

ROLL CALL

Dan Baumgardner	Jerome Markley
Harry Baumgartner, Jr	Keith Masterson
	Mike Morrissey
Bill Horan	Tim Rohr
Richard Kolkman	John Schuhmacher
Finley Lane	

Michael Lautzenheiser, Jr., Director

The February 5, 2015 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.

**APPROVAL OF MINUTES:**

Mike Morrissey made a motion to approve the minutes, with the two changes from Jerome Markley, from the January 8, 2015 meeting. Keith Masterson seconded the motion; the motion carried 10-0.

**OLD ITEMS:**

**A 15-01-02 LANCASTER TWP. SE/4 32-27N12E Private Capital Group Diversified Fund, LLC. (Bluffton KOA) requests approval for a zoning change to M-1. The property is located at 1625 W. Lancaster St., Bluffton, IN 46714 and is zoned A-1.**

Jerome Markley spoke about the letter from Carson Boxberger, Bluffton KOA, asking for a continuance until April 2015. He said that they want to go before the BZA instead if possible. Ryan Chrismore said that it was accurate. Ben Murray asked what the BZA was. Mr. Markley said that the BZA is the Board of Zoning Appeals. Michael Lautzenheiser, Jr. said that it is a 5 member board that meets once a month. Mike Morrissey asked to clarify where the BZA meetings take place. Mr. Lautzenheiser, Jr. said that they meet the 4<sup>th</sup> Tuesday of every month in the Area Plan Office.

Mr. Markley said that it would be heard at the BZA Meeting on March 24<sup>th</sup>.

Mr. Morrissey asked if this continuance would create a timeline problem.

Mr. Lautzenheiser, Jr. said that it wouldn't cause a problem but they are only able to ask for 2 continuances and they are asking for their 2<sup>nd</sup> one tonight.

Conditions:

Motion to Continue to April 2, 2015: Mike Morrissey

Second: Harry Baumgartner, Jr.

Vote: 10-0

**NEW ITEMS:**

**OTHER BUSINESS:**

**V2013-023: Rex Bates**

Michael Lautzenheiser, Jr. said that this violation is in regards to the 2<sup>nd</sup> mobile home that was placed on the property without permission or septic permit. He said that it was supposed to be resolved by today's meeting. He said that Mr. Bates does have serious medical issues. Mr. Lautzenheiser, Jr. said that that Mr. Bates's plan is to redo existing and have the old one removed from the property. He suggested that for our best interest we give Mr. Bates another 30 days. Jerome Markley asked if he was still having health issues that cause him to not be at home. Mr. Lautzenheiser, Jr. said that he thought he was back at home. Mr. Markley asked the age of Mr. Bates. Keith Masterson said he is around 57-58 years old. Mr.

Markley verified the recommendation for 30 days. Mr. Lautzenheiser, Jr. said that he was supposed to call the office today with a timeline. Tim Rohr asked how long this has been going on. Mr. Lautzenheiser, Jr. said that it's been going on since late 2013. Mr. Markley asked if this was the violation where we posted a letter. Mr. Lautzenheiser, Jr. said that it was. Mr. Markley said that we are trying to work with him especially with his health issues and give him 30 days and if nothing happens then we can take further action. Mike Morrissey asked if they said weather would an issue. Mr. Lautzenheiser, Jr. said that he was looking for someone to come out to scrap the mobile home. Mr. Morrissey asked if they were scrapping the whole thing. Mr. Lautzenheiser, Jr. said that it is plan for the entire mobile home to be scrapped.

Conditions:

Motion to Continue to March 5, 2015 Meeting: Bill Horan

Second: John Schuhmacher

Vote: 10-0

**V2014-004: William D. Farabee**

Michael Lautzenheiser, Jr. said that we had made a motion to pass this violation along to the attorney at the last meeting. He talked to Mr. Farabee and the fence company hired to fixed violation. Jerome Markley asked if this happened before or after being sent to attorney. Mr. Lautzenheiser, Jr. said it was before, the fence company was saying March or April to redo fence posts. He recommends continuing this violation to the April 2015 meeting. Mike Morrissey asked if this was the violation we wanted to work with the city on for attorney fees. Mr. Lautzenheiser, Jr. said that we had started to talk to the City of Bluffton. Mr. Markley asked if we were going to pull the attorney off this violation. Mr. Lautzenheiser, Jr. said yes but he hadn't started anything since Mr. Farabee had contacted us first. John Schuhmacher said that with the ground being frozen that the continuance sounded reasonable.

Conditions:

Motion to Continue to April 2, 2015 Meeting: Mike Morrissey

Second: John Schuhmacher

Vote: 10-0

**V2014-018: Kenneth W. Werling, etal**

Kenneth Werling said that he questioned the ordinance and doesn't feel that it's a valid ordinance. He asked who turned him in. Jerome Markley asked what the situation was. Michael Lautzenheiser, Jr. said that it was the office's policy not to give the information out of who filed the complaint. He said that the office received a complaint of a semi-trailer on a property used for storage as an accessory building which prompted us to do an inspection. Mr. Lautzenheiser, Jr. said that it appeared to be a violation since it wasn't plated to be used as a semi-trailer. Mr. Werling said that it is a storage facility and it's on his private property. He said he had never seen an ordinance like that before. Mr. Werling said that when he placed the trailer on his property there was no such ordinance. Mr. Lautzenheiser, Jr. said that the ordinance had been in existence for several years. Harry Baumgartner, Jr. said that the ordinance was from 1971. Mr. Werling said that he was told to look on the internet and that's what he is going by. Mr. Lautzenheiser, Jr. said the ordinance he was referring to was just amended for 2014 but that section has not changed. Jerome Markley asked the page in the ordinance that this was located. Mr. Lautzenheiser, Jr. said it was on page 50, section 11-01, # 4. Mr. Markley read the section and asked when it was written in ordinance. Mr. Lautzenheiser, Jr. said that it had been like that ever since he started in the office. Mr. Baumgartner, Jr. said it was in the 1983 book. Bill Horan showed it being in the 2013 book with same wording. Mr. Werling asked what date that was accepted by the town board of Uniondale. Mr. Horan said it had to be accepted by everyone by May 15, 2013. Mr. Lautzenheiser, Jr. said that was when it went active. Mr. Markley said that he's been on for 6 years and it's been like that for as long as

he knows. Mr. Werling asked if he plated trailer even if he wasn't going to take it on the road, what would happen then. Mr. Lautzenheiser, Jr. said that there isn't anything in the ordinance in regards to having a semi-trailer on your property, but there is in regards to using a semi-trailer an accessory structure for personal storage. Mr. Werling asked why he was being singled out when he knows of about a dozen farmers that use semi-trailers as storage for seeds and chemicals. Mr. Lautzenheiser, Jr. said it is because we work on a complaint bases. Mr. Werling he again asked who complained because nobody has said a word to him. Mr. Markley said we don't go out looking for violations. Mr. Werling said he felt that they did. Mr. Lautzenheiser, Jr. said that was absolutely not the case. Mike Morrissey said that it was still somewhat a moot point since it is still a violation. Mr. Horan said that he didn't remember it being changed in last 25 years. Mr. Werling questioned that validity of signatures for Town Board of Uniondale.

Mike Morrissey said that if he wants to question the violation then he may want to get a lawyer and appeal to the BZA regarding this violation. Michael Lautzenheiser, Jr. said that it needs to be appeal when the violation was sent out. Kenneth Werling said that he thought that was what he was doing when he came to the office. Mr. Lautzenheiser, Jr. said that the letter said that he needed to file an appeal with the Board of Zoning Appeals if he felt that it wasn't a violation. Mr. Werling asked to file an appeal. Jerome Markley said that he would have to request to be on the agenda for the Board of Zoning Appeals. He said that he couldn't guarantee how that would turn out. Mr. Werling asked which date it would be. He was informed that he would need to file the appeal before it would be heard. Mr. Morrissey asked how much the appeal would cost. Mr. Lautzenheiser, Jr. said that it would be \$60 for the petition and \$15 for the sign payable to the Area Plan Office, and \$101.50 to the Bluffton News-Banner for the legal ad. Mr. Markley said that if he did choose to file the appeal it would be heard at the March 28<sup>th</sup> meeting since the deadline has passed for the February meeting. Mr. Werling said that when he was in the office he said that the soonest it would be was April if he decided to move the trailer due to placing items in an auction. Mr. Morrissey asked if it was Mr. Werling's intention to only have the trailer there a short time when he placed it on his property. Mr. Werling said no, it was planned to be there as long as he lived there. Mr. Morrissey asked what would be heard in front of the BZA. Mr. Lautzenheiser, Jr. said that it would be appealing the violation and stating the reason why he feels the violation isn't valid. Mr. Werling said that now that he knows it has been in the ordinance for as long as it has been he is going to back down. Mr. Lautzenheiser, Jr. asked if he had a timeline he would be willing work with. Mr. Markley asked if we continued to the April meeting, would he either have it taken care of or at least know when it would be taken care of. Mr. Werling said that the Fire Department has a fundraising auction he would put the items in but he doesn't know when it would be held. Mr. Morrissey said he didn't want to see him spend the money to go before the BZA because we can't speak for them. Mr. Markley said that Mr. Werling would need to have a logical argument to have the BZA side with you and overturn the violation. Mr. Werling said that he thought a man could buy property and do what he pleased on that property. Mr. Markley said that the ordinance is there to protect you from things that could happen and their property rights are protected. John Schuhmacher said that land use is a tough issue. Mr. Werling asked if the APC did anything with the drainage board. Mr. Markley said that the APC doesn't handle things with the drainage board, but Mr. Hahn is on the drainage board. Mr. Werling said that the only issue he could see would be the ground work under the semi-trailer caused water to back-up. Mr. Horan asked Mr. Werling if continuing this to a later meeting would give him time to decide if he wanted to go before BZA or get information regarding the fundraising auction. Mr. Werling said or to build a building. Mr. Horan asked if 60 days was enough time to figure things out. Mr. Werling shook his head yes.

Conditions:

Motion to Continue to April 2, 2015 Meeting: Bill Horan

Second: Mike Morrissey

Vote: 10-0

**V2014-019: Ronald & Jacqueline Yoss**

Michael Lautzenheiser, Jr. said that Mr. Yoss came into the office today and agreed to have items on property cleaned up by end of April. He recommended continuing this violation by May meeting. Jerome Markley verified the 90 days continuance. Mike Morrissey asked if this was a new violation. Mr. Lautzenheiser, Jr. said that it was mid-to-late 2014. Mr. Morrissey said he saw the October date.

## Conditions:

Motion to Continue to May 7, 2015 Meeting & send letter updating owner: Keith Masterson

Second: Richard Kolkman

Vote: 10-0

**V2014-023: Jason & Dawn McGrew**

Michael Lautzenheiser, Jr. said that he hasn't had any contact from owners. He said that the semi-trailer is being used as accessory structure. He suggests the board approve sending a second letter. Jerome Markley spoke about it being related to a violation from 2006. Mr. Lautzenheiser, Jr. said that there was an original violation for the same issue in 2006. Mr. Markley said that it was remedied at the time so they should be aware this time. He spoke to Mr. Werling showing him that this was in the ordinance back in 2006 for same violation. Kenneth Werling said that he thought that was the one lying on its side. Mr. Lautzenheiser, Jr. said that it was a different trailer, and that it was just east of 1. He said that the one on its side was at a different location. Mr. Markley said that the date is significant since it shows it's been in ordinance for almost 10 years. Mr. Lautzenheiser, Jr. said that the next step would be to send a letter with fines, penalties, and possible attorney action after next meeting.

Mr. Morrissey asked if it was all dealt with in 2006. Mr. Lautzenheiser, Jr. said that there were 2 units and that one was removed. Mr. Markley said that they should know that if they couldn't do it then, they can't do it now. Mr. Lautzenheiser, Jr. said that this violation came back because the office received a new complaint.

## Conditions:

Motion to Continue to March 5, 2015 Meeting and send 2<sup>nd</sup> notification letter: John Schuhmacher

Second: Harry Baumgartner, Jr.

Vote: 10-0

**V2014-026: Home America Fund LLP/Shane Brown**

Michael Lautzenheiser, Jr. said that Mr. Brown has been in contact with the office. He said that Mr. Brown is trying to get money around to be able to get permits. He would recommend continuing this violation to the next APC Meeting. Jerome Markley asked who the Home America Fund was and if they were the mortgage holders. Mr. Lautzenheiser, Jr. said that he thought Mr. Brown was buying on contract. Mr. Markley said that Mr. Brown put a pool in and bought a shed and placed shed in the wrong place. Mr. Lautzenheiser, Jr. said that he had moved the shed but still needed to get the permit. Mike Morrissey asked if the shed needed a permit because of the size. Mr. Lautzenheiser, Jr. said that the shed needed a permit because it is a shed. Mr. Morrissey asked if there was a minimum square footage. Mr. Lautzenheiser, Jr. said that there is not, they all require a permit.

## Conditions:

Motion to Continue to March 5, 2015 Meeting: Bill Horan

Second: Mike Morrissey

Vote: 10-0

**V2014-030: Anna Parks (Spalding)**

Michael Lautzenheiser, Jr. said that the shed has been taken care of and a permit has been issued. He said that they filed a BZA variance petition for the deck since there was a setback issue. Jerome Markley asked what happens if get the variance. Mr. Lautzenheiser, Jr. said that it could take care of the setback violation and then they would just need to get permit for deck. Mike Morrissey asked what the setback violation was. Mr. Lautzenheiser, Jr. said that the deck comes out about 3ft from the edge of the house. Mr. Markley said that we need to find a way to get the word out that you need to make sure you have a permit 1<sup>st</sup> before building to avoid having all these issues.

**Conditions:**

Motion to Continue to April 2, 2015 Meeting: Mike Morrissey

Second: Finley Lane

Vote: 10-0

**V2014-033: Kevin Thiele**

Michael Lautzenheiser, Jr. said that this violation comes from a permit to build a pole building. He said they dug a borrow pit and didn't fill it back in and now its holding water similar to a pond. Keith Masterson asked what a borrow pit was and how big. Mr. Lautzenheiser, Jr. said that he thought it was around 10'-15' wide, 20'-30' long, and as deep as a backhoe can dig. Harry Baumgartner, Jr. said that it is cheaper to dig to get clay rather than have it trucked in. Jerome Markley asked if they aimed to have a pond. Mr. Lautzenheiser, Jr. said that he didn't feel it was meant to be a pond. Mr. Masterson asked if they were planning on filling it in and just didn't get around to it. Mr. Lautzenheiser, Jr. said that there is not any dirt piled up around to fill it in with. Mr. Markley said they would need to bring dirt in to fill the hole up. Mr. Baumgartner, Jr. said that when he had to do that the contractor brought in a bunch of junk stones and rocks to help fill in the hole then covered that with dirt. Mr. Markley asked if they have contacted the office. Mr. Lautzenheiser, Jr. said that they have not contacted the office. Mike Morrissey asked when they received last communication from us. Mr. Lautzenheiser, Jr. said that it was the copies given to the board. Mr. Morrissey verified that this is the first time we've heard this violation. Mr. Lautzenheiser, Jr. said that it was the first time this violation was brought to the board's attention. He said his suggestion is to send the 2<sup>nd</sup> letter and continue to the March meeting.

**Conditions:**

Motion to Continue to March 5, 2015 Meeting and send 2<sup>nd</sup> notification letter: Mike Morrissey

Second: Richard Kolkman

Vote: 10-0

**V2014-034: Kevlin Geske**

Michael Lautzenheiser, Jr. said that he has been in the office and can have things taken care of by July. He said that Mr. Geske is planning on removing one shed and got a permit for the 2<sup>nd</sup> shed. Jerome Markley asked why they were removing the 2<sup>nd</sup> shed. Mr. Lautzenheiser, Jr. said that it's been there for a little while. He said that the junk on the property has been removed. Mike Morrissey asked if we would be monitoring process and if we can send a letter to let the owner know of the decision to continue violation to the July meeting. Mr. Markley said that the shed has been in violation for a long time. Mr. Morrissey said that he just wants them to know that it needs to remedied by July. Mr. Lautzenheiser, Jr. said that the shed that will be staying on the property is over the well.

**Conditions:**

Motion to Continue to July 2, 2015 Meeting and send letter to owner to notify them: Mike Morrissey

Second: Bill Horan

Vote: 10-0

**DISCUSSION:**

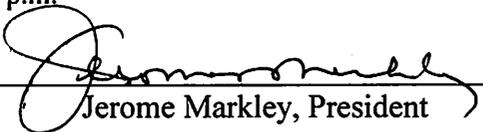
Jack Pace asked if all the semi-trailers in Wells County sitting on people's properties are legal until someone complains about them. Michael Lautzenheiser, Jr. said that the complaint doesn't make it illegal; it's illegal because the structure is being used as storage and that is against the ordinance. Mr. Pace said that he's been offered trailers for a very small amount of money and has considered it but he wouldn't want to have to come to a meeting because a neighbor or someone reported it. Jerome Markley asked if he wanted to turn in names because that's how it works. He said we aren't a police force and we don't go around looking for violations. Mr. Pace asked what the complaint would be. Kenneth Werling said there is no complaint. John Schuhmacher said that the same thing happened in Zanesville but on the Allen County side. He said that it is illegal there too. Mr. Pace said it is scary because he's thought about this more than once. Mr. Schuhmacher said that it's not just Wells County. Mr. Pace mentioned that that maybe we (Wells County) need to be informed of a lot of things. He suggested maybe something to be published in the News-Banner. Bill Morris asked who monitors the movement of trailers or vehicles. Harry Baumgartner, Jr. said it would be the sheriff department. Mike Morrissey asked Mr. Pace if he was aware that if he were to put a shed up did he know to get a permit first. Mr. Pace said that he did he knew that. Mr. Morrissey said that then all this could be avoided if people ask first if anything is needed before putting buildings or items used for storage on their property first.

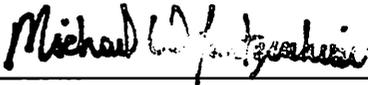
**ADVISORY:**

Michael Lautzenheiser, Jr. mentioned the 2014 Steering Committee Annual Report and that he would talk more on this at the March 5, 2015 meeting. Jerome Markley asked if #6 was in reference to Bluffton. Mike Morrissey asked if CFO is a typo and meant to be CAFO. Mr. Lautzenheiser, Jr. said that the Redraft Committee decided to combine the CFO and CAFO together. He said that will be going with the CFO numbers as they are lower than CAFO. Mr. Markley said that this will be talked about in more detail at the March meeting.

**ADJOURN:**

Mike Morrissey made a motion to adjourn the meeting. Finley Lane seconded the motion. The February 5, 2015 Area Plan Commission meeting adjourned at 8:38 p.m.

  
Jerome Markley, President

ATTEST:   
Michael Lautzenheiser Jr., Secretary