

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, April 11, 2022, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MINUTES: To approve the Minutes from the last regular meeting held March 14, 2022. Doris Horn made a motion to approve the minutes as distributed. Bryan Flowers seconded the motion and it carried unanimously with two abstentions, Richard Reid and Bob Johnson.

MEMBERS PRESENT: Bryan Flowers, Jeff Willis, Doris Horn, Bob Johnson, Richard Reid and Jeff Valiant. Member absent was Amanda Mosiman.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Katelyn Cron, Assistant Director, and Kim Eden, staff.

President Valiant said it looks like we have a primary plat and a few rezoning's on the agenda tonight. He said so as we go through these if the people involved will step up to the podium, there should be a sign in sheet for you up there as well and then we will go through the process.

PRIMARY PLATS:

PP-22-06: A.M. Hawaii PUD: PETITIONER/OWNER: Adib Michael Hawa. Approximately 1.18 acres located on the south side of Vann Road. Approximately 0 feet southeast from the intersection of Vann Road and Bell Road. Ohio Township 22-6-9. *Complete legal on file. Advertised in the Standard March 31, 2022.*

Scott Buedel, Cash Waggoner & Associates, and Adib Michael Hawa, Owner, were present.

President Valiant said thank you. He said this one also has a rezoning to go with it.

PC-R-22-04: PETITIONER/OWNER: Adib Michael Hawa. To rezone 1.18 acres located on the south side of Vann Road. Approximately 0 feet southeast from the intersection formed by Vann Road and Bell Road from "A" Agricultural Zoning District to "PUD/R-2" Planned Unit Development consisting of Multi-Family Zoning District. Ohio Township 22-6-9. *Complete legal on file. Advertised in the Standard March 31, 2022.*

President Valiant called for the primary plat staff report first.

Mrs. Barnhill said we have all the green cards except for one from a Kroeger, Glen A. Kroeger,

Roger L. Kroger, and Nancy M. Kroeger...

Bob Johnsons interjected I talked to him earlier and he is okay with it, he knows the receipt is coming. He said so if he gets it he is going to send it back.

Mrs. Barnhill said okay, I talked to him too but we do have the white pay receipt so it was sent to him properly. She said the current zoning is "A" Agricultural Zoning District and they are planning to do the "R-2/PUD" Multi-Family Residential Planned Unit Development District. She added there is no flood plain and it is a 1 Lot subdivision being 1.18 acre. She said they are proposing 4 duplexes; buildings 1-4 having 823 square feet of living space and 220 square feet garage space and buildings 5-8 being 1258 square feet of living space and 440 square feet of garage space. She added both types of buildings are also showing a front porch.

Attorney Doll asked isn't it 8 duplexes. He said it is 8 du-plexes.

Mrs. Barnhill said well that would make since because I said 5-8.

Attorney Doll said yeah, yeah.

Mrs. Barnhill said I am sorry about that. She said the Commissioner's approved the private roadway, and the Drainage Board approved the drainage plans today. She said Newburgh Sewer has capacity and Chandler Water has capacity. She said the plat would be in order. She said they have filed a waiver for no sidewalks on this development so that will take a separate motion. She said for the rezoning, the notices went with the primary plat so that is the same. She said there is 1.18 acres and the comprehensive plan projects the area to be moderate to high density residential and the existing use is a vacant lot. She said to the north is "A" Agricultural being vacant, to the south and east are "R-1" One Family Dwelling being vacant and Spring Creek Subdivision Section 1, and to the west is "R-2B" Multi-Family being Pebble Creek Subdivision. She said there is no flood plain and their access will be onto Vann Road through a private roadway. She said the stated use is a Residential Subdivision which would be in compliance. She added so everything would be in order.

Katelyn Cron said there are actually 4-duplexes with 8-units, so you were correct.

Mrs. Barnhill said okay, 4-duplexes and 8-units. She said okay, thank you.

President Valiant asked everyone clear on that.

The Board replied yes.

President Valiant said thank you Molly. He asked gentlemen, anything to add to the staff report.

Scott Buedel said well as you can see it is a very small piece of property and what we can do with it is very limited so the 8 lots with the 4-duplexes is the best we can get out of it with the density on the property and then the sidewalks themselves, there is really no interconnectivity. He said I mean once you are at your location there is really not a whole lot of area that you can walk around

to that would really connect to and it outlets onto Vann Avenue. He said it is a really simple site and hopefully you will give us an approval.

President Valiant asked any questions of the Board at this time.

Richard Reid said Scott, if they are going to run sidewalks along Vann would it not make sense to put a sidewalk in there. He said you know they are putting some of these subdivisions in and there are no sidewalks.

Scott Buedel said well if there was a sidewalk that came down Vann then it would definitely be agreeable to have it out on Vann but once you pull into the site to have a sidewalk, as you can see, the driveways are going to take up over half of the road length once you get up and make that 90 degree curve and the driveways themselves will be about 24' long so if there is a car parked in front of the garage there's not going to be much room to have a sidewalk where you can walk past that car. He added then that isn't going to outlet onto anything else either.

Bob Johnson asked where are the children going to go to pick up the bus.

Scott Buedel said well I mean, where Hawaii dumps out onto Vann would be a...

Bob Johnson reiterated with no sidewalks.

Scott Buedel said right, it is a 24' street with 8 residences on it so I mean...

Bob Johnson said yeah it is already why it is a private drive is because there is not enough room to make it a county street so...

Scott Buedel said right.

Bob Johnson said I am just most concerned with the safety of the kids than anything else. He said I mean I have no issues with the development other than the fact that there are no sidewalks.

Richard Reid added that is a pretty heavy traffic area too.

Mrs. Barnhill asked so are we thinking one side of the road would be appropriate in this area.

Bob Johnson said better than none. He said I would like to see someplace for the kids to walk to pick up the bus.

Mrs. Barnhill said right, well Scott if you had to put sidewalks on one side of the road where would you rather put them.

Scott Buedel said well I would like to look and see where the improvements are needed as far as sanitary and water just to make sure we are not putting something over the top of it. He said I believe the east side of the road would be vacant and would be open from the standpoint of utilities but I would like to verify that before we commit to that.

Richard Reid said Scott I would even be willing to allow the perimeter of the property to have sidewalks, along Bell and Vann and not even on the interior road.

Scott Buedel said well we're gonna have... well there are some drainage ditches out there and some infrastructure and there is a large force main that is out there along Vann that I think we are going to get into a lot of issues from the standpoint of placing something over the top of their easement and their facilities.

Mrs. Barnhill added well and that basin puts the squeeze on it pretty good there too.

President Valiant said right.

Attorney Doll asked Scott do you need some time to think about this.

Scott Buedel said I mean if we need to put sidewalks on one side we can put sidewalks on one side of the road I think it would just be mainly that stretch that is going out to Vann.

Attorney Doll asked do you need to confer and come back up in a few minutes or...

Scott Buedel asked I mean are you okay with putting a sidewalk in.

Adib Michael Hawa asked I mean along the east side.

Scott Buedel replied the east side or the west side of that road coming in.

Adib Michael Hawa said I mean if that is what it takes... if that is what we have to do then yeah but is there room to put in a sidewalk when you have a road there that is... what is that.

Scott Buedel said 24'.

Adib Michael Hawa said 24', yeah.

Scott Buedel said there is room to put a sidewalk there.

Adib Michael Hawa asked how about the other houses down here.

Scott Buedel said well on the west side of the road that comes in there is a water line there so I think we would be getting pretty tight on the west side so I think on the east side there would be...

Attorney Doll interjected so you are thinking on the east side of Hawaii Drive.

Scott Buedel said correct.

Attorney Doll said all the way around to... well from Vann right-of-way all the way to the end of Hawaii Drive.

Scott Buedel said to its terminus, yes. He said just to that point.

President Valiant asked Scott did you say to the turn.

Scott Buedel said well around the turn and then basically the driveways would be connected to the sidewalks all the way down.

Attorney Doll asked to the end of Lot 8.

Scott Buedel said well I mean it would basically be halfway through Lot 7, on the south side of the road and then that whole driveway on 7 and 8 would take up...

Attorney Doll asked there would be a solid walking path to take up the end of the subdivision. He said either driveway or now a sidewalk will be to the end of the subdivision. He said I am just trying to make it clear on the record what you are agreeing to.

Scott Buedel said well the only place... so the driveways you can see take up, on Lot 1 and Lot 8, to go west of those driveways would not benefit anything.

Attorney Doll said yeah I agree, I am just... it looks like Hawaii Drive ends in a turnaround or back up. He said where it ends, not the backup part but the other part, the full width of the road, Hawaii Drive it would end at that location, right.

Scott Buedel said correct, it would end where that driveway turns to go into Lot 7.

Attorney Doll said okay, okay. He said well I can't really tell what is a driveway and what is not a driveway on this but just as long as we understand what the Board is asking for is a commitment, verbal modification of the plat, being a sidewalk on the east side of Hawaii Drive from the Vann Road right-of-way to the end of the full road width of Hawaii Drive.

Scott Buedel said correct.

Attorney Doll said thank you.

President Valiant asked so Bryan as far as bus pick up.

Bryan Flowers said yeah, that would be the best option.

Bob Johnson said yes, the northeast side.

Attorney Doll asked Bryan the bus will pick up children on Vann, right.

Bryan Flowers said on Vann, yes.

Mrs. Barnhill said so if that is how the motion goes we will need an amended Certificate of Compliance.

Scott Buedel said okay.

President Valiant asked any other questions from the Board at this time. He asked any remonstrators for or against this project, seeing none any further questions from the Board.

Jeff Willis asked how do we do the waiver. He asked do we just waiver one side of the road then or...

President Valiant said yeah.

Attorney Doll said yes, a waiver on the sidewalk requirement except on the one side described in the above description.

President Valiant said so let's do the rezoning first.

Richard Reid made a motion to give a positive recommendation for PC-R-22-04 to go to the County Commissioner's. Doris Horn seconded the motion and it carried unanimously.

President Valiant said okay, so now let's do the plat.

Attorney Doll added the plat as amended.

Jeff Willis made a motion to approve PP-22-06 as amended. Richard Reid seconded the motion and it carried unanimously.

Jeff Willis made a motion to waive the sidewalk on one side of the road. Richard Reid seconded the motion and it carried unanimously.

Mrs. Barnhill said the rezoning will go May 9th to the Commissioner's.

Attorney Doll said and the plat approval is subject to the Commissioner's approval of the rezoning on the 9th.

Scott Buedel said sure, thank you.

PC-R-22-05: PETITIONER/OWNER: Stratman Family Properties, LLC by John Stratman, Managing Member. To rezone 9.47 acres located on the on the south side of Stratman Lane. Approximately 900 feet south from the intersection formed by Stratman Lane and Ayrshire Road from "PUD/R-1D" Planned Unit Development consisting of Single-Family Zoning District to "PUD/A" Planned Unit Development consisting of Agricultural Zoning District. Being Lot 6 in Stratman Johnson PUD Amended. Campbell Township. *Advertised in the Standard March 31, 2022.*

Scott Buedel, Cash Waggoner & Associates, John Stratman, Managing Member, and Nick Stratman, Managing Member, were present.

President Valiant called for a staff report.

Mrs. Barnhill said we received 1 green card and the rest were white pay receipts that were all mailed correctly to the adjacent property owners. She said the lot is 9.47 acres and the comprehensive plan shows no projection for this area. She said the existing use is one Single Family Dwelling. She said for the existing zoning and land use; to the north, east, and south are "R-1D/PUD" being Stratman-Johnson PUD with vacant lots, and to the west is "A/F-P" Agricultural Flood Plain being Ayrshire Lake Estates Phase I with a vacant lot. She said there is some AE Floodplain and the lot has access to Stratman Lane, which is a private roadway. She said the stated use is a Single Family Residential Property with a Home Workshop which would be in compliance. She said if this is approved they would like to file for a Home Workshop so that is where that comes in. She added that will go to the Board of Zoning Appeals and they are also requesting to fast forward this approval, or the motion tonight, to go to the April 25th Commissioner's meeting.

Attorney Doll asked will this be the first time that we have used this in PUD.

Mrs. Barnhill asked you mean when we added the Agricultural to the PUD.

Attorney Doll said yes.

Mrs. Barnhill said yes.

Attorney Doll said this couldn't have been done previously so the Commissioner's approval to that statute is permitting us to consider this tonight.

President Valiant asked anything to add to the staff report.

Scott Buedel said I think it is in the request as far as why we're doing this but we did go through and combine 2 lots in the original subdivision that we had done a PUD on so that the workshop and John's house would be on the same lot. He said so that was done, we combined those, then the other requirement is what we have to go through is a variance because the building now that will be used is closer to the roadway than the house so we will be coming back for a variance for that, but it is basically just a situation where their location in Elberfeld where they ran this business for other circumstances that property sold, and they needed to move this workshop and they have gone through all the other necessary requirements with ATF and so forth and it is all in compliance from that standpoint. He said we are just trying to get through the county part of it and make sure it is all alright.

President Valiant said alright, any questions from the Board at this time. He asked any remonstrators for or against this project, seeing none any other questions from the Board. He said I will entertain a motion.

Richard Reid made a positive recommendation for PC-R-22-05 to go to the County Commissioner's. Bob Johnson seconded and the motion carried unanimously.

PC-R-22-06: PETITIONER/OWNER: DMSF, LLC by Jon David, Member. To rezone 28.18 acres located on the north side of Telephone Road Access. Approximately 525 feet northwest of the intersection formed by Telephone Road and Telephone Road Access from "A" Agricultural Zoning District to "M-2 w/ U&D" General Industrial Zoning District with a Use & Development Commitment. Ohio Township 8-6-9. *Complete legal on file. Advertised in the Standard March 31, 2022.*

Jim Morley Jr., Morley Project Engineer, was present.

President Valiant called for a staff report.

Mrs. Barnhill said I would like to let the record show that Jon David is in the audience.

Jon David, Member, was present.

Mrs. Barnhill said we have, on the return receipts, 3 green cards and the rest are white pay receipts and they were all mailed correctly. She said the lot size is 28.18 acres and the Comprehensive Plan projects the area to be commercial. She said the existing land use is vacant, I believe it is a farm field right now. She said the surrounding zoning and land use; to the north and south are "A" Agricultural being vacant or fields, to the east is "C-4" General Commercial being vacant, and to the west is "M-2" General Industrial being E&B Paving. She said there is AE floodplain and the property has access to Telephone Road Access. She said the stated use is a Concrete Plant which would be allowed and the developer is proposing a Use and Development Commitment for this project, this will need to be included in the motion when approved. She added the Use and Development is very long, it is at least a full page, so I was going to let his engineer speak on this.

Jim Morley Jr. said so out of the M-2 zoning, well the M-2 zoning has a lot of stuff in it and so we cut out a bunch of it and we also cut out the Special Use for adult services or whatever or strip joints or stuff like that. He said so we cut that out and we also cut out a lot of the M-2 stuff. He said David Enterprises currently has a concrete plant on the west side of Evansville and they are looking to expand their activity in Warrick County and so we thought right next to an asphalt plant was a great place to put a concrete plant, make for good neighbors.

President Valiant asked that is all you got, thank you sir.

Jim Morley Jr. said I can answer any questions you all have. He said I mean I can read through all of them, I didn't bring my glasses in with me but there is a whole... you know like Molly said it is a long list of things we cut out.

President Valiant asked any questions of the Board at this time. He asked any remonstrators for or against this project, being none any other questions of the Board. He said if not, I will entertain a motion.

Bob Johnson made a motion to give a positive recommendation for PC-R-22-06 to the County Commissioner's.

Attorney Doll added subject to the Use & Development Commitment.

Richard Reid seconded the motion and it carried unanimously.

Jim Morley Jr. said thanks everybody, we will see you May 9th.

OTHER BUSINESS:

COMP-21-09: Formal Complaint: Owner: Frances Maurer; 6011 Magnolia Drive.

Frances Maurer, Owner, and Robert Maurer, Business Owner, were present.

President Valiant called for a staff report.

Mrs. Barnhill said we had a complaint that a landscaping business was being ran from this property. She said the pictures in this packet go from the most recent to the oldest in the back. She said there was all sorts of equipment outside, there were employees coming and going, so I sent a letter and they came in and I explained that maybe they could do a Home Occupation or something like that, or it is a Home Office. She said so we thought he would file that but once we got to looking at it, it didn't really qualify because it had storage outside, it had storage in the back, so I let them know and that was withdrawn. She said so they are here today because I told them we would just bring it to the Board and let them discuss it with you all. She said I took pictures last week and the most recent picture from today came from the remonstrators. She added as far as I can tell all the equipment that was sitting out front and in the road, I don't see that anymore.

President Valiant said thank you. He asked Mrs. Maurer do we have a business going on here.

Frances Maurer said I own the house, he lives there.

President Valiant said okay, so you are just the owner and you're not there at all.

Frances Maurer said yeah, I am only here because I was told I had to be. She added with all respect to you guys.

President Valiant said right, no, no, no as the owner you would need to be present. He asked but you are not living there yourself correct.

Frances Maurer said right.

President Valiant asked so Mr. Maurer I assume.

Robert Maurer said yep.

President Valiant asked so what do we have going on here or...

Robert Maurer said well, um, currently I mow grass for a living. He said right now is what I did was I tried to go with application we had filed as far as getting stuff up to that. He said I am not sure what happens next, if I have to amend, if I have to file something different or what would need to go on there. He added I didn't have anything else to go on so what I tried to do was I tried to make it to where it complied with that.

President Valiant said gotcha.

Robert Maurer said currently I have... it is basically a truck, a trailer, and equipment I use for work.

President Valiant asked so these other trucks we are seeing in the pictures...

Robert Maurer said there is other stuff there.

President Valiant continued they are not being parked there.

Robert Maurer said um, I, I wouldn't know specifically. He said right now there are three trucks that are actually there.

Bob Johnson said sir do you have a, let's say for instance a lot that you can park your trucks at to run the business out of or do you park them all at this home.

Robert Maurer said right now it is at that place. He said there were two that were there that aren't there anymore but like I said currently there is 1 that I use for work.

President Valiant said okay so this picture was from January so bear with me I am just kind of seeing these, I show, I show...

Robert Maurer said if it is from January then it is probably a mess, yes.

President Valiant said okay, I was going to say it looks like there are two plows, one with a salt spreader on it and one what I would call a work truck.

Robert Maurer said there were probably some trucks with some salt spreaders on it and two or three more trucks additionally yes.

President Valiant said okay... so that stuff is not there anymore.

Robert Maurer said no.

President Valiant said but I know you said you have one with a trailer, correct.

Robert Maurer said yes.

President Valiant asked now is that being parked in the front or in the back because it looks like I am seeing one in the driveway as of today.

Robert Maurer said so there is a side driveway along that garage there.

President Valiant said yeah...

Robert Maurer said so we put up a gate and then a lock over the gate to where it is not visible. He said that is basically what the Special Use thing said is that the goal of it was to appear not visible.

Doris Horn asked how many employees do you have.

Robert Maurer responded I have one guy that works with me but we have adjusted. He said before, like, summertime last time I had two and people would park in front of the street on the property. He said right now there is one and I have been meeting him elsewhere, picking him up elsewhere, so he is not parked at the house.

Frances Maurer said we do want you to understand that we are seriously trying to be compliant so any kind of guidance that you have would be appreciated.

President Valiant said sure, and that is what we are trying to work toward. He reiterated that is what we are working toward. He said so as far as having the business in the home that we are not compliant on. He asked is that correct Molly.

Mrs. Barnhill said well it was an SU-12 that we were going for.

Attorney Doll said Home Occupation.

Mrs. Barnhill said Home Occupation and began to read the definition from the Comprehensive Zoning Ordinance. She read,

Any non-residential occupation or activity conducted within a dwelling and in which the person in charge of conducting said activities is the occupant of such dwelling, which use is incidental and secondary to the use of the dwelling structure which does not occupy over 25% of the first floor of such dwelling and does not change the character thereof. And where there is no display of goods, outside storage of goods or equipment, and which does not involve the sale of goods, equipment or commodity on the premises.

She said that is the definition of a Home Occupation.

Doris Horn asked and do you live there.

Robert Maurer said yeah.

Doris Horn said okay.

Attorney Doll asked what about the fertilizer dump.

Robert Maurer said what...

Attorney Doll said the fertilizer dump I see here.

Robert Maurer said I don't do that in my business.

Attorney Doll said the big blue dump truck.

Bob Johnson said that's for salt.

Robert Maurer said that is mostly gone, I still have some in 5 gallon buckets that is in a building that's not gone, but that's not going to be a thing there anymore. He said anything that is related to the plowing and stuff, by the time that comes back around, its either going to be somewhere else or it is just going to be done.

Jeff Willis asked if he was allowed to drive one work truck home.

Mrs. Barnhill said yes. She said, really the only thing a Home Occupation allows, is a home office in the house.

Jeff Willis said which everyone in Warrick county needs, but that is for another discussion

Mrs. Barnhill asked if they are running a business.

Attorney Doll said I think there are remonstrators.

President Valiant said yep, just haven't gotten that far yet, I am still taking in the pictures. He said sounds to me like you are working at getting into compliance, and we will...

Robert Maurer said I guess I have one question, if it doesn't fall under the SU-12, then where would it go.

Mrs. Barnhill said in a C-3 zoning.

Bob Johnson said yea in a properly zoned site, not a residential site.

President Valiant said I believe we have some folks here, might have been the ones that brought this to our attention and if you don't mind let's give them a second, I want to address them.

President Valiant said please state your name for the record.

Gary Gardner responded with his name.

President Valiant said Mr. Gardner, I believe you guys are the one who brought this complaint forward, um, what do you see, what are you thinking, it sounds like it has been there for a while but he is moving toward getting it in line.

Gary Gardner said well it has not snowed since February, so there has been no reason. He said there are still 3 trucks parked there, so who is going to drive those trucks. He said I mean, Rob can only drive one of them at a time, um we have lived there. He said, it's not like we moved in and screwed up a guys' business that had something going, we have lived there 35 years. He said over 10 years they lived across the street from when Fran lived there, and then suddenly in the end of 2021, December, Fran leaves, 2 trucks, then its 3 trucks, then its 4 trucks. He said by Thanksgiving or the first part of December, 5 trucks with snow plows are parked right in front of it, one of them is parked on the street so when you make that right turn off of Ferstel Road at night, you don't even see the thing. He said it is problematic for people with kids getting on the school bus in the morning when there is one of the plows parked on the road, because you have parents that pull up and are going to let the kids out, if someone comes turning right off of Ferstel Road... or even left it is problematic. He said at some point he is going to have to get these trucks out again or people are going to be parking up there again... employees. He said it is zoned R-2, it's residential, I hear what you say about people working at home out of an office, but this is different.

President Valiant said when you have 3-5 trucks parked out there it isn't going to qualify for Home Occupation, I hear what you are saying.

Gary Garner said there have been dump trucks that have brought seed, it looked like seed from our house, and they got a little thing with a plow on the back with tracks. He said I can't recall what that is called, they came around and took it back. He said another truck dumped gravel, same thing they took it around to the back. He said, the gravel was after we filed the complaint, sod recently was unloaded, and took them an hour and a half-2 hours. He said it is incongruent with the neighborhood and it is not like somebody that is doing their paperwork at home, they come in and out with those trucks, someone is going to have to drive those trucks. He said and again, it is not like we moved in and tried to screw someone up, we have been there 35 years. He said, we are not the only neighbors that have strong feelings about it. He said obviously we had strong enough feelings to come here, but of course we live across the street too, so anyways you can see one truck and if you look through the black cover on the fence you can see the second truck and look from another angle and see the third truck. He said it is not that it bothers me, but someone is going to have to drive those trucks, and they are operating a business in a place that they are not supposed to be, it is zoned R-2, they are not supposed to operate a business and that really sums it up. He said I don't, it's just not appropriate for where it is and I feel for him. He said I don't want to mess the guys' lively hood up, but he brought the business there, it's not like it was there and so I guess that sums up where we are. He said if you are asking me if we would have filed a complaint with how it sits right now, with not much lawn mowing going on and not much snow plowing going on, I mean we overlooked that for a long time. He said this is my wife Opal, she probably came up here because she wants to add something.

Opal Gardner said well just the last couple weeks they have pulled the truck that's behind the fence with 3 great big lawn mowers on it in the morning and brings it back and pulls it back in.

She said that has been going on in the past 2 weeks, but there is more than 3 trucks there all together. She said one day this past 2 weeks the helper, which I think it is all family, he was there to help get the truck out and bring it back in at the end of the day. She said the lawn hasn't started yet, but it's going to and there are people in our neighborhood that have complained and they have come to us and said that they are glad we took it upon ourselves to bring this to you, because the kids have to get on and off the school bus right in front of their drive and our drive. She said sometimes those people have to wait for them to pull that big truck with all that stuff on it, before they can pull out. She said there have been times that I have went to pull in our subdivision and I have to wait on Ferstel to turn in, and it's a 30 speed limit but it can go pretty fast, I have to sit out there until they get the truck out of the street. She said sometimes they back out and sometimes they pull in. She said it was absolutely a total mess up until we filed this, and yes they added the fence, got it cleaned up and got the drive cleaned up, but it like he said this is a residential area. She said if they want to run a business sell the property or find somewhere else to run a business. She said there is not a doubt in my mind that they intend to do that, continue with that with the lawn care. She said I am sorry Fran but you would do the same thing if you were me. She said that she and her husband were great and she was great, but then this all came about and it is not going to go away unless you guys make it go away. She said thank you.

President Valiant said thank you.

Frances Maurer asked can we reply to that.

President Valiant said yes you guys can come back up.

Robert Maurer said so the sod and gravel that was delivered to us, were used at the property. He said I did some leveling in the back yard and put in some draining, and resodded back there and the stuff around the driveway.

Frances Maurer said he was doing lawn care in his own yard, that's why he had a skidster and that's the reason for all that, it wasn't for his business. She said it was so the property would look nicer for them.

Attorney Doll asked what the name of the business is.

Robert Maurer said Newburgh Lawn and Landscape.

Attorney Doll said and how long have you been in business.

Robert Maurer said 17 years.

Attorney Doll asked and where did you operate your business before this, before fall.

Robert Maurer said you mean before fall 2 years ago, I want to say the end of 20.

Attorney Doll said ok let's assume that is right, when, where was it located before the end of 20.

Robert Maurer said at the house I lived in Boonville.

Attorney Doll said why did you move it to this house.

Frances Maurer said because I moved to Folsomville Rd.

Robert Maurer said that he felt the garage in the back was a good place to keep everything.

Attorney Doll asked so you had a home rented in Boonville.

Robert Maurer said no I owned it and still own it but I am trying to get rid of it.

Dorris Horn asked so if you have gravel and stuff in the back, do you still have gravel in the back.

Robert Maurer said we used it to make improvements to the house.

Dorris Horn said ok, so there is nothing stored back there that you would have to bring the bigger equipment in to go back and get it then.

Robert Maurer said correct.

President Valiant said except the trucks correct. So just one more truck there.

Robert Maurer said there is 3 total.

President Valiant said so one on the drive and 2 back behind the fence.

Attorney Doll said what about the mowers.

Robert Maurer said they are in the driveway behind the fence.

Bob Johnson asked if there was other equipment stored back there as well.

Robert Maurer said it is in the garage.

President Valiant asked so this skidster, you rented that right.

Robert Maurer said no I own that. He said it is just a toy, it is not work related and it is in the back yard. He said but that is just something I own, it is not work related, we don't use that for anything.

Frances Maurer said they use it mostly for her property on Folsomville Road. She said I have like 9 acres to help clear it and stuff. She said we just want everyone happy.

President Valiant said and as do we, and we are definitely not here to tell anyone that they can't have a business, we just have to do it right and be conducive with the neighborhood and follow the rules.

Rick Reid asked if they had a large barn on Folsomville Road.

Robert Maurer said no they just built up there a couple years ago.

Fran Maurer said yeah my house was built and I moved into it December of 2020.

President Valiant asked what is the feelings of the Board. He said the guy is allowed to have his own business, we just can't have the equipment at the house and I am just trying to find a happy medium to get to.

Bob Johnson said I agree with that, I am not wanting to ruin a guys' business.

President Valiant said I don't think the complainants do either.

Fran Maurer said we are not saying their complaint isn't a valid one during winter, because it was, but we have certainly cleaned it up.

President Valiant said yes, we understand that, but we still have to get to where we are compliant and legal too. He asked what do you say Molly.

Doris Horn said I agree with the Board, he has a business that is his lively hood but this is a residential area.

Attorney Doll said district.

Doris Horn said district, I'm sorry, I'm sorry if you are going to run this business you need to find a place that has the storage that you need.

Opal Gardner said he advertises this business at this residence.

President Valiant said is there anywhere else you can park this equipment.

Robert Maurer said no, I will not be putting it anywhere else right now.

Attorney Doll asked what about the Folsomville Road property, couldn't you store stuff there, what is it zoned as.

Robert Maurer said it is zoned the same.

Bob Johnson asked is there an area you could rent to put your equipment.

Robert Maurer said what she suggested I do is rent a commercial building and it was a couple thousand a month.

Bob Johnson said oh wow, I didn't know it cost that much.

Robert Maurer said well, it was going to cost at least \$1500 a month plus insurance and utilities and that sort of thing, from a mathematical prospective, it's just not feasible. He said I mean if we did... if it was more than just the one truck, you know then we could start talking about doing that kind of thing.

President Valiant said it is more than the one truck, it is three.

Robert Maurer said I have 3 trucks there but only one is for work.

President Valiant asked so they are not work trucks now, you don't bring them out and use them for work or anything, they are just being used as personal vehicles now.

Robert Maurer said yes there is nothing that has any kind of a logo or anything like that.

President Valiant asked so you don't use them for business, they are just used for personal pleasure.

Robert Maurer said yes, like I said, I have one that I use for the business that I pull the trailer with, when I have issues with it, I will drive the other one until that one gets repaired. He said the other one is just sitting in the back right now, because...

Mrs. Barnhill said so really the only way to make it fit anywhere, is to find C-3 zoning because that is the only place it will fit. She said the property out on Folsomville Road, you have to file to run a business out there, also you have to live on that property, and it is his mothers. She said so that wouldn't work either, unless he moves and finds somewhere to do that.

Fran Maurer said well then give us options.

Attorney Doll said well I have a question, what is the Evansville Lawn and Landscaping logo.

Robert Maurer replied it is just a different name for the same company.

Attorney Doll asked so your business has two names.

Robert Maurer said yes, well on google its multiple names.

Attorney Doll asked so there is a white truck that has a logo.

Robert Maurer said no there are not logos on any truck, they have been removed. He said there are currently no vehicles that are logoed, there was but it is no longer there.

Attorney Doll said well there is a picture here with a truck with a snow plow on it, and there is a logo from December.

Robert Maurer said it's just.. everything was taken off of it.

Attorney Doll asked if it was behind the house.

Robert Maurer said no it is in the front. He said well actually it is the one...

Attorney Doll asked is that truck parked behind the house right now, that truck. He said do you still own that truck and where do you have it parked.

Robert Maurer said it's on the side.

Attorney Doll asked so it is behind the fence beside the garage.

Robert Maurer said yes, right now as we speak today it is attached to the trailer, behind the fence in the driveway, next to the garage.

Attorney Doll said it looks like there is a white Chevrolet with a toolbox on it, there is a red truck, is that your truck too.

Robert Maurer said yes, and that is it.

Attorney Doll said and a trailer and a riding mower and a commercial mower.

Robert Maurer said yes.

Attorney Doll said well you can't operate 4 at a time by yourself so you must have hired hands.

Robert Maurer said well I have one guy that works with me, yes.

Attorney Doll said well it sounds like a full grown lawn care business being run out of a residential zoned district, that's illegal use and I think there is no way it is going to qualify for a Home Occupation, because that is meant to be an office inside a residence.

Robert Maurer said I didn't know specifically what it would be under but..

Attorney Doll said I don't think you're going to be able to...

Robert Maurer said well I know a lot of people who are doing the exact same thing.

Attorney Doll said well then they are illegal too, if we get a complaint then we will investigate that.

Robert Maurer said I just assumed that because it is not one or two people, that there are several people, that there was a way to do it within the law.

President Valiant said not without different zoning.

Attorney Doll said no you can't.

Robert Maurer said well I was not arguing, it is just there are several people who do it.

Attorney Doll said I think it's a violation of the zoning ordinance, and the problem with it is, as the gentleman says, he thinks there are other people doing it and if we make an exception to the rule, then how do you stop it down the road.

Robert Maurer said I wasn't expecting to be an exception to the rule, I figured there was a way to do it.

Attorney Doll said there is not. He said the question in this zoning, the question is do you find it is a violation of the zoning or not, and that's what a motion needs to be and then give the gentleman a period of time to come into compliance.

Bob Johnson said my personal opinion is that he is not running a residential business, he is running a full blown business out of a residence, a commercial business, and that makes it a violation.

Jeff Willis said I know he can drive a work truck home, can it have a trailer or does it specify.

Attorney Doll said no it does not specify. He asked but can the trailer have multiple mowers.

Jeff Willis said people have trailers with multiple toys on it all the time, 3 motorcycle at a time, why can they have 3 motorcycles and he can't have 3 lawn mowers on his trailer. He said I don't think it is right to block the neighbors, I just want to make sure we are being consistent.

President Valiant said because they aren't running a business, and he is right, you drive down the street and you will see it around the corner. He said but when it is brought up we have to do our due diligence and follow the law, follow the ordinance. He said I know he would like to get into compliance, but without rezoning the property you are not going to get there.

Attorney Doll said and you can't. He said it would be spot zoning, you can't just rezone one lot in a residential neighborhood to a business. He said you remember recently the fellow who was sawing trees... it depends upon the conditions, what is on the trailer, and where is it parked at night. He said one of the complaints were that it made traffic difficult to make that turn into the neighborhood.

Jeff Willis said well now he has it in his backyard.

Attorney Doll said okay, so is it always going to be in the backyard or not. He continued, the point of it is, you can't operate a business out of a residential district. He said I don't care if it is 1 truck or 10 trucks, our ordinance says you cannot operate a business in a residential zoning, and that is what it would be. He said he is advertising that location as his business location, for at least 2 different businesses names, and there is a limit to what you can do. He said if you drove a truck to a job site and at the end of your work day, drove a truck to your home then you are just like everyone else in the world, it's what they do, but they don't operate a business out of their home. He said that is what makes this different.

President Valiant asked what are the wishes of the Board.

Dorris Horn said I make the motion that he is in violation. She said I would give him at least 2 months to give you enough time to look, to find a place that is reasonable. She added there is property everywhere and I hope the best for you but I would give him 2 months.

Attorney Doll asked so you are saying June.

Mrs. Barnhill said the 13th is our June meeting.

Dorris Horn said yes June 13th.

Mrs. Barnhill said so would you give him until June 6th so I can drive by and inspect prior to the report.

Dorris Horn said yes I would, June 6th would be fine.

Bob Johnson said that would give him time to find a barn or something like that to rent.

President Valiant said there is a motion on the floor.

Rick Reid seconded the motion

President Valiant said all in favor.

Motion carried, 5 in favor, 1 abstained being Jeff Willis.

(Robert Maurer started speaking from the audience.)

President Valiant said please come back up to the podium.

Attorney Doll said you cannot run a business in that zoning district, the ordinance is really clear, you cannot run a business in that district. He said and there is no way to come into compliance.

Robert Maurer said well a home office.

Attorney Doll said there is criteria to meet the requirements for a home office, and you didn't meet it. He said it is entirely an inside project, no employees, less than 25% of the residence can be used for that, it's designed to be used for a business office or an internet type business, can't have any signs, can't advertise... etc... it won't fit in these circumstances.

Frances Maurer said so the way I interpret that, which may not be correct, and please correct me if I am wrong, that once he gets, meets the criteria where his business is actually somewhere else...

Attorney Doll said he could live there..

Frances Maurer asked so he could still use it as a home office since none of his equipment will be there.

Attorney Doll said do you understand Molly, what is being asked here. He asked what is the definition for that. He said let me make this clear for you.

Frances Maurer said thank you, that is what I need.

Attorney Doll said Mr. and Mrs. Maurer, he read,

Any non-residential occupation or activity conducted within a dwelling and in which the person in charge of conducting said activities is the occupant of such dwelling, which use is incidental and secondary to the use of the dwelling structure which does not occupy over 25% of the first floor of such dwelling and does not change the character thereof. And where there is no display of goods, outside storage of goods or equipment, and which does not involve the sale of goods, equipment or commodity on the premises.

He continued, so what you would gain if he moves his equipment elsewhere, is basically a right to have an office in this dwelling, for not only this business, but any business should he engage in that, an office. He said um, some of people who have applied for home occupations are gunsmiths, where they work by themselves and receive replacement repair parts for firearms, that have an ATF license to repair weapons and they do that inside their home, then they ship the gun to wherever it goes. He said that is the type of business it is for.

Frances Maurer said so I was kinda right about what I said then, I actually interpreted it correctly.

Attorney Doll said I don't know how you interpreted it, but that's...

Frances Maurer said so if he moves his equipment and it is no longer there, then he can apply for a home office for that residence, since he lives there.

Attorney Doll said he can have an office. He said now he can't see people, can't have customers come and go there, no employees can come there, you do bookwork. He said many people are distance working at home and this permits that.

Frances Maurer said okay thank you.

President Valiant said Molly will be back out taking pictures.

Mrs. Barnhill said the week of June 6th, and then it will be on the June 13th agenda for this Board.

Frances Maurer asked and can I give you my mailing address to send that to me.

Mrs. Barnhill replied yes there is a sheet up there, there is a spot for your mailing address.

President Valiant said yes write it down on that.

Frances Maurer said I would like to say one more thing, I have never been to a public meeting before, just seen them on the news on the tv, and I am very impressed, thank you.

President Valiant said thank you.

OTHER BUSINESS:

ATTORNEY BUSINESS:

President Valiant said Mr. Doll.

Attorney Doll said nothing.

EXECUTIVE DIRECTOR BUSINESS:

President Valiant asked Molly.

Mrs. Barnhill said nothing.

President Valiant asked if anyone else has anything to say on the Board, if not...

Richard Reid made a motion to adjourn at 7:08 PM. Doris Horn seconded and the motion carried unanimously.

ATTEST:

Molly Barnhill, Executive Director

Jeff Valiant, President