

RUSH COUNTY
AREA PLAN COMMISSION BOARD MEETING MINUTES
SEPTEMBER 6TH, 2023

President, Marvin Rees calls the meeting to order at 6:00 P.M.

ROLL CALL: Jeff Amos, Kenny Aulbach, Vice-President- Denny Corn, Virgil Bremer, Kelly Land, Tom Monka, Justin Orme, Marvin Rees, President. Also present were Director, Mike Holzbach, Geoff Wesling, Attorney, and Deputy Director/Staff Secretary, Linda Ashwill. Jeff Amos and Mary Richardson were absent.

APPROVAL OF MINUTES FOR August 2nd, 2023. Marvin stated all had received a copy of these minutes and what was their pleasure. Tom made the motion to approve the minutes as written. Kenny seconded this motion. All were in favor. Minutes were approved.

NEW BUSINESS: APC-2023-36 Mark Thomas 6692 West US 52 Arlington, IN is requesting a Rezone from Manufacturing to Residential on the West part of parcel # 70- 06-19-377-001.000-006 Posey Township.

Mark Thomas was present to represent this application.

Mike gave the **Findings of Fact** as follows: He stated as you are going into Arlington, heading West, if you go down to the dip there is a storage building there now. At one time there was a retail fertilizer facility there. Mark owns almost eight area track, and it is all zoned manufacturing. Mark and his wife want to build a new house up in the northwest corner. They have just done a subdivision of .724 acres out of this eight-acre track.

1. This is a rezone request from manufacturing to residential.
2. This new parcel was properly subdivided and contains .724 acres.
3. This parcel has a fifty (50) foot easement using a current driveway connecting to US 52. They are using this same driveway that has been there a long time.
4. This will be adjoining parcels already zoned residential.
5. All adjoining property owners were notified by certified mail and cards returned to our office.
6. Public notice was in the paper.
7. Courthouse bulletin board notice placed on 8/10/2023.

Notice of this public hearing was locally advertised ten days prior by newspaper, bulletin board and certified mail.

Recommendation: Staff would recommend sending a favorable recommendation to the Commissioners.

Marvin asked questions from the Board. Virgil asked if this would give Mr. Thomas enough room to be able to build the dwelling they wanted. He replied to him stating it should be. Marvin asked if there were any more questions from the Board? Kenny had the question of if Mr. Thomas owns the ground to the West. Mike asked on the west side of what was just subdivided. Mike answered no. These are separate parcels. Kenny asked the question how this could be subdivided without any road frontage. Mike said he has an easement all the way out to Hwy 52. Mike said when you subdivide off the road you have to have a fifty-foot easement to the roadway. Which he has. Kenny said he thought you had to own this right-of-way. Mike said he owns that whole eight areas. Virgil asked Kenny if he wasn't saying he needed a fifty-foot strip on that property. Kenny said yaw. Mike said the fifty foot was part of his survey. Kenny said he's cutting that fifty foot completely out. Mike said he had to. Geoff said he wasn't sure they were talking about the same thing. Kenny said then he doesn't have any road frontage. Kenny said if he ever sales this house off by itself, then he has a problem. Mike said fifty feet goes with the house. Mike said we have done a lot of them that way. Kenny said not in his time. The reason why he says this to you is because he had to go out and it cost him thirty thousand bucks one time because he didn't do it. He stated he had to give away ten acres on 150 East & 1000 North to the south. There are narrow strips that had to be deeded with the lots in the subdivision. They had to have fifty feet that goes with the property. Kenny stated if we were going to do this, it's fine. Geoff said it's not an easement then. Mike said the fifty foot was part of what they surveyed off. Kenny said when the legal description is deeded does the 7.5 acres go all the way out to 52. Geoff said this parcel is not land locked. Kenny said it doesn't have any road frontage. Linda asked if Mike wanted her to go up and get the survey. Mike asked Mr. Thomas if he had his survey with him. Mike said originally it was thirty feet. Kenny said when he subdivided 400 West, he had to take it out to the road. Kenny looked at the survey and asked where the strip is going out to the road. Geoff said he didn't think anyone was arguing with him, but what you are saying should have a line deeded with the smaller parcel. Kenny said all he was saying is, as we have done in the pass, had to have a fifty-foot deeded strip for access on a subdivision. Geoff said he was not familiar with the requirement. Kenny said if you want to change the rules it's fine with him. He always thought this was a waste of land. Linda said it used to be an easement then in the new Ordinance it was changed to be as deeded property with the parcel. Remember Gregg changed this, or the Board did. Mike said it's listed on his survey. Kenny said he needs to start building houses there. All he has said is he has access. Geoff said we are not there yet. Kenny said the intention was to build. Geoff said legally we cannot subdivide a property in Indiana that is landlocked. This is why he is showing the easement. This makes this a legal subdivision under the Indiana Code. It does have an access point to it. Geoff said what you are saying he can't build a house there. You're not saying the parcel can't be divided that way. It doesn't have road frontage. Kenny said we are going against everything we have talked about for years. Kenny said he would rather see it this way, to be honest, because you are not wasting ground. For years this has been what the County has done. Geoff said under IN law he can build a house there if we have nothing in the Ordinance that restricts it. Geoff said he thought Kenny might be thinking of an agricultural zone where you must have this. He does not see anything in a residential zone that states this in the Ordinance or anything about road frontage. Virgil said Geoff maybe right. On 146 in A-3 is the language we added to get the fifty-foot strip platted as part of the lot. Geoff said that was the A-3 zone. He is not finding anything in the Residential zone that states this. Geoff said to Kenny he guessed with his developments were in the agricultural zone not residential. Kenny said right. Geoff said there are setbacks but there is nothing that says about road frontage. Geoff said if this was three miles further East he would argue that he is going to have to have a strip of land to go with it. Since he is asking for a residential zone, he

doesn't think it's needed. He doesn't see a requirement of road frontage. Kenny said his only concern was when he goes out there and builds the house, or what his thinking was, by not having road frontage, even though it will work in this case here. Marvin said all he is asking for tonight is for the rezone from agricultural to residential. Geoff said from manufacturing to residential. Virgil asked if this was an R-1 or R-2 request. Mike said it would be the same as what it adjoins on the left or West side. Marvin asked if there were any more questions. Hearing nothing from the Board Marvin asked questions from the audience. Virgil said he had one question. He addressed Mr. Thomas and asked if down the road and you wanted to set that easement right on the property, going out to 52, maybe to build, would you split this up down the road. Mr. Thomas said he wasn't sure about the question. Virgil said so in the future if someone else owns this space and maybe put a house there, would they be able to use that easement. Mr. Thomas stated, definitely.

Marvin asked for a motion. Justin moved to ask for a favorable recommendation from the Commissioners to change this 7.2-acre parcel from manufacturing zone to residential. This was seconded by Virgil. All were in favor. A favorable from manufacturing to residential will be presented to the Commissioners at their next meeting.

OLD BUSINESS: None

REPORTS:

Attorney: Geoff Wesling said he would catch up on some of the complaints. Virgil has kind of updated him on Complaint # 2022-13 N 900 West Carthage. He said they would get this one going within the next month, when he gets some accurate information. Complaint 2021-1 & 2 Henly & Main St Carthage- Gentlemen in Carthage is ready to precede and will be filed this week. We have photographs so work can be done on that. Geoff addressed Kelly and stated he was originally told there was no trash and anything like that on the N 900 West Carthage property. Just a few trucks and both properly licensed. Denny said it was hard to see in there now. Geoff said just because they put a fence up doesn't mean they can have a junk yard. It does mean they can have vehicles unlicensed. In Indiana you can legally park an untitled vehicle behind a fence or somewhere behind a building not visible from the road. Our Ordinance states you can't have a junk yard unless you apply for that request. We just must have evidence and pictures to pursue as a junk yard. Complaint 2021-10 7123 West US Hwy 52 in Arlington is being set up to be taken care of or has been contacted to be taken care of. Complaint 2021-11 8970 S Walnut has been demolished and in dumpsters.

Director: Mike said he had nothing other than he has sent some E mails out about the Commissioners having hired a lady that works for H W C Engineering to start the Comprehensive Plan. He hasn't talked to her yet. She hasn't been into the office to pick up anything. One year and three months is going to go by fast. Just anticipating, it will take about a year to redo the Comprehensive Plan. If you want to jot down any changes too, especially the Solar Ordinance. Jot those down and when it comes time, we can talk about those. You know what came up here in the last application and you want to address those and how you want to address them. The first and major question that must be answered, does Rush County want Solar Farms. Either they do or they don't. The Ordinance will have to be adjusted as such. Kenny stated when it comes to the Comprehensive Plan that you feel like needs to be put in, get different viewpoints. We need to look at the whole perspective. That is what he wants. The County is going to spend a hundred thousand dollars. So don't take this lightly. We want to address it and we also must make it for the future of the County and how it is going to develop. It's not going to

affect most of us guys very much, but guys like Justin, Virgil and their children, yes it will. We have got to have that viewpoint. Justin asked if the overall committee was going to be fifteen. Kenny said that was what they were looking at. We still got to have a lot of input. Justin said maybe different buckets, sort of speak, and maybe have different groups of people with certain issues. Virgil said he thought there were a couple of sub-committee areas. Like he's sure there will be one on Solar and one on agricultural. He thinks small towns will have that with an overall survey of properties. Virgil said it would be comprehensive and a good process. Justin said the last thing he wanted to do was set upon that stage again and have to say we didn't know anything about this and hadn't heard. He just wanted to make sure to get as many people pretending to this talk about as possible.

Marvin asked if there were any further questions. Denny asked if the meeting time was going to change or stay. Geoff said BZA was changing their meeting to start at 5:30 from 5:00. Mike said Marvin asked the question if the APC meeting could be advertised as starting immediately after the BZA. Geoff stated we really need to have a time set. There is not a problem if the BZA goes over 10 or 15 minutes, unless you guys get anointed by that. The problem would be starting 10 or 15 minutes earlier. The only issue is you can't start earlier. You are only going to get hung up if someone didn't have notice of an early start. They can't really complain if it starts late. Kenny said it probably won't happen very often. Geoff said with the change with the forty-acre rule, one or two BZA going overtime will probably be the max.

ADJOURNMENT:

Kelly makes the motion to adjourn. This was seconded by Denny. All were in favor. Meeting adjourned at 6:23 P.M.



Marvin Rees

President



Kenny Aulbach

Secretary