

**JEFFERSON COUNTY, INDIANA, PLAN COMMISSION , REGULAR MEETING,  
TUESDAY, FEBRUARY 5, 2019 AT 5:30 O'CLOCK, P.M.**

**JEFFERSON COUNTY COURTHOUSE ANNEX, SURVEYOR'S OFFICE, 315 JEFFERSON  
STREET, MADISON, INDIANA 47250**

**MEMBERS PRESENT:                    LONNIE MASON, PRESIDENT, WARREN AUXIER,  
VICE-PRESIDENT, JEFF DAGHIR, , JERRY YANCEY,  
DENNIS BOWYER, VIRGINIA FRANKS, GENE  
RIEDEL, RAY DENNING AND DAVID BRAMER**

**VISITORS PRESENT:                    GINGER DAVIDSON, KAY GROSS, SHARON  
STEVENS, PAT FISHER, SAM SLOFFER, PARIS  
SWOPE, CHRISTOPHER STEARNS , JEFFREY  
GILSTRAP AND JADA GILSTRAP**

**STAFF PRESENT:                        GAY JACKSON, SECRETARY  
R. PATRICK MAGRATH, ATTORNEY  
JIM DIERDORF, BUILDING/PLANNING/ZONING**

**The meeting was called to order by Lonnie Mason, President . There is a quorum present with all members present. Mr. Mason stated minutes from the January meeting need to be approved. He asked for discussion and there was none. Gene Riedel moved to approve the minutes as written and Jerry Yancey seconded the motion. All voted in favor of approving minutes from the regular meeting, January 8, 2019. Mr. Mason welcomed Mr. Bramer as a new member of the Plan Commission.**

**Virginia Franks stated we needed to approve the minutes from the January 8 joint meeting. Virginia Franks moved to approve those minutes with Jeff Daghir seconding the motion. All members voted in favor of approving the joint meeting minutes from January 8, 2019.**

There were no communications. He went to current business on zoning violations.

First item is 6089 S. R. 7. He asked if anyone was here to speak to that. There was no one. Mr. Dierdorf stated that is Gilstrap up on State Road 7. He said it is ongoing with vehicles, car parts and debris. Gilstrap has been here a few times. He has the fence there. He stated cars on north side of house are gone and there is one truck on outside of fence and numerous cars inside the fence. He stated you talked about giving him time to clean up. Little by little he is cleaning up. Mr. Riedel stated he drives by there weekly and he sees improvement, plus this time of year is not a good time to make progress in cleaning up. Mr. Dagher stated he would like to give him more time because he has made very slow progress. He said our only other option is litigation and he would like to avoid that. Mr. Auxier doesn't feel there is a lot to be gained with litigation at this point if there is progress being made. He stated the weather hasn't been that big of impact as we have been working on getting this cleaned for months. He thinks come March or April, if there isn't significant improvement, we will need to have some serious discussion as it is stretching on. Mr. Dagher stated we should ask him to attend March meeting.

Mr. Auxier made a motion to continue it to March meeting and Jeff Dagher seconded the motion. All members voted for continuing the matter to March meeting.

Mr. Mason stated our next item is 7894 S. R. 356. Mr. Magrath has sent a resolution to the Commissioners regarding litigation for the Commissioners next meeting.

Mr. Mason stated our next matter is 7749 E. Brooksborg Back Street. Mr. Dierdorf stated, the Dunn residence. There has not been much change there. There is still quite a bit of debris, trash, cars. They have three (3) vehicles in their driveway and they are allowed to have three (3) vehicles in their driveway. They don't run or move. Month after month, they stay in the same place. He

mentioned there was going to be a dumpster put there for clean up but there was no room there for a dumpster. A vehicle needs to be moved and they won't move a vehicle. It was brought up to put dumpster on church property. Someone volunteered to donate a bobcat type vehicle to help. There are people here to talk from Brooksborg.

Kay Gross spoke. She stated she has lived around Brooksborg all of her life. Her grandparents are from there. She said it is sad that over 15-20 years, you have one family that we can't help. We've tried. She said she is Clerk of Brooksborg Baptist Church. The house is in Sara Lee's name and she has been dead for years. She said the daughter Elaine Lee opened an estate and nothing has been done. She stated her granddaughter has moved into the house and has lived there for fifteen years, or so. Ms. Gross stated they had a dumpster at one time. She said people have tried to help and they would take them groceries, etc. She stated they appreciate nothing. She stated they were parking cars on church property. John Wallace came out and tagged them. She discussed how bad it is there. She feels something needs to be done. She doesn't feel a dumpster will help. She feels that property is hurting all of Brooksborg. She discussed problems there further. She feels something needs to be done. She stated a fireman stated if there is an emergency, the fire truck couldn't get through there. She asked if they could condemn the property.

Mr. Auxier stated it has been quite a while since the dumpster was there. He has talked to them 2-3 times about the dumpster. His last communication was on moving a car and see if the church would let a dumpster be on the church property for 2 weeks. He would assure the church that the dumpster would not be there more than 2 weeks. He said Dunns called him back when he left messages.

Mr. Auxier stated the Dunns came to two meetings but we did not get to them at second meeting and they left after a couple of hours before we could get to them. (Mr. Gilstrap came in here.)

Sharon Stevens is Town Council President. She said she heard the same things in September. She said everybody is making excuses for her. She wants someone to clean it up for her. It is a fire hazard. If there would be a fire there she feels all the houses there will burn. Somebody will be responsible, she can't believe something can't be done. She contacted Health Dept. in 2007. It is a health issue. It devalues other houses. No one would buy a house in Brooksborg because of this house. She stated she has been fighting for ten years. She stated it is a deplorable mess.

Ms. Fisher lives next door at 7712 Back Street. She has tried to help them. She wondered if they wouldn't be better in subsidized housing. She feels it is very sad. She stated she has a rental house and no one would rent her rental house because of that property. She feels something needs to be done.

Mr. Mason asked Mr. Magrath if he had any thoughts on the estate issue. Mr. Magrath stated that does complicate to the extent as to who the actual owner is. The Plan Commission is very sensitive to the issues and what they are. This is a zoning board. The Plan Commission is one of several government entities that focuses on different issues. The concerns that are out there are the use of the property and the extent to that the use is consistent with what it is zoned for. That is the extent of this Commission's ability to do something. Our rules allow for, if there is a determination of a zoning violation to proceed with an attempt at litigation, some injunctive order or fines. As we have talked about at other times it takes time and it takes money to take a case to litigation and then this comes to the issue as who is the defendant. If it is still in an estate, the estate can be a defendant, and anybody who is a residual heir would be responsible. It might not matter much to enforcement if there is no money to pay fines, as far as injunctive relief. This is part of the process of determining if it is consistent with the zoning which is why the inspector goes out and does an investigation and to the extent that there are things that can be done without going through the litigation process for the economic benefit of the county plus the outcome that everybody wants to make sure it is consistent. It sounds like there are a lot of other issues which this plan commission has no jurisdiction or

authority over. We are not the Health Department, the Office of Child Services. There is a limit to what this entity can do. In the end, the fact that it is an estate doesn't mean that it is immune to any type of enforcement.

It was asked if Brooksbury is its own municipality and Mr. Magrath stated it is but they don't have their own zoning and so the county does their zoning. Covenants were mentioned. Mr. Magrath stated Indiana does have civil remedies for people to seek out for something called nuisance. There are nuisance laws that allow, he stated he is not going to get into the merits of a nuisance case in this instance but the Plan Commission isn't really designed to settle disputes among neighbors although that does come up because neighbors have the ability to catch zoning violations and we don't really deal with nuisances, that is outside of the zoning ordinance. We do have a specific part of the ordinance which is the property maintenance code which has more to do with the use of the property whether it is consistent with the area it is in and that is how we get into these issues. The county takes over zoning for the municipality unless the municipality asserts its own zoning authority and the only two in Jefferson County that have are the City of Madison and the Town of Hanover.

Mr. Dierdorf said a couple of things came up. Is a petition any type of avenue to try to take to try to relocate the Dunns? If they had a petition passed is that one way. Mr. Magrath stated short of a condemnation he is not aware of anything that a governmental entity can do to remove someone from their property.

Mr. Dierdorf stated he had another question. If the Health Department deemed the property uninhabitable could the county relocate these people to a different housing unit maybe one that would be more suitable. He mentioned Presidential. Mr. Magrath stated Presidential is a Section 8, a Federal program that is administered through the State. The county does not have a direct influence on that. The county is not in the position to ...now if the Health Department deems it unsuitable then there are enforcement procedures on the county side to enforce the orders of the Health Department and that would

be a question better.....the Health Department goes through the County Attorney. He stated as far a relocation that is not within the scope of the plan commission. Ray Denning asked about what the fireman had said. He asked if county had a fire marshall. The City has one but the county doesn't Mr. Dagher recapped what Mr. Magrath stated. He stated we control how people use their land. We don't have any authority over whether people are good neighbors or how they take care of themselves. We can't do anything in regards to those. He mentioned the exterior maintenance ordinance on maintaining exterior of their property .

Ms. Gross stated that property is not in the Town of Brooksborg. It is outside limits but they did hook onto the sewers.

Mr. Magrath explained that Brooksborg is part of the county zoning. This Plan Commission has jurisdiction over zoning in Brooksborg. Brooksborg has not exerted it's own zoning. The primary issue is that we live in the United States of America, and one of the liberties that people want is to enjoy freedom on their property and zoning is a limitation on a person's individual freedom to use their property. So this Plan Commission and every other Plan Commission and Zoning Board in this nation is constantly faced with the balance between allowing people to do legal things on their property even if their neighbors and community don't like it versus reasonable zoning restrictions to allow for an orderly use of land of the area.

Kay Gross talked again about the estate and that nothing has been done. She has a potential person who would buy the property and clean it up. She questioned if there were laws that you have to move forward when you open an estate. Mr. Magrath stated he is not in a position to provide any other council or advice to this particular issue. He can only advise the Plan Commission that from the zoning perspective it doesn't really matter to this Plan Commission who the owner is. He understands her issue and would suggest she consult with an attorney on the estate issue. She was told she needed to consult a private attorney. She doesn't want to pay \$200.00 an hour. Dennis

Bowyer stated there are places all over Jefferson County that are as bad as that place. Ray Denning suggested getting an appraiser out there and file a lawsuit because of that property devaluing other properties.

Mr. Auxier stated that Mr. Magrath might be better to address this with correct terms, but if his understanding this correctly regarding the Plan Commission, is that one of the reasons we work so hard with people to get these properties cleaned up is if his understanding is correct, our only recourse is to bring legal action if we don't get any response at all? We don't have the ability unless the Court puts an injunction in place to go out and clean up the property, even if we had the money available to us. We can't do that without going through a Court process, is that correct? Mr. Magrath responded that was correct. Mr. Auxier stated we find these court processes are very expensive to begin with and then it is also, a very slow process. Then the problem you get into, is if the county goes out and spends the money to clean up the property with a court order, a year or two later, there is no reimbursement to the county at all. The property would very seldom bring what the clean up would cost. So we do move slowly, and he understands concern over it being... 10-15 years is very difficult and it should not have to be that long.

Kay Gross asked if we could clean up the property and put cleanup on taxes. She was told a court would have to do that. Pat Magrath stated we do have authority to start litigation, and it would be up to the judiciary to determine whether the case warrants the relief we are requesting and whether or not those orders would be issued. We don't make that decision, the judge does.

Mr. Dagher stated we can take them to Court and if we win, but if we don't, we are pretty much out of options. Ray Denning brought up Protective Services. Mr. Magrath stated Southeast Indiana has adult protective services. They are based out of Dearborn County. They cover all of Southeast Indiana. The Department of Child Services is required to have offices in every county and they have their own attorney. Kay Gross stated the child had been taken away and given back. They are trying to get something done.

Mr. Mason asked for anything else from the board. Mr. Daghir stated we do have the Property Maintenance Code. He thinks this is a clear violation of that. We have attempted to work with them to get the property cleaned up. We haven't had a whole lot of response. Mr. Mason asked Mr. Denning if he was going to say something? Mr. Denning suggested starting with a letter of intent to go to Court.

Mr. Dierdorf asked if they wanted him to get hold of the Health Department. Mr. Auxier stated we need to stick with our side of it, the zoning side. It is not our role to involve the Health Department. If we are there and we see things there that are causing health and safety issues for the adjoining neighbors, etc. that would be a little bit different. He stated if it is an inside house thing and how they are living, he doesn't think we should be involved in that. Mr. Auxier asked how do we want to proceed with the letter? If we are going to do this, we need to put on notice our intent that if we don' have a response or action by such and such date, that we are going to pursue court action on it. Are we ready to pursue court action, next step? Are we on that page yet?

Mr. Daghir stated he was. He doesn't think we are going to get movement out of them. Mr. Magrath stated, ordinarily the letter he has sent in addition to the Inspector's letter is stating they have been notified of the zoning violation, and you have not remediated it, that the Plan Commission intends to vote on proceeding with litigation at the next meeting. It is an invitation for them to come to that next meeting, otherwise the Plan Commission may vote for litigation without their input. It is contingent which means that if you guys decide not to table it or whatever, but at the same time it puts them on notice that you have received the zoning enforcement's letter and now this is what is going to happen next. This is their opportunity to come and at least be present for that hearing. He usually sends that certified mail.

Mr. Auxier moved to send the letter with our intent and Mr. Dagher seconded the motion. Mr. Mason asked for discussion and there was none. All members voted in favor of the motion to send the letter.

Mr. Auxier stated he has contacted Ms. Dunn before and she has called him back and he wanted to know if it is improper for him to contact her and make her aware of this and make the offer of the dumpster again. Mr. Magrath stated no, especially since the offer of the dumpster is a private offer and has nothing to do with the Plan Commission. Mr. Auxier stated he would do that again. He really feels our goal is to get the property cleaned up and avoid court. Kay Gross questioned more about the dumpster and said she would ask the Church. Ms. Gross and Mr. Auxier discussed further.

Mr. Yancey pointed out that Mr. Gilstrap is here. Mr. Gilstrap came forward. He has been sick but has been working on the clean-up. The Commission explained what they had discussed earlier and that they were giving him more time for clean up. The board acknowledged they have seen some improvement. Mr. Dagher told him once it is cleaned up it needs to remain that way. He stated we appreciate him coming in to talk with the board.

Next item is 5815 W Jackson Rd, Mr. Wise's property. Mr. Wise's son had moved a mobile home in there and we have a complaint. The inspector went down and they were taking a part the mobile home and putting it in a dumpster. It is all cleaned up.

Mr. Mason then went to 3927 E 925 N, Canaan. Mr. Christopher Stearns was here. He moved a house trailer onto his property and didn't get a permit and it is too close to the road. Building Inspector asked him to get a permit and he said he would but hasn't been in yet. Mr. Auxier stated we need a septic permit for the building permit. Mr. Stearns stated he is working with Mike New on that and he has been working out of town. He said everything is okay on the septic permit. It was determined he needed to get with the secretary and file for a variance from developmental standards. Mr. Auxier explained the process

for a variance to Mr. Stearns. Mr. Stearns will get with the secretary for a variance before the Board of Zoning Appeals. Mr. Auxier asked if he could move it and he said where the septic will be located will prevent that. He has already poured the foundation. The mobile home is for his two employees from Michigan.

Mr. Mason stated next is Camp Anderson and Mr. Mason excused himself from this part of meeting and Mr. Auxier will handle this part of the meeting.

The garage there was discussed. The inspector has sent letters and has been down there. Mr. Sloffer stated he is the previous owner of the property. He stated the owner no longer lives there, he lives somewhere else. There was a tank there and the owner has removed that. If you recall he was here at last meeting and was supposed to be at this one but couldn't make it. He said to let him know what he needs to do and he would comply. Mr. Sloffer talked to him and offered to help him remove whatever needs to be removed and the current owner stated he would take care of it. Mr. Sloffer stated whatever needs to be done, inspect is fine with Mr. Sloffer. He is going to call office with the purchasers telephone numbers. Mr. Auxier stated they are to remove any plumbing fixtures, there was no need for them (plumbing fixtures) to be there. Mr. Sloffer stated the water has been disconnected and they no longer live there. Mr. Auxier didn't feel there is any need to do anything else on this property. He asked if anyone else was there to address this issue and there wasn't.

Mr. Mason came back in. Next item is 5126 N US 421. That property has a lot of debris and they were living in a boat. It is in foreclosure with the bank. There is to be a Sheriff's sale on the property. The Sheriff is supposed to go evict the people. The inspector thinks people are still living there. Mr. Dagher felt our best thing to do is wait and see what happens when a new private owner has it. They decided to let it go and continue to watch.

The last on is property at 4114 W 1500 W. There was a complaint someone was living there. It was determined someone is going there on occasion but not living there. There is no one there when the inspector has been out there. Mr. Auxier went by there on three (3) separate occasions and made a point of going by there on a Sunday and an evening trip and has seen no sign of anyone living there. The most positive sign he sees is the property has been drastically cleaned up. There is not the junk there, the holding tank is gone. He sees no evidence that anyone is living there. He asked a Deputy fireman if he has seen any evidence that anyone is living there and he has not seen any one either. Mr. Auxier doesn't think there is anything to address as to someone who might occasionally stay overnight like a camping cabin or hunting cabin. Mr. Daghir suggested to inspector to send a letter to the complainant stating we have investigated and as near as we can tell it appears no one is living there. If that changes they can let us know. Mr. Daghir stated to take off of the agenda for next month.

Mr. Mason asked if there was anything else to come before the board. Ginger Davidson wanted to discuss 7056 Camp Anderson Lane and that a trailer was put in there. It is Lot No 9. It has not been removed. The state told him he needed to remove it. Ms. Davidson asked if there was a deadline. This was discussed. It was decided to give him 90 days to remove by May 1<sup>st</sup>. It was discussed it was too wet to remove the mobile home now. Mr. Auxier felt the owner needed notice. It then was discussed there was still a mobile home there on a different lot and he thought Davidsons bought it at the tax sale.

Next, Dave Bramer wants to discuss a new Comprehensive Plan. He stated he has funding for a Masterplan. They talked with three (3) companies. He seemed to think the old MasterPlan wasn't good. The secretary stated she uses it some.

Mr. Auxier asked Mr. Bramer if the county has signed a contract with a company for a new plan. Mr. Bramer stated they have not signed a contract. He named three companies. Pressure Point, FPBH out of North Vernon and Taylor,

Seifert and Williams (this is the company the Commissioners have chosen). He discussed the prices offered. He thinks we have a pretty place and wants a pretty comprehensive plan. He wants to draw people and businesses into the county.

Mr. Auxier stated if he understands correctly he thinks the Plan Commission is responsible for putting the plan together. It has generally been the Plan Commission who has been involved in the majority of the work. It then goes to the Commissioners for review, any suggested changes, they make those if they have them, it comes back to the commission to discuss further then goes back to Commissioners for final approval. He feels if he is part of a Plan Commission working on a Comprehensive Plan, he wants to be able to pick who he was going to work with and have some understanding why he is picking them. That is a concern he has on the process. As well would like to have some feeling as to why the Commissioners want to do a new Comprehensive Plan.

Mr. Bramer stated as a county we react to things that have affected us. He stated we have something in the southern part of the county that is going to explode at one point and time. He feels we need to put some thought into what is being done. He feels if we aren't careful, we will have an acre here and an acre there. He doesn't think we want to let any part of our county just be piecemealed in the future. The procedure to do the Masterplan in the past was discussed and how long it took. Mr. Bramer thinks with River Ridge, people are going to come from Clark County to live here. Mr. Auxier wondered if there were particular areas they want to address? Mr. Bramer stated they want to address it all. He stated there have been a lot of changes and a whole lot of sections would have to be totally replaced. He wants things in place in case things move up here from south.

The secretary talked about subdivision and survey splits, that we do have some control on new parcels. She stated there have not been any subdivisions since the new subdivision control ordinances were passed in 2004. There is more required to do a subdivision and more costs involved than there used to be.

It was discussed that the ordinances needed to be updated. If you do a new Comprehensive Plan, you need new ordinances.

Mr. Auxier stated it bothers him that the firm has already been picked for the MasterPlan. He wants to see regarding the Comprehensive Plan what we want to accomplish and how we are going to measure the success. Compare what we have gained and lost since the plan has passed. More discussion followed.

Mr. Bramer feels we need to be ready for whatever is going to happen. The secretary stated it will take a lot of time to do a new Masterplan and Ordinances. She stated it took years for us when we did it all in late 90's and early 2000's. She thought it all took 4-5 years to do everything.

Mr. Dagher is comfortable with this firm. Mr. Auxier stated he sat in on one meeting with the firm and he wasn't as comfortable with the firm.

Ms. Franks mentioned the problems we had with the former company to make the changes we wanted and that firm wouldn't and we had to have our attorney make the changes the Plan Commission wanted. It was mentioned that it was only the MasterPlan company that wouldn't work the Plan Commission to make changes. The ordinance people did work with the Plan Commission and make any changes they wanted that were legal.

Mr. Auxier stated at the meeting he sat in on that was discussed and this firm did state they would make any changes the county wanted. Mr. Auxier feels they also will have a template to go by that they use in other counties.

Mr. Bramer wants people to see the best part of our county. Mr. Auxier wanted to know who had reviewed the current MasterPlan that see problems. He wants people to look at the MasterPlan. Mr. Bowyer asked Mr. Bramer if he thinks it will bring businesses here. More discussion and quality of life was discussed.

Mr. Daghir stated this meeting has been going a long time. He thinks we need to look at this . We need to review the MasterPlan.

Mr. Daghir asked what the board wanted to do? Mr. Auxier stated a lot of you have been through this process, he hasn't and he wanted their thoughts. Mr. Bowyer stated he is not sure it will be an improvement. Virginia Franks stated she agreed with Mr. Auxier, maybe talk to more companies. Mr. Bramer stated he sent notices to five (5) companies and only three (3) responded. Mr. Daghir asked about bringing proposals to the Plan Commission. More discussion followed. Mr. Auxier wants to know what we want to accomplish going in. Where are our problems? Highways were discussed.

Mr. Auxier stated he sees lots of reasons to review the plan, he does not see a lot of impact on south side of county from housing because of River Ridge. He stated there is a tremendous amount of empty ground between River Ridge and the Jefferson County line as we speak. As far as any subdivisions being developed, finding the dollars for sewage systems on that side of the county is huge.

Mr. Bramer agreed but he stated there are grants for infrastructure development.

It was discussed there a lot of new subdivisions in Clark County along S. R. 62.

Mr. Bramer stated he would send info about companies to Mr. Daghir and secretary. Mr. Auxier stated he felt they might as well stay with the company they have picked. Mr. Bramer has set aside \$50,000.00 for this.

Mr. Auxier, Ms. Franks and Mr. Daghir thought it would be good to have a meeting with the firm the Commissioners want and it was decided to set up a special meeting with the Plan Commission for Tuesday, February 26 at 5:30 in the Surveyor's Office.

Jeffrey Dagher moved to adjourn and Ray Denning seconded the motion. All members voted for adjournment.

By: \_\_\_\_\_  
Alana G. Jackson, Secretary

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

JEFFERSON COUNTY PLAN COMMISSION

By: \_\_\_\_\_  
Lonnie Mason, President