously carried 6-0.

COORESPONDENCE:

None.

ELECTIONS:

President:

Motion to elect Bob Poparad President of the Plan Commission was made by Mitch Peters. Kevin Breitzke seconded the motion. A roll call vote was taken and unanimously carried 6-0.

Vice-President:

Motion to elect Mitch Peters Vice-President of the Plan Commission was made by Luther Williams. Kevin Breitzke seconded the motion. A roll call vote was taken and unanimously carried 6-0.

BZA Appointment:

Motion to appoint Mitch Peters to the BZA was made by Kevin Breitzke. Luther Williams seconded the motion. A roll call vote was taken and unanimously carried 6-0.

Plan Commission DRC Appointment:

Motion to appoint Kevin Breitzke to the Plan Commission DRC was made by Mitch Peters. Luther Williams seconded the motion. A roll call vote was taken and unanimously carried 6-0.

OLD BUSINESS:

None.

NEW BUSINESS:

DW-15-0055 – Petition filed by Eugene Johnson c/o Don Bengel, 492 North 400 East, in Washington Township in the RR, Rural Residential District. Petitioner is requesting Design Waiver approval for a proposed Minor Subdivision (with three (3) buildable lots) to allow a reduction in the road frontage from the required 240 feet (for each lot) to 222 feet. Mr. Don Bengel presented. Originally, Mr. Johnson wanted a four (4) lot subdivision, but due to some existing farm buildings being located to the north of the property it was determined that three (3) lots would be better. The property is located in the RR, Rural Residential zoning district. The requirement for road frontage for each lot is 240 feet. We are requesting a Design Waiver to allow for road frontage of 222 feet. This is an 18-foot difference. There are 160-foot lots across the street from this property as well as many other parcels in the immediate area. Currently drainage flows to the south and we believe this development will decrease the amount of runoff because we will have grass where there are currently row crops. A drainage study has been done and submitted in accordance with the requirements.

Mr. Robert Thompson advised this project is before the DRC currently, but because a Design Waiver is being requested the DRC can't approve the minor subdivision until this board approves the Design Waiver request. If approved tonight the project will go back to the DRC for further review and they will work out the details of any drainage concerns. The DRC will address in detail soil conditions, drainage, and storm water management. Tonight, the board is looking only at the road frontage waiver request of 222 feet versus 240 feet.

Public Hearing:

Mitch Peters asked if any of the public would like to speak in favor of or in opposition of this case. Mitch Peters also asked that the public address their questions to the Plan Commission while at the same time the petitioner will take notes and respond at one time. No one spoke, therefore, the public hearing was closed and questions/comments were heard from the Members.

Q: What is the reason for not using more land?

A: The existing farm buildings to the north.

Q: How far north are those buildings from the existing lot lines?

A: 60-80 feet.

C: Depth to width ratios are fine, lot sizes are more than an acre, and the DRC is looking at many details as Mr. Thompson stated.

Q: There is some concern with driveway location of Lot C. Mr. Thompson has requested that the driveway on Lot C be located at the farthest south end due to the location of the property being near a hill and the sight lines at the point not being optimal.

R: There is a pipeline easement on the south side so we placed the drive to Lot C on the north.

C: Mr. Thompson noted that a drive on the north end of Lot C simply is not possible due to the hill causing issues.

C: Kevin Breitzke noted that DRC has reviewed and discussed this and they do not have any concerns with moving the driveway for Lot C to the south.

Motion: Kevin Breitzke made a motion to approve DW-15-0055 to allow for road frontage of 222 feet with the condition that the driveway for Lot C is located as far south as possible and reviewed and approved by staff engineer. Ken Williams seconded the motion. A ballot vote was taken and unanimously carried 6-0.

DW-15-0057 - Petition filed by Ryan and Jessica Neal, 2151 Smoke Road, in Center Township in the R1, Low Density Single-family Residential District. Petitioner is requesting Design Waiver approval for a proposed Minor Subdivision (with four (4) buildable lots) to vary from Section 10.32 Subdivision Control; General.

Mr. Robert Thompson advised this case is requesting a number of Design Waivers. They are as follows: road frontage from 240 feet to 119 feet on Lot 4 and 125 feet on Lot 2, noting that the width is not maintained throughout. Lot 4 exceeds the lot width to depth ratio. There is an existing accessory structure located on a lot that is not allowed to be there before the primary structure. Road access must be a minimum of 16 feet wide and comprised of at least 8 inches of compacted aggregate. The drive is currently asphalt which exceeds the standards, but it is only 10 feet wide. This case is also before the DRC and cannot be approved by them without Design Waiver approval from the Plan Commission first.

Attorney Gordon Etzler and Land Surveyor Bill Davies presented. Mr. Neal purchased this 20-acre parcel a number of years ago. It is a residential parcel of a larger parcel to the south. The parcel is 20 acres, but is narrow and long and fronts on Smoke Road. University Heights subdivision is immediately to the north and was developed over fifty years ago. Smoke Road itself has a number of homes located on it. The parcel has moraine topography and a great deal of wetland to the east and west and again further down to the south. This is a unique area. This parcel has a higher elevation than the property to the south. The topography of the parcel has rolling hills that run about 40-50 feet from east to west and has hills throughout which water flow is directed into the wetlands to the southwest. Mr. Neal purchased the property not really understanding what the requirements were. A home was built on the eastern part of the property and a driveway installed that is 8-10 feet wide. We are aware that improvements are needed to the drive. The driveway follows the contours of the property and winds its way through to a lovely home. Mr. Neal's plan is to split and develop the property, and he has taken into consideration the topography of the property. The largest lot is Lot 1 which has an existing home. The existing accessory structure is a garage that was there when the purchased the property. The intent is to keep the structure and build a house next to it. Two of the three new lots and homes will belong to family members and one will not. All the lots will be accessed through one driveway that has existed for 6 or 7 years. The access point at Smoke Road will be widened to 28-30 feet and the interior road will be widened to 12 feet. Septic and well has been approved for this plan.

Public Hearing:

Mitch Peters asked if any of the public would like to speak in favor of or in opposition of this case. Mitch Peters also asked that the public address their questions to the Plan Commission while at the same time the petitioner will take notes and respond at one time.

Ms. Connie Bauswell, 1952 Hampstead Court and owner of 2151 Smoke Road states she owns 18 acres of adjacent land to the south of Lot 1 of Mr. Neal's property. Mr. Neal purchased 20 acres in 2008 and Ms. Bauswell purchased her 18 acres in 2010 with the intention of building an estate home on the property. She was made to go through the subdivision process and had to agree not to further subdivide. The existing structure was not placed on the property prior to Mr. Neal purchasing it, and therefore, is a result of Mr. Neal. Traffic is a concern in this area.

It appears that Mr. Neal is asking for forgiveness instead of permission, and this Board is encouraged to review Case Number 07-V-28 as a point of reference. Ms. Bauswell has concerns with the project and great concerns with how it's being represented tonight.

Mr. Tim Regnitz, owner of Lot 1, states he was given a building permit, but when he realized the zoning was not all correct we started the process to make it right. We want to be able to sell our home at some point without issues.

Mr. James McGill, 3251 Smoke Road, states he is opposed to this project. Mr. McGill questions if they will be required to put in a drainage pond? Mr. Breitzke advised they will either have to prove that one is not needed or comply with the requirements.

Mr. Danny Balentine, 2302 Sturdy Road, states he owns 10 acres of the property being discussed which makes up Lots 2 and 3 currently. The existing accessory structure was built when the house was built originally on Lot 1. When the property was divided (improperly as we are now to understand, but did not understand that at the time) that building was separated from Lot 1. That accessory structure existed when we purchased the property it just was originally with the house on Lot 1.

The public hearing was closed and questions/comments were heard from the Members.

C: Mr. Robert Thompson advised that the way we got to this point is the petitioner came in for a new address and we began asking questions. As it turns out currently, all four lots have the same address right now, but they are being sold as separate lots, and are ready to build. There has not been any house permits issued yet. When the original house was built, we viewed the entire 20 acres as one parcel and the building permit was issued on that basis.

R: Mr. Balentine and Mr. Neal feel that they can build for other family members within the boundaries of their property lines.

Q: Does the owner of Lot 1 have an issue with legal access to his property?

A: The one house built is okay and the private drive is okay. The owner sold something he couldn't legally sell because he had no legal right way to get to his property. However, they are here tonight for the Design Waiver requests. Technically if they didn't need the Design Waivers, then they wouldn't be here this evening.

C: The entire premise of this is troubling. We now have three property owners when we should only have one. We don't want to set a precedence of this sort of situation. The building permit issued was for the entire 20 acres. It is troubling to reward something that should not have been done in the first place.

Q: Is there any way to reconfigure the lot boundaries on Smoke Road to meet the proper lot widths?

A: The property has already been sold, albeit, incorrectly but it was done.

Q: What happens if we deny this?

A: Then the Planning Office has a mess on their hands.

Q: Currently are Lot 1 and 2 owned by the same person, so why are they not combined?

A: It's an economic issue.

Q: Is the interior road width reduction a large concern?

A: They need to be able to have passing capabilities and be able to pull out safely and that is not the case currently. At a minimum we ask that the first 50 feet is 20 feet wide and then 16 feet wide at least until the "T".

Q: Is having 2 feet of gravel on each side ok?

A: Aggregate, yes.

Motion: Luther Williams made a motion to approve DW-15-0057 to allow Design Waiver waivers for the reduction of road frontage regarding Lot 2 and Lot 4 with the exception of the 10-foot wide driveway which will require a 16-foot width until the first junction and the first 50 feet to be 20 feet wide and made of a substance acceptable to the DRC; and to allow the existing accessory structure to remain as is. Ken Williams seconded the motion. A ballot vote was taken and did not carry with a 3-3 (Breitzke, Ploehn, K. Williams) vote. *As a result of the vote this matter will be automatically carried over to the next Plan Commission meeting schedule to meet February 24, 2016 at 5:30 p.m. This meeting will not be a public hearing unless new material is presented. This matter is automatically carried over at the DRC level as well and will not be considered at their February 3, 2016 meeting.*

STAFF ITEMS:

Department Changes: Mr. Bob Thompson reported that the Commissioners are in the process of adopting an Ordinance that reorganizes the Planning Department to house a number of divisions and serve a number of Boards. The divisions as proposed are: Storm Water Management, GIS, Planning, Zoning, and Economic Development. The idea is to try to have as much as possible under one point of contact and have more coordinated efforts among these five divisions. As a result our hope is to add additional resources to the department such as engineers, inspectors, and administrative staff. This Board will still be referred to as the Plan Commission.

ADJOURNMENT:

The January 27, 2016 regular Porter County Plan Commission meeting adjourned at 7:00 p.m.

Bob Poparad, President

Attest: Robert W. Thompson, Jr., AICP
Executive Director/County Planner