

PLAN MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 10TH DAY OF AUGUST 2023 AT 9:30 A.M. IN THE
MEETING ROOM OF THE ADMINISTRATION BUILDING
117 N. 2ND ST., GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairman, Roger Miller. The following staff members were present: Mae Kratzer, Plan Director; Jason Auvil, Planning Manager; Danny Dean, Planner; Adam Coleson, Planner; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Phil Barker, Steve Edwards, Steve Warner, Steven Clark, John Gardner, Roger Miller, Brian Dickerson, Brad Rogers.

Absent: Lori Snyder.

2. A motion was made and seconded (*Dickerson/Edwards*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 13th day of July 2023, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Dickerson/Edwards*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. The motion was carried with a unanimous vote.

4. The application for a zone map change from DPUD R-4 to A-1, for Paul Alvey, Robert Deering & Deanna Deering, & Marion Schrock & Brenda Schrock on property located on the south end of the easement, east of Crossview, Ln., 730 ft. south of Refuge Dr., east of Ash Rd., common address of 58490 Crossview Ln. in Baugo Township, zoned A-1, DPUD, R-4, was presented at this time.

Jason Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #RZ-0415-2023*.

Mr. Auvil stated the reason for rezoning the property is related to a DPUD R-4 that was previously applied to a place called Voice Ministries. He noted the intention was to establish a camp/ministries, and the initial plan included a couple of houses and cabins. However, he added the DPUD R-4 never came to fruition, and the property was eventually sold to Alveys. He mentioned Mr. Alvey later encountered several issues with the property, including improper subdivision and incorrect zoning, which required a variance due to the lack of road frontage. Mr. Auvil explained that the current corrective action is aimed at restoring the original zoning of the property, which will allow the owner to construct a new home.

There were no remonstrators present.

A motion was made and seconded (*Edwards/Dickerson*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steven Clark, **Seconded by** Brian Dickerson that the Advisory

Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from DPUD R-4 to A-1 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Phil Barker, Steve Edwards, Steve Warner, Steve Clark, John Gardner, Roger Miller, Brian Dickerson, Brad Rogers.

5. *Board of County Commissioners Approvals Following Plan Commission Recommendations*

Jason Auvil reported on the July 17, 2023 County Commissioners petition approvals.

6. Mae Krazter proposed a change to the Rules of Procedure that would require septic and reserve areas for new subdivisions. Mr. Rogers questioned whether legal counsel had provided an opinion and what issues could arise for the county. Mr. Kolbus shared his opinion that, based on the way the statute was written, it could not be passed in the ordinance. However, he acknowledged that it could potentially be included in the Rules of Procedure. He also noted that there was a risk involved, but they could win in the short term. Mrs. Kratzer explained that the reason for requiring a reserve system or a repair plan was to ensure that there was space for a new system on the property when the old one failed. She emphasized that the long-term goal is to avoid having people come to the county for assistance when their systems failed. Mr. Rogers expressed his concern that some legislators were more favorable to home builders and that not having a reserved area for septic could cost taxpayers more in the long run. Mr. Clark acknowledged that is a legitimate concern, and the intent was to look out for the community as a whole. Mr. Clark stated the importance of personal responsibility when purchasing a house and understanding the potential risks involved. He also expressed a lack of faith in government regulation in certain situations. Mr. Dickerson inquired about the reserve space for septic systems and whether additional space is required if the first system fails. Mrs. Kratzer responded that only one reserve space is necessary, and if a second system is built, the first system can then be able to heal. She explained current language requires a reserve, repair, and repair contingency plan for septic systems. However, some Board members questioned whether an ordinance requiring this could be passed, and it was determined that it could not. Mrs. Kratzer noted the lot size required for septic systems is currently 20,000 sq.ft., which is typically sufficient for a primary and reserve system. However, she continued if the soil is not suitable, more space may be needed. Some Board members expressed concerns about the shortage of housing in Elkhart County and the financial impact of lot sizes, but it was agreed that there are other solutions to address the housing need without decreasing the reserve requirement. Mrs. Kratzer went on to say staff can look at basing the needs solely on soil types, which was discussed last month. Mr. Dickerson asked would market not dictate some of these issues, and that it is the homeowners' responsibility to ask the question of what happens if the septic system fails. Mrs. Kratzer stated most people buying a home assume the waste is taken care of, and they find out later the septic needs repaired. She stressed it's \$40,000.00 to \$50,000.00 to try repair the problem. Mr. Dickerson asked if the rule needs to be forced to increase lot sizes or is it a 1 out of 10 issue. Mrs. Kratzer stated before State changed the law, the county had the ability to in force it with 20,000 sq.ft.. She went on to say the county has lost the ability from Environmental Health to require the reserve area be shown from an ordinance standpoint. Mr. Dickerson asked how often surveyors have to go back and change their lot size to accommodate

a reserve area. Mrs Kratzer stated the lot sizes typically are not changed; they often change the lot configuration. Mr. Dickerson responded by saying he didn't want to get into a contest with State Legislature, to which Mr. Kratzer responded by saying she understood. She further explained that this discussion is because a decision has to be made whether to take this and put it in Rules of Procedure instead of an ordinance. The outcome she continued is to potentially be sued, or payout in the long run for septic systems that are failing. Mr. Kolbus then clarified that it was a technical issue versus the intent of the law and a judge could go either way. Mr. Barker also shared his thoughts on the matter, explaining that as it stands, they are dealing with IDEM. However, recontinued at some point, someone is going to go to the EPA directly, and then it won't matter what the State says. He then shared an example of Southwest, where if someone had gone by ordinance, all those houses could have been condemned.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Brad Rogers, **Seconded by** Phil Barker that this request for a change to the Rules of Procedure to include septic and reserve be approved

Vote: Motion carried by (**Yes** = 6, **No** = 2)

Yes: Phil Barker, Steve Edwards, Steve Warner, John Gardner, Roger Miller, Brad Rogers

No: Steve Clark, Brian Dickerson

Mr. Barker provided helpful tips on how to increase the lifespan of certain systems. He suggested using two fields and alternating between them, which could potentially double the longevity of these systems. Mr. Miller expressed his concerns about his subdivision near Kercher, where systems are failing frequently. He explained that residents are hesitant to be annexed into the city and have instead opted to install mound systems. He added some of these mound systems work well, while others emit unpleasant sewage odors, causing inconvenience to the community. Mr. Rogers added that the southern part of the county is also facing similar challenges. Mr. Miller expressed his hope for small sewage systems that could function well in subdivisions. However, Mr. Barker noted that such systems exist but require an association to finance and operate them. Mr. Dickerson raised the issue of additional expenses, such as licenses, which could pose a challenge.

A motion was made and seconded (*Dickerson/Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 9:51 a.m.

Respectfully submitted,

Amber Weiss, Recording Secretary

Steve Warner, Vice Chairman