

ROLL CALL

Harry Baumgartner, Jr.	Jerome Markley
Angie Dial	Keith Masterson
Jarrold Hahn	Mike Morrissey
Bill Horan	Tim Rohr
Richard Kolkman	John Schuhmacher
Finley Lane	

Michael Lautzenheiser, Jr., Director

The February 2, 2012 meeting of the Area Plan Commission was called to order at 7:30 p.m. by President Jerome Markley. Ten members were present for roll call. Richard Kolkman was absent.

APPROVAL OF MINUTES:

Jarrold Hahn made a motion to approve the minutes from the December 8, 2011 meeting and the January 5, 2012 meeting; Angie Dial seconded the motion, the motion carried 10-0.

NEW ITEMS:

A12-02-01 JEFFERSON TWP SE/4 15-28N-12E Bee Creek Development is in violation (V2011-001) for failing to maintain a maintenance and performance bonding for an approved major subdivision development. Property is located at Bridges Subdivision, Ossian and is zoned R-2.

(This violation is in the process of being corrected.)

A12-02-02 CHESTER TWP NW/4 34-25N-11E Billy J and Alesha M Shepard are in violation (V2011-004) for constructing a sign without a permit, having a home occupation outside of the primary structure and for conducting a business that does not qualify as a home occupation. Property is located at 11227 S 300 W , Montpelier, IN 47359 and is zoned A-1.

There was no representation for the violation. Therefore, Michael Lautzenheiser, Jr explained how the violation came about. He advised that there were complaints from two neighbors about an automobile repair business being run on the property. Upon inspection, there were as many as 20 cars at one time. Currently there are 10 – 12 cars on the property. Last month, the owners cleaned the area up and only had their own vehicles there for a short amount of time. He stated that the business sign is currently on trailer hooked up to a van in the owners’ drive way. Previously, the sign was between the power poles and the road, which would have been in the public right of way.

Mr. Luatzenheiser stated that the owners’ have a two car garage that they could pull the vehicles in to work on them. Then have the vehicles removed from the site upon completion of the work. The sign could be acceptable, if it meets the proper setbacks, then a permit could be issued. However, there has not been much cooperation from the owners and the issue seems to be cyclical. The next option in the violation procedure, after receiving three letters from the Area Plan Office and being asked to attend this meeting, would be to have the board act. There could be an injunction filed, through the court system, to remove the violation from the site and/or to assess a fine up to \$2,500.00.

Jarrold Hahn and Michael Lautzenheiser Jr. discussed that no permit had been issued for the sign and what would be required for a mobile/temporary sign.

Mr. Lautzenheiser advised the board on how the property was in violation of the home occupation ordinance. He stated that an auto business does qualify as a home occupation, but it must occur inside a structure. This property has junk (parts and pieces left over from repairs) collecting outside of the structure and into the drive way. No home occupation can be junk accumulating.

Mr. Hahn discussed the ways to remedy the sign and home occupation violations. This could be done by getting a permit for the sign, as long as the placement of the sign is in within the right of way; and by keeping the home occupation inside.

Mr. Lautzenheiser stated that another remedy is that the owners could apply for a zoning change to a business zoning and then they could do part of their business outside or they could build an additional building to keep the business inside, but they would still need to get a permit for it. He also stated that recently there was a car parked in the right of way on Old 303 for at least 36 hours. He advised the board that from what he could tell it looked like all of the vehicles had license plates. He was unsure on if they were all current.

Mr. Lautzenheiser explained to the board what occurred the last time a violation went through this process. Then, he and the board discussed the options of fines, injunctions and a time frame.

Andy Antrim discussed violation fines and who sets them, along with legal fines and court procedures for an injunction.

Mr. Lautzenheiser explained to the board what he first did to try and alleviate the situation. He had requested that the owners supply the office with the registry for all of the cars and a written plan on how the vehicles were to be removed, but this information was never received by the office. However, the property was cleaned for a little while. It has since gone back to its original state.

Mr. Antrim advised the board that the penalty could rise if the offence continues. He also stated that this could set a precedence for future violations in the county.

Conditions: The owners receive a letter stated that, as of March 1, 2012, they will incur a \$500 fine plus legal fees with an injunction to remove, if this violation is not resolved. Resolution to the violation would be a permit is needed for the sign and the property is cleaned up and continues to be maintained to ordinance standards.

Motion: Mike Morrissey

Second: Finley Lane

Vote: 10-0

A12-02-03 UNION TWP NW/4 03-28N-11E Joseph D and Alisa S Welches are in violation (V2011-005) for constructing a shed with in the rear and side yard setbacks. Property is located at 2762 W Rockhill Ln, Zanesville, IN 47359 and is zoned R-1.

(This violation was corrected between the agenda being printed and the meeting date. This property is no longer in violation.)

A12-02-04 JEFFERSON TWP NE/4 16-28N-12E Jason Meyer is in violation for constructing a shed without a permit and within the utility easement. Property is located at 428 Bittersweet Ln, Ossian, IN 46777 and is zoned R-1.

There was no representation for the violation. Therefore, Michael Lautzenheiser, Jr explained how the violation came about. He stated that about three years ago a violation letter was issued after a complaint was received by the office. A shed was built in the utility easement without a permit. The office tried to work with the owners and they contacted Ossian for their blessing on a variance approval. Then 60 – 90 days after the letter was sent to the owners, they mailed the office a check for the permit and acted like they were going to move the shed. They received the entire two years, on the permit, to do what they were asked to do. The two years dissolved later last year. Additional contact to the owners was letting them know that the permit was no longer active and needed to get a new permit to fix the violation or apply for a variance and go through that route. After this letter went out, Ossian was contacted again asking for their blessing on the project. LuAnn with the Town of Ossian said that she would send a letter with their variance petition that would say that Ossian was okay with the shed being in the easement as long as it was moveable. Last week, Mr. Lautzenheiser made a reminder phone call to the owners to see if they were going to file a variance. He again told them of the timeline that they would need to follow to get the violation taken care of before the meeting.

Jerome Markley stated that the violation could be remedied by getting a permit and moving the shed or filing a variance and getting a permit.

Angie Dial stated that she had the letter that LuAnn wrote for the owners. She stated that the owners have never picked up the letter from LuAnn. She advised that the letter was not dated, but it was written several weeks ago. Ms. Dial stated that the shed needed to remain mobile. If the shed ever needed to be moved for the utility company, Ossian was not responsible for moving it and if any damages incur while it is being moved, Ossian was not responsible for that either.

Jarrod Hahn stated that it could be considered a second offence because when they got the permit they submitted a drawing on where the shed would be located and they did not move it. The fine could be increased.

Conditions: The owners receive a letter stated that, as of March 1, 2012, they will incur a \$500 fine plus legal fees with an injunction to remove, if this violation is not resolved. Resolution to the violation would be a permit is needed for the shed and it would need to be moved or file a variance and then get a permit.

Motion: Mike Morrissey

Second: Bill Horan

Vote: 10-0

A12-02-05 Wells County Area Plan Commission Fee Schedule Amendment.

Michael Lautzenheiser, Jr. explained the fee schedule outlined in the members packet. He also stated what was discussed at the BZA meeting about the violation fees. The BZA board members believe that a forgiveness petition should cost more than a permission petition. He advised that the News-Banner ad fee is not approved by the APC and if that fee changes the schedule can just be reprinted without a vote. Mr. Lautzenheiser pointed out proposed changes to the fee schedule that had been discussed at previous meetings such as a special meeting fee, which would not be issued if the meeting were continued or if the board members requested a special meeting. He further explained the violation fee.

Andy Antrim explained that treble damages are usually done by statute, with the most frequent being unauthorized control over property. He stated that treble damage is not common. Usually, cost of damages or compensation is done.

Mr. Lautzenheiser also brought up if one county entity should charge another county entity. Could the petition fees be waived for a government agency? The legal ad and sign fees would still have to be paid. The board discussed the difference where money comes from between the county departments and city departments.

The board discussed the violation fee and if it should be twice the petition fee or more. It was also discussed who would be the one paying the fee. Would the home owner or the contractor pay?

Jerome Markley explained that the fee schedule would take effect upon the motion passing and also clarified the violation fee.

Conditions:

Motion to Approve: Mike Morrissey

Second: John Schuhmacher

Vote: 10-0

OTHER BUSINESS:**March 1st meeting**

Mike Lautzenheiser Jr. discussed a hand out explaining APEX decreasing their project by 36 wind turbines and moving 29 turbines on the project list. He also talked about emails and digital maps that were received by the office from APEX. He clarified the reason for the new maps and indicated that it was due to shadow flicker and to lower impact on homes.

Jerome Markley explained the conference call that occurred with Mr. Lautzenheiser, Mike Morrissey, Andy Antrim, and the county attorneys from Indianapolis. He also went over the tentative order of how the March 1st meeting would flow. He explained the sign in sheet and how it would create a more organized meeting.

Mr. Lautzenheiser explained how his meeting went with the three members of the organized opposition group. He also informed the board that there are a couple of opposition petitions going through the county.

Andy Antrim explained what his role would be during the meeting, which would be addressing what the purpose of the board is. He stated that he would address the issue of asking questions directly to individual board members before the meeting starts.

Mike Lautzenheiser, Jr. explained that when the petitioner or any one from the public is speaking, the conversation is to be directed at the president of the board. Then he can redirect the question to the appropriate person to answer.

Jerome Markley explained the wind farm trip to Ohio that was taken with a few of the board members.

Mr. Lautzenheiser discussed a hand out on a possible wind turbine violation procedure. He also explained going out in the county doing a sound study with the DbA and Dbc scale and how the readings were collected.

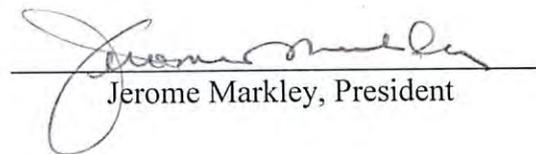
The board discussed the options of tabling versus continuing a meeting. If the board members wanted to continue the meeting on March 1st, the board would have to unanimously vote to suspend procedure in order to have another meeting.

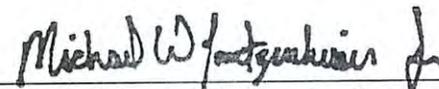
Adult Business

Mike Lautzenheiser, Jr. advised the board that two gentlemen came into the office about opening an adult novelty shop. There was a question about if there was an existing adult ordinance in place. He stated to the men that there was not and he would like to have a discussion at the board level before any decisions were made. They are on the agenda for the April meeting, where they will state their ideas for the store. He provided the board with a rough outline for a possible ordinance and explained that it was based off of other counties requirements. He stated that he reviewed court cases with Andy Antrim and explained some cases and their validity. He also discussed the option of a moratorium for the county and other town boards could have, while the ordinance was being written.

ADVISORY:

John Schuhmacher made a motion to adjourn the meeting. Mike Morrissey seconded the motion and the motion passed with a vote of 10-0. The February 2, 2011 Area Plan Commission meeting adjourned at 9:22 p.m.


Jerome Markley, President

ATTEST: 
Michael Lautzenheiser Jr., Secretary