

WABASH COUNTY PLAN COMMISSION

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WABASH COUNTY PLAN COMMISSION
BOARD MEETING MINUTES

January 3, 2019

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

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

Present: Curt Campbell, Randy Curless, Jeff Dawes, Patty Godfroy, Doug Rice, Christian Rosen, Cheri Slee, Joe Vogel, Larry Thrush, Mike Howard, Libby Cook, David Wamsley, Mitchell Oetken

Wabash County Plan Director, Mike Howard opened the January 3, 2019 meeting of the Wabash County Plan Commission Board at 7:00 pm. The first item on the agenda is the election of officers for 2019. Joe Vogel nominated Patty Godfroy for Chairman, Ms. Godfroy declined. Curt Campbell then nominated Randy Curless for Chairman, the nominations were closed, and Mr. Curless was unanimously approved by the Board. Mr. Vogel nominated Christian Rosen as Vice Chairman, the nominations were closed, and Mr. Rosen was unanimously approved as Vice Chairman. Mr. Vogel nominated Libby Cook as Secretary of the Board, the nominations were closed, and Mrs. Cook was unanimously approved as Secretary.

The next item on the agenda was the approval of the December 6, 2018 meeting minutes. Mr. Rosen made the motion to approve the minutes as written, this was seconded by Curt Campbell, the motion passed. Mr. Howard then introduced Mr. David Wamsley.

Mr. Wamsley stated that he is speaking tonight to share his concerns about the Confined Feeding Ordinance in Wabash County. Mr. Wamsley has lived in Wabash County (Lagro Twp.) for about 7 years. He stated that he had talked with Mrs. Betty Treska (then owner of a neighboring property, Mrs. Treska has since passed away). He said that Mrs. Treska

verbally assured him that there would not be any further building of livestock facilities on that property. In the fall of 2018 Mr. Wamsley received notice from IDEM that Mr. Gary Treska, (grandson of Mrs. Betty Treska and current owner of the property) submitted plans to IDEM to build a 4,000 head hog confinement building on the property. By the Wabash County CFO ordinance Mr. Treska's building would be grandfathered in as there is an existing IDEM approved building at this location, he is still required to meet all IDEM requirements for the new building. Mr. Wamsley is asking that the Plan Commission Board consider changing the ordinance to remove the "grandfathered" portion, his feeling is that any new confinement building should meet the same requirements as a new facility, especially in regards to setbacks.

Mr. Vogel asked Mr. Wamsley how far his home is from the Treska property. Mr. Wamsley stated that his home is far enough away from the location however he is concerned for the neighboring properties and he is just trying to protect the interest of all the people in the community. He cited that there are neighbors with health issues that he feels would be severely impacted and that Mr. Treska would not be able to put a building like this in that area under new ordinances. Mr. Wamsley said that he is just seeking "general fairness in the ordinances". He then introduced Dr. Mitchell Oetken who recently purchased property and built a new home in the area. Dr. Oetken came to Wabash County with the new Parkview Hospital facility; he was living in California and wanted to get back to this area to be closer to family. He stated that when he purchased his property it was not disclosed to him that there was a dairy farm and 2 hog barns close by. Having gone through some health issues Dr. Oetken said that he is concerned with the air and water quality, I am trying to get involved with the community and make this a better place.

Mr. Wamsley said that the Oetken property is just beyond the radius for notification of such building plans from IDEM. He (Dr. Oetken) saw the chance to have a lovely country home and for him to recruit other Doctors to the area. He is on the recruiting board for Parkview Hospital; he would like to be able to assure new families that they too would be able to have a lovely country home. The vast majority of people in Lagro don't want this CFO. We are asking that you do away with the special provision of grandfathering, a number of counties have done this. Dr. Oetken stated "something that is uniform, across the board".

Mr. Wamsley informed the Board that he learned just before this meeting that Mr. Treska has pulled his application with IDEM.

Mr. Vogel asked Mr. Wamsley, you said something about water. Mr. Wamsley explained that Rager Creek, the old canal bed, carries a lot of water. The initial application had his building in the floodplain; he then submitted a second application. The way the land lays the potential for Wabash was great, it is easy for surface water to enter the aquifers and enter the water for Wabash.

Mr. Dawes asked what kind of setback it would be for Dr. Oetken.

Dr. Oetken said that he understands that farms have changed and they are trying to make a living and keep the kids on the family farm. I am about the people and progress.

Mr. Campbell asked if there is going to be another operation close to him.

Mr. Wamsley: It is on the south side of the river approximately about 1500 feet from the Oetken property.

Mr. Vogel: It has been there for probably 15 years, I would have thought your agent would have pointed that out to you.

Mr. Dawes: The other gentleman you talked about with health issues, how far away is he?

Mr. Wamsley: Approximately 600 feet.

Mr. Campbell: Do we still require tree plantings and wind breaks?

Dr. Oetken replied, it is a tough spot being new to the community, I am not here trying to upset anybody, and I am trying to protect mine as well. Planting willow trees and things like that help. I think that doing that is doing something, the wind breaks and things of that nature. Is that part of the CFO system here, I have heard of other CAFO systems in the north?

Mr. Campbell: I thought that is still part of what we require.

Mr. Howard: They would be grandfathered as far as setbacks but yes, the ordinance still requires a determination for buffers as far as trees when within 300 feet of the property line.

Mr. Wamsley: To make one point clear on the Betty Treska property if he can figure out how to site the building and get the DNR to say it is ok he has the potential to expand, he has 500 feet from his current buildings to put a very large structure if he can be creative and figure out how to do it. If you all change the ordinance to make it coincident with anyone else who wants to build a CAFO and go to the quarter mile setback, the quarter mile doesn't exist there to build a new facility. The only reason he could build there at all right now is the grandfather clause the way it reads.

Dr. Oetken: I am not trying to set out to ruin his life, I understand you need to get yours, to provide for your family, I understand that. I think it should be just standard for new buildings regardless where you put the building in the county.

Mr. Wamsley: Where he is on America Road he is so far away from everybody that I don't really think no matter which way the wind blows that anybody is going to have a whole lot of affect. I suggested to him that maybe he would want to do all of his expansion down there and he said he doesn't have enough space to put the manure close by. I kind of get that but he does have an option.

Mr. Campbell: Have they seen the data sheet for other counties as far as the setback, as far as neighboring counties we have the largest setback of anyone.

Dr. Oetken: Of the grandfathered?

Mr. Campbell: Of the new.

Mr. Wamsley: In general on the new stuff I agree, I think the 1320 number is a reasonable number. I think White County around their lakes they have much larger numbers. (Mr. Campbell: they have 1320 as well.) Just to make it uniform no matter what.

Dr. Oetken: A new building is a new building on a CAFO.

Mr. Campbell: We have people who would like to have an operation but just can't find the place to put it because of our setbacks.

Mr. Howard: Provided the Board with copies of part of a study completed by Purdue University in 2015 from data submitted to them from the individual counties regarding confined feeding. The full report is 200 pages and can be found online. I took areas around us, I stayed north of Indianapolis. Mr. Wamsley replied that he had seen this and knows what is there, part of it is a little dated but it is pretty good, I agree.

Mr. Wamsley shared with the Board a map indicating counties with the most CFO's of all types, chickens, ducks, pigs, you name it. This is from IDEM in 2012, showing our county in 8th and we are presently ranked 4th in the state for total CAFO's. I mean we have got our fair share at this point. For our neighbors even we are the largest of any of our neighbors I believe. Kosciusko County is the closest but it is less. We have got a fair bit of wealth in CAFO's, and right now at least as far as hogs are concerned from what I read all the freezers are full because of the export moratoriums stuff is backing up in the supply chain so prices are low so maybe now is not the right time to build one anyway but that is neither here nor there.

Mr. Wamsley and Dr. Oetken thanked the Board for their consideration; the Board in turn thanked the two gentlemen for their input.

Mr. Wamsley stated that he has spent the last 4 months learning this trade, so I know a fair bit.

Mr. Howard: The next item on the agenda is the Annual Report for 2018. Mr. Howard gave a review of items such as the total number of permits issued, 175 permits were issued which includes Special Exceptions and Variances; permit income, averages for permits and fees over recent years, and an update on complaints filed. In 2018 a total of 65 complaints were addressed 58 of those were new complaints for 2018, 7 were carried over from 2017. There were 57 complaints resolved leaving 8 open complaints moved forward to 2019, 5 of the open complaints are unsafe premise orders.

Mr. Rice asked about the number of grain bin permits issued, he believes that many farmers are unaware that a permit is required for a grain bin.

Mr. Howard informed the Board that when the assessment teams report a new structure on a property the Assessor's office notifies our office and we send out letters informing the owner that the structure did not have a building permit and what they need to do to correct this. The ortho photography is a huge help as we can go back a few years and check the properties to see the changes.

Mr. Howard then gave the Board an update on complaints; DCS has informed me that they will enforce the clean-up of a property in Liberty Mills. He also informed the Board that at this time Mr. Todd Custer is still pursuing his plans to construct a campground on his property in Chester Twp. The main concern is the location due to the floodplain, he is working with the DNR and an engineer on his plans and will be coming back before the Board at some point. Mr. Howard then shared a survey of the proposed Wabash River Trail. Board members discussed concerns over a neighboring property and the distance between the trail and the property line, it would be approximately 70 feet from the center of the trail to the corner of the property owner's home. It would be difficult to establish a setback with the trail going through rural and incorporated areas. Mr. Howard reminded the Board members that Mark Frantz the attorney for the WRT was at two of our meetings, at the last one we told him that we would not require a setback from the property line, we just have to tell him what we will accept. The consensus of the Board was to ask the WRT if there is a possibility that they could work with the landowner where the trail will go through and move the trail to the west and be a little further from the property line. If they would go straight through it would put the trail approximately 250 feet from the corner of their house.

Mr. Campbell: What action do we need to take or is this just for our own information?

Mr. Howard: I told Mr. Frantz that I wanted to take it to the Board before I gave him approval.

Mr. Rice asked, since there are no guidelines for something of this type, can we stop them?

Mr. Thrush replied, probably not.

Mr. Rice: If an individual puts in a lane or drive on their property is there a setback on that lane?

Mr. Howard: Just a structure,

Ms. Godfroy: One concern I could see is if they would go straight back and have the two (+/-) acres between the trail and the next property what might happen to the property, will it just grow up in weeds and be a problem.

Mr. Howard: I see what you are saying, because they are going to have to maintain the 40 feet between trail and the property line.

Mr. Howard requested that the Board make a motion as to what they are asking of the WRT.

Ms. Godfroy made a motion that the Plan Commission ask the WRT if they could move the trail to the west so that it would go straight into the property and be further from the neighboring property line. This was seconded by Mr. Rice, the motion carried.

Mr. Rice asked if there should be something in the new ordinance to address setbacks for driveways.

Mr. Howard: In the new ordinance there will be a setback for driveways off of the property line that we did not have before. The setback for driveways from property lines will be 10 feet.

Mr. Howard gave the Board an update on the Charles & Jennifer Easterday property regarding a mobile home that was placed without a permit. The Easterdays went through the process and were issued a permit which included the following conditions: the mobile home cannot be occupied without the completion of the septic, well, and electrical systems; the mobile home must be skirted; they had to obtain their permit for the placement of the mobile home, none of that has been done; no further splits of the property, a maximum of one single family dwelling on the parcel, ground floor square footage of 1400 square feet, their plan is to build a new residence on the parcel; no unlicensed vehicles; new residence must be started within three years from the date of approval of the Special Exception which will be March 22, 2019; the mobile home must be removed within 4 years of the date of the approval of the Special Exception which would be March 22, 2020. According to the Health Dept. no septic permit has been issued. They have not submitted plans for a new house. We did permit him to put a small utility building on the property.

Mr. Howard informed the Board that Mr. Thrush has completed his review of the Ordinance draft. He then reviewed with the Board the items that Mr. Thrush had questions or suggestions on. Some items:

- Defining abbreviations.
- Minimum drive width, non-road frontage property, require a min. 50 ft. width as easement or you own to access the remaining property, the reason why we have stuck with that is if the property would ever become developed that would guarantee the 1 ½ acres on which to build a house. Board members discussed easements and what needs to be included in the agreement. Board members agreed that the 50 feet width should be kept with property owner's negotiating the easement and what restrictions they want.
- Reviewed the charts in the new ordinance for residential structures.
- Replacing the TBD (to be determined) wording, Mr. Rice suggested that the ordinance state "based on plan submission", that way it tells the person it would be determined upon review.
- Mobile homes, manufactured homes - in 1976 specifications for mobile homes became standardized through HUD prior to that each manufacturer had their own specifications. We would not allow anyone to apply for a permit for any mobile home manufactured prior to 1976 to be placed in Wabash County.
- Use of acronyms or abbreviations, some that are not listed may not be used in the ordinance but may be used in the day to day business of the Plan Commission.
- Notice of agriculture activity, our ideal goal was to get information into the hands of someone who is interested in buying ground in an Ag1 or Ag2 zone to make them aware of agricultural activity in the area. They would sign this just stating that they have been made aware of this agriculture activity in the area. Their signature would not prevent them from remonstrating in the future. How can we get this into the buyer's hands at the earliest time possible? If somebody comes in to apply for a permit I would like to have this for them. Do we want this in the ordinance, and if so how do we get it into the hands of the buyer? The surveyors have been doing well calling in to check on the parcel splits.
- Mobile homes as accessory/temporary uses, I have added that utility buildings, cargo units, semi-trailers, would not be permitted in this category.
- Weed, mowing and junk ordinance is not a separate ordinance it has been included in the new ordinance draft.
- Rewording of the Variance Request regarding the setbacks for confined feeding operations. Mr. Vogel stated that he is in favor of keeping the setbacks as they are set, unless there is a unique situation such as the nearest neighbor is an immediate family member. I am not in favor of doing away with the screening; I think it needs to be required. Mr. Dawes stated that he thinks the BZA needs to uphold what the ordinance says unless there are extenuating circumstances. As an owner of a CFO I want to be a good neighbor and if the screening helps that is what I would do. I would think that they have the right to due process to apply for the variance. Mr. Howard agreed that they should have the right to due process to apply for the variance, and then it would be up to the Board to determine.

There being no further business Mr. Howard asked if there was a motion to adjourn. Mr. Vogel made the motion; this was seconded by Christian Rosen. The meeting adjourned at 9:20 pm.

Libby Cook
Secretary, Wabash County Plan Commission Secretary