

**JEFFERSON COUNTY, INDIANA, PLAN COMMISSION , REGULAR MEETING,
TUESDAY, MAY 8, 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, DAVID BRAMER,
GENE RIEDEL AND VIRGINIA FRANKS**

**VISITORS PRESENT: LYNETTE ANDERSON, AARON GINGERICH, JEFF
GILSTRAP AND FRIEND, JADA GILSTRAP**

**STAFF PRESENT: ALANA G. JACKSON, SECRETARY
PATRICK MAGRATH, ATTORNEY
JIM DIERDORF, ZONING ENFORCEMENT**

The meeting was called to order by Lonnie Mason, President . There is a quorum present with Jerry Yancey, Dennis Bowyer and Ray Denning absent. Mr. Mason stated minutes from the April 2, 2019 meeting needs to be approved. He said they should have received copies in the mail. He asked for discussion and there was none. Virginia Franks moved to approve minutes as written and Jeff Dagher seconded the motion. All voted in favor of approving minutes from the April 2, 2019 meeting.

There are no communications. He then went to current business which is zoning violations. Current business is discussion of Zoning Violations including property located at 6089 N S. R. 7, Madison, property located at Camp Anderson Lane, Hanover, and 5126 N US 421, Madison.

Mr. Mason decided to discuss the Gilstrap property located at 6089 S. R. 7. Mr. Gilstrap was not in attendance. Mr. Dierdorf stated he had gone to Gilstrap’s

property yesterday. He stated the amount of items in his yard is not getting smaller, he thinks it is getting bigger. There are new items there. He had to walk up the driveway because of the junk. He told Mr. Gilstrap to attend tonight's meeting. Mr. Mason stated Mr. Gilstrap has come late to the meetings a couple of times.

Mr. Riedel asked about tabling until later. They decided to wait and see if Mr. Gilstrap shows up later. Mr. Riedel then asked if once the complaint is issued, who's responsibility is it to fulfill complainants request- is it on how we think it should look or how the person who complained wants it to look? Mr. Daghir stated we've always done to our satisfaction.

Mr. Magrath said procedurally, the complaint triggers our investigation by the Zoning Enforcement Officer of violations of the zoning ordinance. If someone files a written complaint, then our ordinance requires that we at least investigate and that is when we send the Zoning Enforcement Officer out to determine whether it is a zoning violation. Once the Zoning Enforcement Officer turns in that there is a zoning violation, then the citizen's complaint is not relevant to what is going to happen. It is a trigger, then after that it is up to the Plan Commission to determine whether or not the zoning ordinance has in fact been violated by information turned in by the Zoning Enforcement Officer and then determine what steps are going to be taken to remediate that violation. The citizen complaint, and you typically have public meetings and they can come to the meeting and comment. That is just additional input for the Commission in making your determination. When we file legal action, it is Jefferson County Plan Commission versus the owner of the property. The original citizen who makes the complaint is not part of the action. Mr. Riedel asked if anybody can issue a complaint. He was told as long as they live in the county. Mr. Magrath stated the zoning enforcement officer goes out and determines if there is a violation and then brings it to the Plan Commission. Anybody can call the cops but that doesn't mean there is going to be an arrest. Mr. Riedel stated with all the problems in the county, if everyone complained, the commission could be swamped with complaints. He stated at what point do we decide when we are satisfied or not.

Mr. Auxier stated we look at them on an individual basis and we decide if they are complying with the ordinance, what is reasonable, if they are complying with our ordinances. It is important that we decide if they are complying with our ordinances. You could have a neighbor that feels that their not and that doesn't make any difference, it is what our decision is. The next step, if they want to go beyond us would be to go into the court system and we try to avoid that side.

Mr. Magrath talked about if the complainant felt the violater is impacting their property value or use of their property, they can file their own civil lawsuit against their neighbor for infringing on their rights, trespassing or nuisance but that is separate from whether it is a zoning violation. He stated it is a sticky area.

Next, Mr. Mason stated Mr. Gilstrap is here if any members have questions for him.

Mr. Dagher stated it looks like we have kind of gone backwards. Mr. Gilstrap stated he has been hauling stuff out of there. He has been working on it. He stated it looks better than it did when Mr. Dierdorf was there. He stated his truck broke down. Mr. Dagher asked where the pallets came from. Mr. Gilstrap stated from places around town. He sells them. Mr. Dagher stated you can't go gather up pallets and take them to your property. Mr. Dagher stated he can't run a scrap yard from there. Mr. Gilstrap stated he has been there for thirty years. He is self employed. He discussed what he does there and Mr. Dagher stated that is the problem, it is not zoned for that. Mr. Gilstrap stated that is how he pays bills.

Mr. Auxier stated the problem for the commission is they have been working with him for a year or longer to get this cleaned up. He feels the commission has been very patient on this. They appreciate that he has been meeting with us and staying positive on that aspect. He stated there is very little change out there. He stated all the pallets Mr. Gilstrap has hauled in is just adding to it. Mr. Auxier stated it would be one thing if it was slowly getting better but when you start adding things that shouldn't go in there at all. He feels the

Commission has been very clear that this is not zoned business and that he cannot legally operate a car repair place on it. Mr. Gilstrap said he was going to have to do something because he has been doing this for thirty years. Mr. Auxier thinks Mr. Gilstrap would find if he kept the property in better shape they might overlook some of it, but when the property looks the way it does now, it is a problem. He stated the commission is almost to the point where the only thing for them to do is take court action. Go in and clean up the property, put liens on it. Mr. Gilstrap stated we would have problems then. Mr. Auxier stated that is not good for you or us either one. Mr. Gilstrap stated we don't want that. Mr. Auxier asked him what could be done in thirty days?

Mr. Gilstrap stated he would get some stuff moved out. More discussion. Mr. Gilstrap stated he would have to do something. Mr. Dagher stated you could apply for rezoning. Mr. Gilstrap feels he has been doing this for thirty years. It has been like this forever.

Mr. Dagher stated he understands it takes a while to clean up but it is upsetting when more stuff is going in. Mr. Auxier asked for the Plan Commission's thoughts. Mr. Dagher doesn't really want to go to Court just yet but he feels very frustrated. Mr. Auxier asked Mr. Gilstrap if he thought he could make a substantial difference in the next thirty days. Mr. Gilstrap thought he could. The lady with Mr. Gilstrap stated he needs to get the pallets out.

Mr. Dierdorf asked Mr. Gilstrap how many vehicles were there? Mr. Gilstrap said less. He is hauling them out. Mr. Dierdorf asked how many don't run. Gilstrap stated there were 8 or 9. He can't get back to them because of the rain. Mr. Dierdorf stated the vehicles were one of the main complaints. He suggests getting down to three.

Mr. Auxier suggested giving Mr. Gilstrap another thirty days. Mr. Dagher was in favor of that. Rain being an issue was discussed. Mr. Dagher stated the new stuff coming in is a concern. Mr. Auxier stated those things are not supposed to be there.

Mr. Auxier moved for Mr. Gilstrap to come to the next meeting, have all pallets gone and have four (4) vehicles gone, and progress to next meeting. He stated if not any improvement through summer the board may move to legal action. Gene Riedel seconded the motion. All members voted in favor of the motion and the next meeting will be June 4. Mr. Auxier told Mr. Gilstrap they appreciated him coming in tonight.

Mr. Mason then went to Camp Anderson Lane. Mr. Dierdorf stated he is to meet with property owner on Camp Anderson Lane on May 10th. That is the one with the garage that had been turned into a dwelling. He stated the mobile home has been torn down and all that is left is the frame which is acceptable.

Mr. Mason then went to property located at 5126 US 421. Mr. Dierdorf sent Mr. Bruce a letter by certified mail. It came back so he hand delivered the letter to the address. The sheriff went with him. He gave the letter to someone else on the property. The letter had told Mr. Bruce to be here and he isn't. Bobby Little stated a neighbor, Aaron Gingerich is here about this issue. The Commission was told the motor home is gone. He then talked about the condition of the property and stated there are roaches and rodents there that go to his place. He stated there is a deck with garbage bags on it. He stated somebody hauls in stuff and dumps it there. He stated Mr. Bruce mowed the yard where he could mow and that he picked up some of the trash. He is tired of it. Mr. Dierdorf thinks the attorney should be involved. Mr. Dagher stated he thinks the bank is getting ready to repossess the property and asked Mr. Magrath how the commission should handle the matter.

Mr. Magrath stated that zoning violations run with the land. So the violation would stay if we file a lawsuit even if land changes owner. He stated the bank at that point could be joined in the lawsuit if they repossess the land. He stated foreclosures take a while.

The neighbor stated there hasn't been any water or electric there for three years.

Discussion followed on the bank's involvement. The neighbor wanted to know where they were going to the bathroom. Mr. Magrath stated that is a Board of Health problem. The neighbor feels the junk affects his property. Mr. Daghir feels that Mr. Bruce won't do anything.

Mr. Dierdorf mentioned taking Mike New to the property with him. Mr. Magrath mentioned the possibility of joining forces with the Health Department. If the Health Department was going to take some kind of enforcement action, it would make sense to do it at the same time. It would make sense to consolidate it. They would be two separate actions but they would be filed in the same Court at the same time. It is not something we have done before.

Mr. Auxier stated it is fine if Mr. Dierdorf wants to go out and look at with the Health Dept., but he thinks at the same time, he thinks we should follow our normal procedure and have Mr. Magrath write him a letter putting him on notice it is our intent to take Court action if there are no arrangements made to clean the property up. Mr. Magrath stated he would probably have the Sheriff serve the letter rather than send by Certified Mail. Have the Sheriff with special instructions to attempt to serve the letter and if won't not accepted, leave a copy of the letter on the property and then send a copy by regular mail. The letter will tell Mr. Bruce since he hasn't responded, and the property is not cleaned up, at the next meeting, the Plan Commission will most likely be voting on whether to take enforcement, penalties. He wants a copy of Mr. Dierdorf's last letter to Mr. Bruce.

Gene Riedel questioned it going by Sheriff and questioned if gave to Mr. Bruce personally. Since Mr. Bruce did not get the letter personally, Mr. Riedel stated he can claim he didn't receive the letter. Mr. Auxier stated that Mr. Dierdorf had spoken to Mr. Bruce before so he can't claim he didn't have knowledge of the violation. This was discussed further. Mr. Magrath stated if we take him to court, he would have to have proof it was served on Mr. Bruce, the summons was placed in his hands. He stated the fact that we have Mr. Dierdorf go out there and talk with him and send letters is a courtesy. It is not a legal

requirement. Mr. Auxier stated we would be in our authority to file legal action tomorrow, if we chose to. Mr. Dagher moved for the attorney to send a letter to the property owner. Mr. Auxier seconded the motion. Mr. Mason asked for discussion, there was none. All members present voted for Mr. Magrath to send letter to Mr. Bruce.

Mr. Robert Little asked if the property is foreclosed and if the bank could have Mr. Bruce vacate the property. Mr. Magrath said they could. He discussed individual rights. That there are steps that have to be taken before it gets to foreclosure. Then they have to get a judgment of foreclosure. Typically they have to take a secondary action to remove the occupant from the property, now they are trespassing, there is a lengthy time line. Mr. Magrath was going to check with the Clerk on the foreclosure action.

Mr. Mason asked for any more complaints. Mr. Dagher asked Mr. Dierdorf for an update on property on 356. Mr. Dierdorf stated he was out there and it looked like he had cleaned up some. The grass has been mowed. He hasn't been out there for a few days. Mr. Magrath had obtained a default judgment on Mr. Goodin after filing litigation against Mr. Goodin on his zoning violations. Mr. Goodin did not respond to the complaint. He then filed for default and that means by getting the default judgment that he is in violation of the zoning ordinance. The Court has set it for a damages hearing and he is going to need Mr. Dierdorf to go out and check the property and see what has been done and what still needs to be done. He stated in executive session on litigation, he wants to discuss what the Plan Commission wants as a result of that hearing. Mr. Magrath would like for Mr. Dierdorf to go out soon.

Mr. Dagher asked Mr. Dierdorf if he had other complaints. He stated he has people he can't get a hold of. He asked Mr. Magrath if he had a way to get a hold of people and he didn't. Discussion followed. Mr. Magrath told Mr. Dierdorf to do a violation letter stating the ways it is in violation of the zoning ordinance. Get painters tape and tape it to the door or put in the mailbox. Then you send another copy of letter by regular mail. You make a notation of when you did those things. If they don't show up, we assume they know and

aren't coming. The letters normally go to the address of where the taxes are sent. Mr. Magrath will work with Mr. Dierdorf on addresses. He stated if you do what you are supposed to do and there is no response, then you bring it to the Plan Commission.

Mr. Dierdorf then brought up Mr. Barnes property. Mr. Barnes property complaint was dropped by the neighbor and then approved by the Board of Zoning Appeals. That item was before the Board of Zoning Appeals. He had the wrong guy. It is Mr. Stearns property where they are to move mobile home and get septic permit. Mr. Stearns has not contacted the office for his permit. Mr. Auxier feels that Mr. Dierdorf should contact Mr. Stearns and have him move forward with getting his permit or move the trailer out. He needs to get his septic permit and come in and get his building permit or remove the mobile home from the property. Mr. Magrath stated on the garage the neighbor came in and withdrew his complaint.

Mr. Mason stated as new business we have on agenda , Sparkman Mobile Home Park. Mr. Dagher stated our ordinance is unclear on grandfathering in trailer parks. There is an amendment to our ordinances that states parks that meet all other ordinances are allowed to remain, basically, but it doesn't say what they have to do to remain. He thinks if they were there before the adoption of the ordinance, the intent was to let mobile homes remain. He feels the ordinance is unclear. He can't tell if a trailer park is grandfathered in.

Mr. Magrath stated our zoning ordinance has specific zoning for mobile home parks. It has a district for mobile home parks. This property is not zoned for a mobile home park. However, it has been in existence longer than our current zoning ordinance and so he studied that provision. Since it is not zoned properly, the proposed new owners wanted assurances that they could continue to operate it as a mobile home park. Mr. Dagher wrote a letter stating that our ordinance is not really clear on this, so he is going to instruct the building inspector to not deny permits for removal of mobile homes and replacement with new ones, solely on the basis that it is not zoned properly. That really doesn't resolve the fact that it is not zoned properly. It just means that

right now he is going to let them continue to do this. If they want to really resolve this, then they need to come before the Plan Commission and request them to clarify this or come before the Plan Commission and ask for rezoning. Or do nothing and hope it doesn't become an issue. His last conversation with the realtor was that they were happy with the do nothing.

Mr. Magrath stated that ordinarily a Mobile Home Park that got grandfathered in is a nonconforming use. When you change the use, and the mobile home park is there. It is grandfathered in and when you stop using it and there is a case that is a mobile home is a nonconforming use, and when you remove one, then you have vacated the nonconforming use and can't put another one back in. But, there is a provision in our ordinance that is unclear, ambiguous, not clear what it is intended to do. We think it was intended to save the mobile home park and let them go in and out since it pre-existed our ordinance, but it is not stated that way. His advice was to recommend per this ambiguity, he wouldn't suggest to go after them. This was discussed further. Mr. Auxier feels that Mr. Dagher wrote a letter to the realtor that was good, and spelled everything out to protect the county. The park has been there according to owner since 1960. There is also a floodplain issue with some of the lots.

Mr. Dagher and Mr. Auxier asked the secretary to put a copy of his letter to realtor in with the other information on this Mobile Home Park.

Mr. Mason asked Mr. Bramer if he had anything to talk about regarding Masterplan. Mr. Bramer stated the contract has been signed. They want a contact to set up meetings to get things going. The point of contact is to be the new secretary for the Plan Commission.

Mr. Mason asked for anything further to come before the board.

Mr. Auxier stated that the Brooksbury property is cleaned up. Members thought that was great. The cars were moved out and the dumpster was put in place. Several people helped clean up and they totally ran out of room in a thirty (30) yard dumpster. There was a small pile left back behind. It was quite an undertaking.

Mr. Auxier thought it would be good to send Mr. Leach a letter of thanks. Mr. Dagher stated he would do one and give it to the Plan Commission for review.

Mr. Auxier felt we need to discuss with Commissioners what we can do to help people clean up their property. He discussed about maybe placing dumpsters throughout the county, periodically. Mr. Bramer mentioned looking into putting dumpsters at county trash sites. We have to be careful that people wouldn't put things in dumpsters that are not allowed. Mr. Auxier talked about how a lot of these sites are out of hand and over whelming. Discussion followed.

Mr. Mason asked for anything else. Mr. Dagher moved to adjourn and Gene Riedel seconded the motion. All members voted for adjournment. The meeting was adjourned.

By: _____
Alana G. Jackson, Secretary

APPROVED THIS _____ DAY OF _____, 2019.

JEFFERSON COUNTY PLAN COMMISSION

By: _____
Lonnie Mason, President