

## ***WABASH COUNTY PLAN COMMISSION***

*Wabash County Court House  
One West Hill Street, Suite 205  
Wabash, IN 46992  
Telephone 260-563-0661 EXT 1252, 1267  
Fax 260-563-5895  
[plandirector@wabashcounty.IN.gov](mailto:plandirector@wabashcounty.IN.gov)*

## **WABASH COUNTY PLAN COMMISSION** **BOARD MEETING MINUTES**

**June 7, 2018**

**Wabash County Plan Commission Board  
Wabash County Court House  
Wabash IN 46992**

**Board Members: Curt Campbell, Randy Curless, Scott Givens, Patty Godfroy, Doug Rice, Christian Rosen, David Schuler, Cheri Slee, Joe Vogel, Attorney Larry Thrush, Plan Director Mike Howard, Secretary Libby Cook**

**Present: Scott Givens, Patty Godfroy, Christian Rosen, David Schuler, Cheri Slee, Joe Vogel, Larry Thrush, Mike Howard, Libby Cook, Kris Frieden, Robert Kowalczuk, Brayden Rudy, Kali Kowalczuk, Ash Heitz, Mark Guenin, Danny Hackworth, Gary Burnau**

The Wabash County Plan Commission Board met on Thursday, June 7 2018. Chairman, Scott Givens, called the meeting to order at 7:00 pm. Mr. Givens asked for a motion to approve the minutes of the April 5<sup>th</sup> meeting. Cheri Slee made the motion to approve the minutes, this was seconded by Joe Vogel, the minutes were approved as written.

Mr. Givens called on Attorney Mark Guenin, Mr. Guenin is here on behalf of Michael Weaver the owner of Zoomers RV, Inc.; and Zoomers RV of Indiana LLC; and Zoomers Indiana Real Estate LLC. All of these entities are involved with the Special Exception request #3 to operate an indoor/outdoor RV sales/service business in an Industrial zoned area in Lagro Twp.

Mr. Guenin: What this is about, you are probably all familiar with where Pefley's is located in Lagro and the property Dave and his wife have acquired up along US 24. There is a sign for Pefley's there and several farm implements there. Basically Zoomers, that is owned by Michael Weaver would like to expand his operation. Mr. Weaver has worked with Pefley's in the past, it turns out that the equipment size that Pefley's works on is equivalent to the size that those RV's are so he takes them out there to get worked on. The paint shop is big enough to accommodate it and other service things that have been done. That business relationship between Mike Weaver and Dave Pefley has grown over time. Dave (Pefley) has decided to put in a Kubota Dealership

on part of the EDGE development. The operation that he (Mr. Weaver) presently has at Manchester Ave. will stay, that is not going to get smaller that is not going to go away, that's still there. Primarily the retail portion of it will still be at Manchester Avenue. The service will primarily be out on the current Pefley property. I will also suggest to you that Mike Weaver has the attitude that a lot of people do, that if you come knock on his door three times in a row asking for donuts he is probably going to start making donuts so the next time you come he's going to sell you some. So if somebody comes out to the Pefley site ready to buy one he is going to have someone ready to sell them an RV. Mike Weaver has been a good person in our community, he has been doing a lot of things for the kids. He has also started that RV park in conjunction with the Field of Dreams he is hoping that is going to be kind of a draw to this area for traveling teams that they will come in and use that facility there. He has got expansions going on now in Iowa and the possibility of a third one as well. But he has grown that here locally, he started out as Trucks Plus on the Southside and moved over and has developed the RV business from there. If you have any questions I will be happy to answer them. I will tell you it kind of works hand in glove, because we are just trading tractors (Pefley business) for RV's.

Mr. Givens: That is already zoned Industrial.

Mr. Guenin: I think the way we are approaching it, correct me if I am wrong Mike (Howard), the General Business doesn't need a variance on anything with it, but I think if we are going with anything zoned Industrial, to sell RV's we needed to bring it before the Board.

Mike Howard: That is correct. There is one small lot there that is zoned General Business, all the rest of the ground is zoned Industrial. The corner lot, the 4.86 up on 24 acres is zoned Ag and it meets the requirements for a Special Exception to be in there. Mr. Howard then reviewed maps of the properties with Board members. Mr. Howard asked Mr. Guenin, the parcel that contains .856 acre, we weren't sure if that should be included?

Mr. Guenin: I believe it needs to be, simply because if we don't I know there will be an expansion sometime so it doesn't slip through a crack and then we will have a problem. Whereas if it is included now, we don't have that problem. I don't think there is any plan for a change of usage of that .856 parcel, it will still be a residence. It will be associated with the operation of the business so it will be consistent.

Mr. Givens: Asked Mr. Guenin, the 4.68 lot on the point of 524 and 24, will that just become a showroom for the business?

Mr. Guenin: I would expect that the 4.68 lot will end up becoming a showroom or retail area. I believe if that were to happen it would be more than a year down the road. I could be wrong on that. I know why Dave did it, he wanted the sign up there and they explained to him that he can't have the sign up there unless he displays equipment up there. So he moved some equipment up there and put the sign up there because he wanted the visibility on 24 and from a business standpoint that made sense. I would expect something very similar to happen in the near term just to let people know it is there. That is an expensive piece of real estate just for a sign.

Mr. Givens: Does the state require that?

Mr. Guenin: Yes, otherwise you get into whether it is a billboard, so he had to have equipment up there. I expect this will be the same thing, there might be a small area there that in the event if someone stopped there would be a salesman there to sell them an RV. They do sell a lot of RV's, most of them are out of the area, but he brings a lot of customers to the community.

Mr. Givens asked if there were any further questions for Mr. Guenin, there being none he asked for a motion on the Special Exception.

Cheri Slee made a motion to give a favorable recommendation to forward the request for Special Exception #3 to the Board of Zoning Appeals. This was seconded by Christian Rosen. The motion was approved by all Board members. Mr. Guenin was informed that the Board of Zoning Appeals meeting will be held Tuesday, June 26<sup>th</sup> at 7:00 pm, in the Commissioners meeting room.

Mr. Givens then called on Robert Kowalczyk, Lagro Corporation

Mr. Kowalczyk: I am here to ask for a permit for the 14 x 32 utility shed on my property in Lagro that I transformed into a mini home that I had gotten verbal permission from Mike Howard at the end of last April. He stated that no permit was required it was legal to do such a thing because it is a temporary residence while I build my new house. I obtained the building permit, Mike approved the plans, we were all good there, that was April 6<sup>th</sup> of last year (2017). After that it was like ok what do I do to live. I am under a court order to keep my kids within the same school district. So living on the same property, it just made more sense, it was easier than trying to relocate, change all the bills, utilities that sort of thing. That is why I came to Mike and asked is this legal to do. I did not grow up here, I moved here 10 years ago, so I don't know what the laws and what is normal for around here. I went to Mike and asked if it was legal, he said yes that no permit was required. I ordered the shed and had it delivered. It has utilities, a kitchen, a bedroom, a full bathroom, 2 upstairs lofts. It equals 698 square feet of actual living space. In October, right before I moved into that unit from the old house I received a letter saying that I could not have that storage shed there because it did not meet the County Ordinance of 960 square feet. I came in and talked with Mike, we agreed that I could use it for at least 180 days, we signed the form on that, the cover slip. I said what do we do after that, do I have to come to the Board. Can I get a permit for it, what do I do. He said let it ride for now you have the 180 days when that time is up we will approach it then. In March I get a summons that I am being sued because of the utility shed and a supposed unsafe premise. We went to court, the judge has a judgement that says to remove it, stop living in it, remove it or obtain the permit. I am here to obtain a permit if possible. This is only a temporary thing while I am building the new house. Once this gets settled I can obtain the new permit, cause my old permit ran out, so once this gets settled I get a permit for the mini I can renew my permit and continue building the house. I am losing a lot of time. The unsafe premise order that was issued, I had no idea of it until I got that summons in March. You guys had a , it was brought up in a February meeting apparently, I knew nothing about it. I was never notified of a meeting so I couldn't come in and say "hey it's wintertime the crawler is stuck in the mud, when the ground is froze it's froze, you can't work in anything". And with the short days and my normal work hours, 7 in the morning

till 6 at night if not later, its dark when I leave for work its dark when I got home. I can't do anything on those days. So yes the clean-up of the demolition of the old house did take a little longer, but it is cleaned up, it's gone, all that debris is history. I am ready to dig for my foundation, I am ready to put the footer in, but I can't do anything until this issue with the mini house is resolved. So I am asking for a permit to have the mini house.

Mr. Givens: Are there any questions from the Board? I read the minutes from the Board of Zoning Appeals meeting. I find it highly unlikely if Mr. Howard gave you permission for a residence. I believe he mentioned it to the Board, maybe in February was the first we heard about it, but it was for a utility shed to store equipment in, that was our understanding. Does anybody else have any questions or comments?

Mr. Howard: A couple things that I would refer back to, it was discussed in the Board meeting, during the BZA meeting, the judgement that the Judge handed down was that they had 60 days to cease use of the building as a residence. He asked me at that time, he would allow the Board or the Plan Commission to say we could issue a permit for the structure to stay there, but it could not be used as a residence because he said they had 60 days to be out of it. The way our policy works is that it would go before the Plan Commission Board, which is this Board to be discussed. In talking with Mr. Thrush about it the final determination comes back to the Plan Director. After the decision is made as to whether or not to issue a permit for the structure can be there if they want to appeal my decision it goes back to the BZA. After it goes to the BZA if they still want to appeal it would go back to the courts. To me the bottom line of the judgement, the Judge clearly stated in the judgement that they have to give up use of the utility building as a residence, they have 60 days to do it. I believe our next court hearing is to go back on July 3<sup>rd</sup>.

Mr. Kowalczyk: That is the date for the follow up hearing. But I also asked the Judge specifically if there was no way for me to remain in that building and use it as a residence? That is when he looked at you and said is there any way and you said it has to go to the Planning Commission. It all started out, I did come in Mike, and I did flat out three or four times clearly say, can I use this building? I want to hook up utilities, I want stud it out, use it as a living space, three or four times, and you continuously said that no permit was required that it was fine to do because it was a temporary structure and I planned on removing after the house was built. If you would have said a permit was required or hey I'm not sure you have to go to the Plan Commission I would have done that before I got the building. I have 20,000 – 25,000 dollars tied up in this building now all on the word of Mr. Howard that there was no permit required. That it was legal to do as long as I removed it after the new house was built. That is what I went off of, that is why I went that route. Because I was under the impression that I was ok, it was legal I was able to do this and nothing else was required. Because when I came in to talk to you about the plans for building new house did I not ask you about foundation inspections, or electrical inspections or a certificate of occupancy, what was required for me to build this house? You said none of that stuff exists in Wabash County. Do you remember that conversation at least?

Mr. Howard: As far as a Certificate of Occupancy we do not issue them unless the mortgage company requires them because we don't have an inspector. At that time we issue one that states

that there is a structure there but we don't make any reference to the quality of the work. That has nothing to do with the utility shed. When you came in for your permit you asked if you could put a utility shed on the property to store stuff in, I said you could with a permit. You left that day, you did not get a permit you put the utility shed on the property without a permit. I don't care what you say the use was for at that time, you put it on the property without a permit. We sent you a letter telling you that you had 45 days to have it removed. You came in and discussed it and told me the situation, at that time I told you I would allow it to be there for 180 days, I already bent once and gave you it to be there for the 180 days at that time. That 180 days ended and now it has to be removed. That is what the Judge ordered to cease use of the structure as a residential structure.

Mr. Kowalczuk: I did not ask about putting that on when I got the permit for the house, not when I got the house. because all the tools and everything are in the garage. Which I flat out told you that.

Mr. Howard: Yes, you did ask.

Mr. Howard called on a member of the audience.

James Curless, introduced himself as a representative of the Town Board of Lagro. I don't know this guy whatsoever, he has never talked to the Town Board about doing all this stuff. My question to him or both of you is when he came in to talk to you about the new house, has he ever shown you the plans for the new house? Mr. Howard replied "yes I do have a copy". So nothing has ever happened on the new house, except push the old foundation and stuff down over the hill toward Blue Star Hwy. It is a real mess up there, if he has got the permit to build the new house, what is the progress going to be on the new house. ( Mr. Kowalczuk muttered something) He has nothing to do with anything, he just works for the county he can tell you anything he wants to tell you but it's the Town Board would make the decisions for him.

Mr. Kowalczuk: I asked him the procedures, do I have to go to the Board or anything. Nothing was said to me.

Mr. Curless: It doesn't matter, I am just saying we are in the process of things, you haven't been abiding by the permit you got to build the new house and I don't foresee that you are going to be building a new house for the next 5 years. My question to you is what is your estimated time to have the new house built that you got the permit for and had the plans for?

Mr. Kowalczuk: When I got the permit, Mr. Howard, I talked to him, and you can even agree cause I know you will, that I asked, what kind of time frame am I under, can I renew the permit if I need to? Your reply was that it can be renewed as long as I was making progress on the new house. I am building this house myself; I am not using a builder I am building it myself with the help of my kids and some other friends. I expect to have the foundation up and done by the fall. I was hoping to have it done already, but with dragging it on with all this I haven't been able to start the foundation yet and I wanted to have it under roof hopefully by late fall. But with it dragging on to this point, now here we are into June if I have to remove the mini house and go somewhere else then obviously that is going to push everything back, the way things are looking

I am seriously considering not even putting up a new house now in Lagro. You guys have a reputation of if you don't like somebody you push them out; this is your way of doing it.

Jim Curless: You are the one who made the agreement that you were going to build this new house, and you have done nothing but push the stuff down over the hill toward Blue Star, you say you want to live in this temporary house, Mike said you could do that and we will say that he did, but he didn't say you could do it for years upon end.

Kali Kowalczuk: I am his daughter and I have been helping him through every step of this process. We did not demolition the house until early November, as you know it snowed and it was cold, you can't do anything when it is frozen. We had this cleaned up by what February, March dad?

Mr. Kowalczuk replied: as soon as the weather broke it was all cleaned up.

Kali K: all that is left is a little section of poured concrete.

Mr. Kowalczuk: What they are referring to as pushing over the hill is dirt and rock which is common everyday material I put on my property over the hill to level it out. If you look at it now where my garden was is now a big brush pile it comes level it steps down to what is the county property then continues with the ditch the way it always was. All I did was level it off by using the rock and dirt that was still there.

Patty Godfroy: Doesn't it all boil down to what the judge told you what you have to do. I don't think anybody in this room can supersede what he said.

Mrs. Slee: We can give a permit but we can only give it for a storage shed but not to live in correct?

Mr. Howard: That is how I read the judgement.

Mrs. Slee: So if he doesn't want to remove the building and wants to use it for storage he can request a permit for that but not to live in because that is what the judge said.

Kali Kowalczuk: And that is what we are trying to accomplish at the time. We know that you guys can't override what the judge said. We are trying to get the permit so we don't have to move the shed.

Mr. Kowalczuk: I have been trying to get with the judge to get a clarification because the judge flatly said is there a way to continue to live in it and have it on the property till the house is built. But it is not actually written that way in this order and that is all Mr. Howard and Mr. Thrush care about is the exact wording of the order. If you get a copy of the transcript or minutes it will say right in there.

Mrs. Godfroy: What have you done to try to get hold of the judge, you said you have been trying to get with the judge, how have you been doing that?

Mr. Kowalczuk: I have called and sent an e-mail. I talked with his assistant today and she goes you haven't heard nothing back because technically it isn't right for a person to contact the judge; you have to have a lawyer to do that. I went in to that court date and requested a continuance the very first thing and I was denied that because Mr. Thrush made it seem like this has been going on for months and months and months from the beginning of October instead of March when I got the summons.

Mrs. Godfroy: I feel like we are just rehashing

Mr. Kowalczuk: A little bit, maybe.

Mrs. Godfroy: Really it is the judge said this and that is what we have to go by, right? Is the only thing we are talking about now is if he has a permit to keep the shed for a storage area? Is that what we are talking about?

Mr. Howard: Yes

Mr. Givens: We are just talking about it; I think Mike is the one who has to make that decision.

Mr. Kowalczuk: What is the big problem with using it as a living quarters?

Mr. Howard: The big problem with using it as living quarters is because it says that within 60 days after this date the defendant shall cease using it for residential purposes the utility building. We can't overrule that. (Mr. Kowalczuk, no, no, no)

Kali Kowalczuk: He is asking if we got the ok from the judge, what we have to do to make it okay with you guys.

Mr. Givens: I think our ordinances state that you have to have so many square feet.

Kali Kowalczuk: Is it just the ordinance then?

Mr. Howard: The ordinance square footage for a temporary use I don't think applies. The ordinance allows the temporary use of a camper or mobile home, so a camper we know is not going to meet the square footage as a temporary use. It does not allow for the utility shed, I already went that one step and gave him the 180 days since it was already there. The 180 days ceased at the end of March or first of April. That is when we sent him the notification that it had to be removed.

Mr. Kowalczuk: But isn't this technically a mobile home since it can be removed easily?

Mr. Howard: It doesn't matter what it is the point is the 180 days and that 180 days is already gone.

Kali Kowalczuk: We are talking this completely aside, forget everything that has already happened, what can we do for you guys if everything is ok and we get the ok from the judge what do we have to do to make it ok to live in temporarily for you?

Mrs. Godfroy: What is temporary?

Kali Kowalczuk: Until we get the new house done.

Mrs. Godfroy: What is that? I want to build a new house too but I could build it in 15 years.

Mr. Kowalczuk: We are not talking 3, 4, 5, 6, 10 years. I am looking maybe 2 years tops in this utility shed. I don't want be in there any longer than I have to. I am building this out of pocket without loans without builders, I am trying to get this done as fast as I can but have it built right. I don't want in a cardboard box a cookie cutter house, every house you look at today looks the same, they are built cheaply, fast and they don't last. I want something that will last. It took my grandparents 3 years to build their house and that was back in the early 1950's and it is still standing today. That is what I am looking at. All I wanted was to build a nice quality house for me and my kids. It makes more sense to be on the property, I have all the utilities there. I come home from work and I go right to work on the house. I can work in there till late and walk 100 feet and go in to bed, take a shower and go to bed. That was the intention. That is why I came in and talked with Mr. Howard and asked was this legal to do. I know that day when I talked to Mr. Howard it was not the same day as I got the building permit, it was at a later date and he was very busy with something else. So whether he just sucks at his job and wasn't paying attention I don't know. So as far as the 960 square feet here is a story in "the paper" where a guy maybe a mile from my place that builds a cabin that is only 720 square feet.

Mr. Howard: The first thing you don't always want to do is believe everything in the paper, because his permit was checked and we verified that it is more than that.

Mr. Kowalczuk: It says in the paper that it is 720 square feet.

Mr. Howard: That doesn't mean anything just because it says this in the local paper. I will go get the permit; I will get you a copy of it. I will be glad to give you a copy of it.

Mr. Kowalczuk: So his is over 960 square feet?

Mr. Howard: It doesn't have to be over 960 because it is in an Ag zone. I believe it only has to be 800 or 840. His doesn't have to be 960 because it is in an Ag zone. You are in a residential zone.

Mr. Kowalczuk: So can I get at least get a permit today for the shed to be on the property at least so I don't have to rip it up Once I can talk to the judge and get clarification at that point would I be able to use it as a living residence at that point?

Mr. Howard: It is not up to us to say it can be used as a living quarters that was up to the judge, but I would be willing to grant you one last time until July 3<sup>rd</sup> for the shed to be there. On July

3<sup>rd</sup> what the judge says goes and that is it if he says no residence the building goes and that's what happens.

Mr. Kowalczuk: Can I get something in writing that you guys would allow me, if you are inclined, to use it as a residence to let me live there while I build the house. Because I have to have something to go to the judge that says that the Board says they would approve a permit if you clarify that yes it is legal that I can live in this house, this building. Because the way he said it and it says right there to "cease using it as a living residence and remove it from the property or obtain a permit. I have to have a permit from you guys period to be within compliance in with the court order to keep it on the property. So you see what I am saying, I am trying to stay within the legal.

Mr. Givens then called on Jim Curless.

Mr. Curless: I am on the Town Board of Lagro. Lagro has had a bad rap over the years of anything goes; we are trying to straighten it up. If we are going to let him put in a shed, we had a guy living downtown in a metal shed so if we are going to start this thing of everybody can go put in a little shed and do whatever you want that isn't helping the town any. If they are not meeting your criteria then I don't see how you can keep giving him on and on and on. There is no set time that he is going to build this new house that he brought the plans to Mike on this new house. The town we are going to start doing some ordinances on that the people who do this sort of stuff are going to have to get some permits from us we have always turned it over to the county and whatever the county said. You can't start letting him do that because everybody in the town is going to start building a little bitty house.

Brayden Rudy: What is wrong with a small house?

Mr. Curless: Don't ask me that, you have got 5 people living in that little house. Is it anchored to the ground, does it have a foundation does it have this, does it have that. It doesn't meet the criteria of a house.

Brayden Rudy: But it is temporary.

Mr. Curless: I have heard that, but I don't know for how long.

Brayden Rudy: Some people have a lot of money some people don't.

Mr. Curless: Then you don't build a new house.

Kali Kowalczuk: Two years. We couldn't live in our old house, it was going to be condemned, it was falling apart.

Mr. Curless: You chose to do this. You chose to do this for temporary; I don't know how much time you told him for temporary. Like the lady asked you, what is temporary, if it was for a year well ok but you are way off of that.

Mr. Kowalczuk: I am saying maybe 2 years tops.

Kali Kowalczyk: We would have had it done by now if it weren't for all this.

Mr. Kowalczyk: Well the foundation would be done.

Mr. Givens: The way I see it right now This Board isn't prepared to give a permit for anything. It is going to be up to Mr. Howard if he is going to give you a permit not as a residence but for a storage shed. I don't think our Board could give you a permit against our ordinances anyway. You don't meet the square feet you don't meet the requirements that our ordinances are. Our ordinances have been in place since 1965. We can't go against an ordinance for one person, to say that we are going to let you do it but not anyone else. I agree with Mr. Curless, that defeats the whole purpose of having rules. That is why we have rules.

Mr. Kowalczyk: That is why I came to Mr. Howard and asked for this.

Mr. Givens: I am going to be honest with you; there is no way Mr. Howard was going to tell you that you could live in that.

Kali Kowalczyk: But he did.

Mr. Givens: I am sorry; I know that you believe that. Maybe there is misrepresentation here as far the words that were discussed. I have known Mr. Howard all my life, Mr. Howard wouldn't give you a permit to live in something that is against our ordinances. What would be the purpose of him jeopardizing his job by giving you a permit that goes against our ordinances? He is not going to go against the law to give you a permit.

Mr. Kowalczyk: At the time when I asked him I was very clear can I do this, is this legal.

Mr. Givens: It is for a storage shed, they gave you a temporary for a storage shed.

Mr. Kowalczyk: Nothing was said about a storage shed.

Kali Kowalczyk: The plan was from day one has always been to live in it.

Mr. Kowalczyk: I told him that it would have a bathroom in it, a bedroom, a full kitchen; this is to live in while I build the new house and he clearly said no permit was required because it is temporary. Three or four times I asked the same questions and got the same answer from him. Because it really shocked me I assumed that I would have to have a permit that is why I came to him and said beforehand

Mr. Howard: When did you ask me for that permit?

Mr. Kowalczyk: It would have been the end of April or beginning May, because I didn't order that shed till May 22<sup>nd</sup> and it didn't get delivered until exactly one year ago today. It was well after I got the permit for the house. Had I known that we would be in such a rush about the permitting the house I wouldn't have never got the permit at that time. Because I wasn't ready

for it. But you know that you told me flat-out that you could renew that permit as long as you are making progress on the new house.

Mr. Howard: How much did I tell you it would cost you to renew the permit?

Mr. Kowalczuk: For the new house? You didn't say a price; I assumed that it would be the same cost as the original permit \$86.00. I don't care if I gotta to renew the permit a few time just to stay within the legal and get the house built I would do it

Mr. Howard: Just for reference because you have stated that before that I told you that we would have to reissue a permit and pay a new permit fee each time, that is not correct because we don't charge. We charge one time and then issue one permit after that for one more year for a total time of two years.

Mr. Kowalczuk: Like I said you never said a fee, a fee was never discussed.

Mr. Howard: You sat there and told it before and at the last BZA meeting that I told you you would have to pay again and that is not true because we don't pay a second time. You talked about the house in April, it says here that a letter was sent to you that you were given 45 days for complete elimination of residential use of the utility shed that was in October of last year. It wasn't in April or May of this year. It was in October of last year. That was the first time a letter was sent to you telling you that you couldn't use it for that. You came in after that and we had a discussion and that is when I gave you 180 days that was the 10<sup>th</sup> of October.

Mr. Kowalczuk: And I asked you about obtaining a permit at that time and you.

Mr. Howard: And I told you no, you wouldn't have to have a permit that it was good for 180 days that's right, I agree. I told you I would take care of it since you already had the building there I was not going to issue a permit. Do you know why I didn't issue a permit; I didn't issue a permit for the shed as a residence, because it is a violation of the ordinance. Because a utility shed is not included to be a temporary use, a camper or mobile home is. But I gave you that 180 days, but the 180 days ceased and when it did and we sent you a letter telling you that your time was up and you didn't do anything, that is why we requested a court order.

Mr. Kowalczuk: That court order was issued before my 180 days were up.

Larry Thrush: It is pointless to argue. The court order was issued, you are bound by it and we are bound by it.

Mr. Kowalczuk: You are right. For an ambulance chaser you are right. I am done too.

Mr. Givens: I think we are going to move on from this topic.

Mr. Kowalczuk: Thanks for your time, I appreciate it.

Mr. Kowalczuk: I will be moving out of the county. (exited the meeting)

Mr. Givens then called on Kris Frieden regarding Special Exception # 2.

Mr. Howard gave the Board the background information on the request. Mr. Frieden lives at 125 E. Washington St., Speicherville, the northeast corner of the platted area of Speicherville. Mr. Frieden is proposing to construct a pond on his property. Mr. Howard shared orthos of the property showing the location of the proposed pond. Mr. Frieden has approximately 4.15 acres, the property is in the R1 and Ag zoned areas. The pond will be 6/10 of an acre. He is asking for a variance from the property line setbacks. To the north, the Sharp Creek ditch which he needs to be 100 feet from, he meets that the property line setback. 105 feet from the center of the railroad, which is 50+ feet each way. I have been in contact with the railroad to find out if there is any stipulations beyond their right of way for a pond. I have not received an answer from them. Mr. Frieden is also seeking a variance from the property line setbacks to the west. The maximum depth of the pond will be 17 feet; there will be no geothermal feed from the pond.

Mr. Howard: Mr. Frieden has worked with the Mast family and has purchased up to the creek.

Mr. Frieden: To the west where I am requesting the variance my neighbor just has pasture, no building structures out there.

Mr. Howard: You would be about 30 feet from that property line. Kline Bulldozing is the contractor for the pond.

Mr. Frieden: Yes.

Mr. Givens: Did some of those homes in this area have septic system issues, I don't know if you are aware of that?

Mr. Frieden: I have talked with the sanitation department; she said I have the only legal septic system in the area.

Mr. Givens: I wasn't worried about yours; I was worried about field tiles.

Mr. Frieden: They drain to the highway then up the highway to Sharp Creek.

Mr. Howard: I did talk to Kelvin about it and the field tiles around it, obviously they would be private tiles around there so we don't know.

Mrs. Slee: Any working tile would need to be rerouted around.

Mr. Givens: That is all I was concerned about.

Mr. Frieden: That is how I came up with the limit on the 30 feet, because I've got an old standpipe where my excess water from my leach field drains up to Sharp Creek if I stay to the east of that then it doesn't affect my tile.

Mr. Vogel: You have bought the wooded property up to the creek, why do you have the 20 and 15 projections?

Mr. Frieden: Those are little fingers that go into the woods. A space in by the trees and make habitat for fish, pretty much a rectangle. It will be pretty square.

Mrs. Slee: Questioned how the pond will be fed. There is not a big watershed draining feeding into this.

Mr. Frieden: RPS Company that makes solar powered well pump so you don't have to run electricity to it, much more efficient.

Mrs. Slee: The drainage board has reviewed his plans and have no major concerns with it. The earliest the Drainage Board could approve would be June 18<sup>th</sup>, but that would still be before the Board of Zoning Appeals meeting on June 26<sup>th</sup>.

Mr. Givens asked if there was a motion on the request. Mr. Vogel made the motion to give a favorable recommendations to the Board of Zoning Appeals. This was seconded by Mrs. Godfroy. The motion was approved by the Board members present.

Mr. Givens then called on Mr. Mariano Vega Sanchez, Pleasant Township.

Mr. Sanchez: I apologize, that this has gone so far. The property I own, the man living there is my brother-in-law. I don't live there.

Mr. Howard informed the Board that Mr. Sanchez owns property at Sandy Beach. In about 2014 we contacted Mr. Sanchez about living in campers on the property. Mr. Sanchez came in and talked to me and agreed at that point in time that he would have it removed and do something about it. We tried to work with it a little bit and give a little bit of leeway on it, and the Association has taken a big interest in trying to work with the residents also. They have come in and talked with me about your brother-in-law is living there and having some health issues, maybe briefly unemployed and didn't really have any other place to stay so we worked with that for a while. The Association has now come back in and ask to see what we can get this resolved. Mr. Howard explained that campers are not considered a legal full time residence in Sandy Beach. It has to be in a campground. Sandy Beach is not considered by the County Health Department or the State to be a campground. Campers and things like that are not permitted to live in full time.

Mr. Sanchez: We don't recall talking to you in 2014. An instance, back in 2004 my sister came to visit and parked her camper in my driveway. We got all kinds of letters from the association telling me that the camper couldn't be in my driveway and I had to move it. I told them I wasn't going to move it because nobody was living in it. He stayed in a mobile home on that property when we first obtained it. That was in 2012. The trailer remained there my brother cleared that away for us. He has some issues, has never been able to hold employment. Has applied for disability in 2013-2014. His wife worked and supported them both. They stay in the campers, one is a 30 foot and the other one I believe is a 26 or 28 foot they are not permanent homes.

They plan to put a mobile home on the property. I can't tell you when he would have his back pay from disability to put a mobile home on the property. They haven't given him his back pay yet. He has heart problems. They have absolutely no place to go. The Association doesn't have a problem with the property. There is no room at my house. I can't tell you when he would have his back pay to put a home on the property. We are on city sewage, everything is paid up, property taxes, sewage. I can't put him on the street he has no place to go.

Mr. Sanchez explained the family health matters that have necessitated the use of the campers for living quarters. I wish I had the money to build a house for him. The only thing I can do is the piece of ground to help him. I am about helping the people that need the help not just to make money.

Mr. Gary Barnau, speaking on behalf of the Sandy Beach Association, stated that the family has cleaned up the property and made it look like something. They have no place to go, the association has come up with a plan that when something happens to Mr. Sanchez's brother-in-law the two campers have to go. A regular house or mobile home that fits the criteria of Sandy Beach is the only thing that can go back on there. That is where the Association is at, as far as I am concerned we are good with what they are doing now. They have got their bills paid up, the property cleaned up, I think we are good.

Mr. Howard: In 2014, we document what goes on in our office, he did come in. At that point and my understanding is that something would be done. At that time some members of the Sandy Beach Association came to me saying that there were some health issues and things like that, so we kind of backed away. I did not address it again until some members of the association came to me and said they were having some issues again, that is why we have asked him here again tonight. I work for this Board, the final decision is if they agree with it. If the Association is ok with it, that is up to the Board to decide. If the Board is satisfied with it and the Association is satisfied with it, then I am satisfied with it.

Mr. Barnau: Is there a legal aspect that we can put in that upon his demise it has to be done this way that the campers have to be gone? Is that the Association or would that be under the ruling of you gentlemen.

Mr. Thrush: I think we could make it conditional. Is it because it's too small?

Mr. Howard: Right

Mrs. Sanchez: I see mobile homes up there all the time that nobody is living, I don't know if they are abandoned. They look like they are not more than 40 feet long.

Mr. Howard: I would have to look and see those other units you are talking about. There is a chance that they may have been put there before our ordinances were in place. If they were then they would be grandfathered.

Mrs. Sanchez: The association ordinances were clear back in the 1950's

Mr. Howard: Those old mobile homes, if somebody wants to replace it they would have to meet today's specifications.

Mr. Barnau: As far as the association we are happy with what they are doing, we understand the situation they are in. If there could be an ordinance drawn up that upon his demise nobody could put a small camper in there again.

Mr. Vogel: We could put that in the minutes that you agreed to this tonight. But one of the reasons we had these folks come in was because there was all kinds of trash and junk around it think it was, but they have addressed that. I commend you for cleaning it up. Mr. Vogel asked Mr. Sanchez, what will this family members wife do upon his demise?

Mr. Sanchez: She has family in Tennessee, she would probably take one of the campers and go there.

Mr. Vogel: You are agreeing with us that upon his demise that the whole situation would be resolved. We don't have to come back with her saying that she has a few more years. I will go along with you on that

Mrs. Sanchez: She is here for him and that is it.

Mr. Givens asked if there was a motion from the Board.

Mr. Vogel made the motion to allow the campers as long as Patrick Myers is there, to live in the campers, upon his demise both campers have to be removed from the property. Mr. & Mrs. Sanchez agreed to remove them at his passing. Along with continued blessings from the Sandy Beach Association. The motion was seconded by Mrs. Godfroy. The motion carried.

Mr. Givens: Next on the agenda is Danny Hackworth.

Mr. Howard: Mr. Hackworth lives at 175 E. Center St., Silver Lake (Mr. Hackworth stated he did live there, and provided the new address. He owns property to the west around the corner at Disko on east side in Disko area. We were contacted by the Wabash Co. Health Department that approximately 2 or 3 utility buildings were placed on the property and it appeared that people were possibly residing in these.

Mr. Hackworth: I live at 10360 S. Edgewater Dr., Silver Lake, IN 46982-9182. The only person that is living there is the person living in the camper.

Mr. Vogel: In Disko where these located?

Mr. Hackworth: Beside the Richard Siders gravel pit. I purchased the property off of him. I lost my other home after 14 years. We misunderstood about the size of the building for the permit. There are three buildings on the property. The only one being lived in is the camper and that is temporary. No one is living in the utility buildings. One storage building belongs to Mr. Hackworth, the other two belong to the female accompanying him to the meeting. I wanted to

discuss with you maybe putting a mobile home or after hearing the discussion can we put two storage building together and make a home, instead of building a home putting two together and attaching it to the garage.

Mr. Howard: The utility buildings have recently become an issue and are something new. We need to talk about this as a Board, because I don't know if we can enforce a residential structure being built to code since we don't have a building inspector. I don't know if the utility building would meet the code. At this time I would have to say I can't answer that question for you, it is something we will have to talk about. If you had a mobile home on that property and wanted to add on to it I can't issue a permit for that because it changes the specifications of the mobile home. We are not allowed to do that, so if it changes the specifications of the utility shed, I don't know.

Mr. Hackworth: I am looking to buy another lot just off from theirs from Swaffords. I would like to clean it up and put my storage building on it.

Mr. Vogel: As far as the storage buildings to put stuff in, as long as they are not living in them, if they get a permit there is not a problem with that. I am just clarifying it for you. So if they get a permit they are ok. The camper can't stay there and be occupied.

Mr. Howard: The ordinance says you can reside 6 days in a 90 day period.

Mr. Vogel: You are not legal on that. Can those folks go somewhere. ( the female replied that she is living in the camper, has a son that is in a wheelchair). I think that is an issue you should look in to try and do something different on that. How many storage buildings can you put on a property.

Mr. Howard: You would have to go back to maximum surface area you are allowed to cover on a parcel I don't know that there would be any limit. A mobile home is engineered for people to live in, these storage units aren't engineered for people to live in.

Hackworth: We didn't know we were in violation with staying in the camper.

Mr. Vogel: The camper can stay on the property but can't be occupied year round.

Mr. Hackworth: We are looking to put something else on the property.

Mr. Vogel recommended that before they purchase a mobile home they get pictures of it and come in to the Plan Commission Office and talk with Mr. Howard.

Hackworths: So all we need to do is get the permits and deal with the camper.

Mr. Givens: What time frame are you thinking about?

Hackworth's, give me 60 days to find something.

Mr. Howard: I would give you until the end of September for the temporary use of the camper as a residence.

Mr. Hackworth's friend (living in the camper), my son is in a wheelchair, I can't find a place that he can get in and out of or that I can afford. I do not want to live in the camper long term.

Mr. Givens: Are you thinking of a mobile home or are you thinking of something different?

Mr. Howard explained the Special Exception process for the placement of a mobile home in the county.

Mr. Givens told Mr. Hackworth to bring in pictures of any mobile home he is considering to make sure it can be permitted in Wabash County.

Mr. Vogel made the motion to approve the use of the camper as a temporary residence until the end of September 2018. This was seconded by Mrs. Godfroy, the motion carried.

Mr. Howard told Mr. Hackworth that he could come into the Plan Commission office to get a building permit for the shed that is on the property.

Mr. Howard gave the Board the following updates / complaints:

- Complaint about the Dave Metz property on Old St.Rd. 15. The complaint states that there are 2, 3 or possibly 4 families living in the one story dwelling. A multi family unit is allowed in an Ag Zone so that is not a problem. Mr. Howard asked Board Attorney, Larry Thrush about the minimum square footage for a multi-family unit in this zone. It was determined that the building would meet the square footage requirements. We don't see any violations of the ordinances. On the tax rolls it is listed as a single family dwelling. I will send a letter to the person entering the complaint and notify the Assessor's Office of the use.
- Amy Ford with the Wabash River Trail has inquired about the Shirley Marshall property in Lagro. She is interested in putting in a parking area or office for the WRT. The property is still deeded in Ms. Marshall's name. Last year the board approved the county having the condemned home on the property razed. Ms. Marshall has been making payments toward the judgement, however with the interest the amount keeps increasing. I would like to propose to the Board that we waive some of the fees and The Board agreed to waive the demolition fee and fine. If the attorney fees and interest are paid the property could be deeded to WRT.

*Libby Cook*  
*Secretary, Wabash Co. Plan Commission*  
*mth*