

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, July 10, 2023, 6:00 PM

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

MEMBERS PRESENT: Richard Reid, Jeff Willis, Doris Horn, Jeff Valiant, Greg Webb, Bob Johnson and Amanda Mosiman.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Katelyn Cron, Assistant Director, and Carlie Render, Staff.

MINUTES: To approve the minutes from the meetings held on June 12, 2023.

Doris Horn made a motion to approve the June 12, 2023 minutes. Bob Johnson seconded the motion and it carried unanimously.

President Valiant said it looks like we have one primary plat and two rezonings on the agenda tonight. The primary plat will get approval tonight and the rezoning's will go as a recommendation to the County Commissioner's for final approval. He said as we go through these if the petitioner and owner would step up to the podium, there should be a sign in sheet for you up there and then we will cover the nature of the case and open up for discussion and questions.

PRIMARY PLATS:

PP-23-08: North Warrick Industrial Park Sec. 5: PETITIONER/OWNER: Warrick County Redevelopment Commission by Steve Roelle, Executive Director, Industrial Park Holdings LLC by Eric Reffett, Member. Approximately 177.56 acres located on the north side of Industrial Park Drive. Approximately 1,320' east from the intersection formed by Industrial Park Drive and State Road 57. Greer Township 7 & 18-4-9. *Advertised in the Standard June 29, 2023.*

Jeremy Elrod, Morley & Associates, Project Engineer, Steve Roelle, Warrick County Redevelopment Commission, Executive Director, and Eric Reffertt, Industrial Park Holdings LLC, Member were present.

Jeremy Elrod said so we are at North Warrick Industrial Park and I am speaking on behalf of the Redevelopment Commission and Industrial Park Holdings. He said I have passed out an exhibit, I think it has made its way around, just to kind of show what we are doing here. He said there is a Lot 4 and Lot 5, 4 is to the north. He added Lot 5 is an existing lot that actually extends to the

north which is being replatted to create an additional lot, so we are here to seek primary plat approval for that.

President Valiant said alright, I think I am going to have Molly go over the staff report.

Jeremy Elrod said oh, I always jump the gun. He said sorry Molly.

Mrs. Barnhill said its okay.

President Valiant said you know you have been to all these meetings you would know the routine.

The Board laughed.

President Valiant said it is Monday, its alright.

Mrs. Barnhill said okay, on the return receipts we are missing two green cards but we do have the white pay receipts showing the adjacent property owner's were notified correctly. She said the zoning is M-2" General Industrial Zoning District and there is no floodplain. She said the proposed development is two industrial lots to be used for the future development. She said for the street construction plans, the Commissioner's approved the street plans with the original primary plat on June 13, 2007 and then re-approved them today. She said they requested no drainage plans and those were approved by the Drainage Board today. She continued Elberfeld has capacity for water and sewer and the plat is in order.

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

Jeremy Elrod said any questions.

The Board laughed.

President Valiant asked any questions from the Board at this time

Amanda Mosiman asked are you all doing this to go ahead and get 4 and 5 in or are you guys have specific entities in mind who are requesting this split.

Jeremy Elrod responded so 5 was a project that the Redevelopment Commission was already working with and Lot 4 is for a new project and the reason the Redevelopment Commission is a part of this is actually to get frontage on Lot 4 they had to grab a little more of the Outlot to the east and so that is what brought both parties into being a part of this plat.

Doris Horn asked that would be for the road frontage.

Jeremy Elrod said yes.

Doris Horn said okay.

Amanda Mosiman asked timelines, estimated timelines.

Jeremy Elrod said I am not... well, Lot 5 has kind of already been in the works. He added we have drawn plans for that and I think we have already been through site review. He said Lot 4 I don't have... I don't know if I have a great timeline for that.

Amanda Moisman said okay, just being curious.

Jeremy Elrod said right.

President Valiant asked any remonstrators for or against this project. He said if so please step forward. He said seeing none, any more questions from the Board, if not I will entertain a motion.

Bob Johnson made a motion to approve PP-23-08. Doris Horn seconded the motion and it carried unanimously.

PC-R-23-06: PETITIONER: Deborah A. Boger. OWNER: Leland C. Powell. To rezone 0.877 acres located southwest of the intersection formed by Third Street and Cherry Street from "M-1" Light Industrial Zoning District to "C-4" General Commercial Zoning District. Being Lot 6 in Lynn's Additional Enlargement of the Town of Lynnville. Recorded in Plat Book 1, Page 16 in the Office of the Warrick County Recorder, Warrick County, Indiana. Town of Lynnville. *Advertised in the Standard June 1, 2023. Continued from the June 12, 2023 meeting.*

Deborah A. Boger, Petitioner, and Leland C. Powell, Owner, were present.

President Valiant said I know we were having an inspection done. He asked Molly, do you have a report on that.

Mrs. Barnhill said the Building Inspector, Dennis Lockhart, Commissioner Johnson, and Candice Huebner with the Health Department went out there. She added so Dennis Lockhart has actually submitted a letter in regards to this, and it reads; "In regards of the Leland Powell rezoning property, I recommend that the zoning request is not approved until state approved plans have been received. As of today the plans have not been submitted to the state." She said so he would just like for us to hold off until they receive their state approval. She added he thinks it can be brought into compliance but is not yet.

President Valiant asked he who.

Mrs. Barnhill said he, Dennis Lockhart.

President Valiant said okay, so it looks like we just need to table this for a month. He asked is that what I am understanding.

Mrs. Barnhill said that was his request, yes.

Richard Reid made a motion to table PC-R-23-06. Bob Johnson seconded the motion.

President Valiant said I have a motion and second on the floor to table. He asked are we just going to go one month. He asked just take it month by month.

Attorney Doll said that is the rule.

Amanda Mosiman said mhm.

Bob Johnson said and we probably need to explain to them what we are doing here.

Attorney Doll said yes.

Mrs Barnhill said yes.

Attorney Doll said and there are also remonstrators, I think, here.

Doris Horn said yes.

President Valiant said okay, so the issue that was discussed last month is basically being tabled another month based off the inspectors findings, is what I am understanding. He added until they can get approval from the state, so until that point we will just table it month by month until we get plans from the state and just go from there. He asked does that cover it.

Attorney Doll said commercial buildings have to have state approval above so many square feet and so that was a question at the last meeting what was the condition of the building. He said so the County Inspector went out and looked at the building, was told that the commercial blue prints or plans were being sent to the state and I guess they have not yet been sent to the state.

President Valiant said they have not been sent to the state, no.

Attorney Doll said right, according to Dennis Lockhart, the inspector, so we cannot answer the questions as to the building on what the improvements are and whether they meet standards or not until we know what the state says about the blue prints. He added so we are going to continue this.

President Valiant said mhm.

Attorney Doll said that is the motion before the Board. He said we will continue this until the August meeting.

Mrs. Barnhill added August 14th.

Attorney Doll said August 14th at 6 o'clock.

Richard Reid asked did you get a report back from the Health Department.

Attorney Doll said I don't know that...

Mrs. Barnhill said she did not really have much to say.

Richard Reid said hmmm... okay.

Mrs. Barnhill said it is really, mostly building code.

President Valiant said okay, so we had a motion on the floor and a second to table.

The motion was carried unanimously.

Attorney Doll said okay so if you are interested in that project be back here on August 14th and you have a right to be heard at that meeting if you wish, okay.

PC-R-23-07: PETITIONER/OWNER: Do It Right Investments LLC by Kevin Sensmeier, Owner. To rezone 1.6 acres located west of Stacer Road. Approximately 200' south of the intersection formed by State Road 662 and Stacer Road from "R-1A" One-Family Dwelling Zoning District to "C-4" General Commercial Zoning District. Ohio Township 32-6-9. *Complete legal on file. Advertised in the Standard June 29, 2023.*

Kevin Sensmeier, Do It Right Investments LLC, Owner, was present.

President Valiant called for a staff report.

Mrs. Barnhill said for the return receipts we are missing two green cards but we do have the white pay receipts showing the adjacent property owner's were notified correctly. She said the lot size is 1.6 acres and the comprehensive plan projects the area to be moderate to high density residential. She said the existing land use is a single family dwelling. She said the surrounding zoning and land use, to the north and south are "C-4" being single family dwellings and vacant, to the east are "R-1A" and "C-3" being a commercial business and vacant, to the west is "R-1A" being vacant. She said there is no flood plain and the access is onto Stacer Road. She said the stated use would be General Commercial which would be in compliance.

President Valiant said thank you. He asked Mr. Sensmeier do you have anything to add.

Kevin Sensmeier said not at this time.

President Valiant repeated not at this time, alright. He asked any questions form the Board.

Amanda Mosiman asked what are you planning on putting in.

Kevin Sensmeier said don't know yet. He added just getting the property rezoned...

Amanda Mosiman said I know, but it is just quite of a big upswing in zoning so I kind of like a little bit more of a story behind it first because C-4 is a broad category.

Mrs. Barnhill said and you also own...

Kevin Sensemeier said I own the other two properties adjacent to it, yes.

Mrs. Barnhill said the one to the north and the one to the south.

Kevin Sensemeier said correct.

Mrs. Barnhill said and Amanda there is an aerial with the zoning so he would have 3 lots zoned C-4 right there.

Amanda Mosiman said yeah, I understand.

Mrs. Barnhill said okay.

Amanda Mosiman said it is a big space now and that is why I am asking questions.

President Valiant said okay, any other questions from the Board. He asked any remonstrators for or against this project, seeing none any other questions from the Board and if not I will entertain a motion.

Richard Reid made a motion for a positive recommendation for PC-R-23-07. Jeff Valiant seconded the motion and it carried 6-1 with Amanda Mosiman being opposed.

President Valiant said alright, thank you sir.

Mrs. Barnhill said so that will go to the Commissioner's on August 14th for final...

President Valiant continued there final approval.

Kevin Sensemeier said okay, thank you.

OTHER BUSINESS:

COMP-23-05: Samuel & Joann Hart. 5144 Bell Rd. Possible zoning violation.

Mrs. Barnhill said I printed some aerials this afternoon so you can see what all is around and how this property is zoned. She said we received a complaint June 16th, you have a copy and I have kind of summarized it. She read, "The next door neighbor has built a 40x60 shop and 15' doors for a semi on his property at Bell Road. In building this shop, the water table is messed up and now water and mud now on our property and in our pole barn. Sam Hart owns a business and runs it out of his house, Sam Hart Trucking LLC. His DOT number..." She gives that number. She continued to read, "He is on tbsdirectory.com", which is attached. "It states that he is an interstate driver. At one point, he had his dad and employee driving for his company. Besides the semi-tractor trailer, Sam uses and operates an Ford F-350 Super Duty with a goose neck trailer to haul smaller loads. I have copies from Facebook where he states that "his shop" is starting and another individual states, what are going to be doing in your shop. Sam states building a new shop to work on my truck." Mrs. Barnhill added this is in your packets as well.

She read, "Two other neighbors have complaints and pictures too." She added but nothing has been filed by anybody else. She continued so the complaint says this is causing major traffic issues on Bell Road, specifically pulling in and out. She said they think it is over weight for Bell Rd, the truck and trailer weight for a normal commercial road. She continued so you have the complaint in your packet, you have the Facebook post, you have the Sam Hart Trucking site that she referenced. She said I also sent them a letter on June 16th just letting them know they might be in violation. She added also, in your packets is the site plan that comes from their Improvement Location Permit that they just received in May. She said so on any unattached accessory we permit we have them certify that it is not for commercial or not to be lived in. She said then I also have the IN.gov business information listing their address at 5144 Bell Road and then the last two pictures are from the inspection, just from the road.

President Valiant said thank you Molly. He asked are the Hart's here, please step up to the podium.

Dirk Stahl, Ziemer, Stayman, Weitzel, Shoulders, LLP, Legal Representative, and Samuel & Joann Hart, owner's were present.

President Valiant said so you all heard the report from Mrs. Barnhill, so what is going on at the property. He asked are we running a business out of there or no.

Samuel Hart said no.

Dirk Stahl said I think the easiest way to explain it is that there is... Mr. Hart has indicated that he does have a truck, tractor basically and that the trailer he uses is not stored there. He added it has been on the property before but it is not... there is no, you know, locust of operation as far as the physical operation goes there. He said like many of his neighbors, and many other folks in the County, they do conduct business by email and by phone and so that is something that they do as kind of a home office, but as far as commercial activities the only thing that happens... well there are no commercial activities other than office. He said when the truck comes home which Mr. Hart can tell you is about 10 times a year, it is just so he can do a little maintenance on it. He added they are not dispatched out of there, they are not hauling anything on the property, we are not really sure what the complaint is on the traffic increase. He said the F-350 is his personal truck, the goose-neck trailer that goes with it, he can explain more, but that is basically for personal use now. He said his father, who is elderly, previously used that for a business but it is not anymore and then basically he is not, you know... there is no signage, there is no customers, there is no open for business, you know, inviting people to come in. He said you know, as far as doing work on the truck, that is his... you know, it is either that or take it to a shop and he is not open for business to work on trucks for anybody else. He added I don't think it is any different than me working on my truck in my garage.

President Valiant said so this picture here, you said that the truck is only there 10 times a year, so this picture here with an auto hauler with I see at least two to three units on it, we just happened to catch the one time or one out of ten times it is there.

Samuel Hart said twice in two weeks.

President Valiant repeated twice in two weeks.

Samuel Hart said yeah, I brought it home to make trailer repairs.

President Valiant said with it half loaded... well, a third of the way loaded. He said I didn't mean to interrupt you.

Dirk Stahl said no, it is alright. He said they have a place to store the trailer, to park the trailer. He said their intent is to not have the trailer there at all. He said that there was a welding job that needed to happen there, but as far as... like I said, there is no intensifying of the use of the property. He said you know, pulling a semi-tractor into the barn and closing the door is about what you have there.

Doris Horn said you have some place to park the trailer.

Samuel Hart said yes.

Doris Horn said okay, so if the neighbor's were complaining why didn't you go ahead and just park this trailer where you would normally park it and then bring the semi in to fix it.

Samuel Hart said the trailer is what we had to fix.

Doris Horn said okay, I misunderstood.

Joann Hart said he had cracks in them and he had to weld them, yes.

Doris Horn said okay.

Joann Hart said normally both pieces stay at another location.

Doris Horn said okay.

Joann Hart said the tractor does not come home every time Sam comes home. She said we do rent a spot down at Williams Transport to park both pieces and normally it stays there. She added the only time the tractor comes home is whenever he needs to change the oil, light bulbs go out, whatever it needs.

Doris Horn asked so it was strictly the trailer needed fixing.

Joann Hart said that day, yes ma'am.

Doris Horn said okay.

Samuel Hart said the trailer only comes home about twice a year and those were the two times they got the pictures of it.

President Valiant said well being in this business myself if you are only working on the trailer twice a year you are doing a really good job. He added our trailers are in the shop quite a bit.

Joann Hart said it is a pretty new trailer.

President Valiant said and that would be my concern that it is actually coming home more than that.

Joann Hart said it is a 2020, I mean it is a pretty new trailer and it doesn't need much.

President Valiant said yeah, alright. He said well I am sure we have some of the complaints here tonight so we are going to give them a chance to speak up and kind of verify what is being said here. He said so are the Perry's here.

Rachel & John Perry, 5154 Bell Road, Complaitents, were present.

Rachel Perry said hi.

The Board said hi, hello.

Rachel Perry said so bringing it home twice a year, not true. She said I have more pictures on my phone, those are just the ones we printed out this time. She added I also have a video of it being backed up and letting the air brakes out constantly. She said we bought this house as our dream house. She said we were 36 years old when we bought a \$500,000 house, super excited to stay within the Newburgh limits but also be out in kind of have fun and have an acre, have bonfires with our kids, we have 3 kids. She said the semi comes home, and it is not only our side but the neighbor on the other side who could not be here today due to a family emergency and they have took pictures, sent them to me, called me, been over to our house. She said the tractor does come over there, it is not just fixing the trailer, its fixing the truck. She said it is out there Saturday mornings going grrreeerrrr, poof, poof, and my husband can attest to that there are brake drums out there. She said they did tell us they were going to build a barn but to build a 40' X 60' with 16 or 30 foot doors, or whatever it is, to back the truck into. She said we do have a pole barn right next to it where we work on cars that are his cars but we do not make money from it. She said if you are running a business out of your house with your truck that is how you are making money. She said we are working on our cars or on vehicles that are for recreation that are for fun, there is no business being run out of our house. She added and now the water table from the last storm, I do have more pictures that I turned into Molly, the water is now running into our barn, through his transmission, through his engines, through the tractor, and into a drain, that is bringing mud, we have it running we show where it was pooling. She said we did not have a problem until the tractor started coming over there on a daily basis... you know, you can see in the pictures, it was not just two times those are just the two times I turned in. She said so that is where we are frustrated and I will let him.... and I filed the complaint with him and he is the one... and now we also have Cindy Briley coming out to sell our house because we have to get

this cleared up or we are never going to get what we put into this house back out, and that is not fair, to have a \$500,000 house sit there and people only want to give \$250,000 for it because you are living next to a business that has semi-trailers and tractor trailers and car trailers and ditch twitches and all of that stuff sitting out there. She said so that is our complaint, it is not fair to us as neighbors, citizens of Warrick County. She said to be able to buy our dream house and then have it ruined with a business that we did not impact. She said and then up to the traffic, they come in, back up, they go through our yard and then out the driveway. She said you can see it all in there; they stop and back up traffic, we have seen it, the neighbors have seen it, so it is not like we are making this up, it is true. She said I don't know if you have anything to add to that.

John Perry said no, that's it.

Rachel Perry said I think that is mostly what we are upset about. She said you know, we bought this house thinking Newburgh Elementary for our kids and if I wanted to live next to a trailer department I would have bought somewhere closer to the Industrial Park.

President Valiant asked when did you say you moved in.

John Perry responded 2017.

Rachel Perry said yeah, 5 years.

President Valiant asked so was this operation going on when you moved in or.

Rachel Perry said it was a vacant lot that they had. She said every once in a while he brought his truck home until, my understanding with talking with them, there was some kind of dispute at the trucking lot and they were told they could no longer work there so he started to bring the truck home and he started to work on the truck and the trailer, not just the trailer but both of them.

President Valiant said gotcha.

Rachel Perry said we were cordial and friendly before this and then we were told the kids have no problem with this so we are just going to continue to do what we are doing and the kids do have a problem with this, this is you know our life savings in this house and we both have worked really hard to have what we have.

Bob Johnson asked what is creating the mud and the...

President Valiant said that is what I was going to ask.

Amanda Mosiman said that is outside the purview of this Board really. She said I mean we cant do anything about mud and water.

Bob Johnson said right but...

President Valiant said no, but I am curious.

Rachel Perry said they built it up and brought it.

John Perry said they built a hill with the dirt from the other side and brought it to the other side and now it is like this (creates slate with his arm).

Bob Johnson said it drains then under your barn.

Rachel Perry said yes, into the barn and we never had that problem in the 5 years that we live there.

Bob Johnson said okay.

President Valiant said that is what I was going to ask, kind of when it started. He said you know was it when they put the barn in or...

Rachel Perry said yeah, it is from the barn.

Bob Johnson said so I was just going to mention to you that as far as the drainage goes we have a Drainage Board and that is where you need to go to complain about that because a neighbor cannot do anything that forces water from their property down onto your property.

Rachel Perry said okay and I do appreciate that, thank you. She said I did talk to Molly about that when we filed the complaint but thank you for reiterating that.

President Valiant asked any other points you want to bring up.

Rachel Perry said no, I just hope that you all will think about where you live and if you would want a business like that ran out of your house next door. She said I am all about running a business, my husband works with forklifts and he brings his truck home but not semis, those types of things, I think that outdoes what bring your work from home vehicle means.

President Valiant said all right, thank you.

John Perry said thanks.

President Valiant said okay, anyone else on this.

Amanda Mosiman asked this is the picture you took, Molly.

Mrs. Barnhill said the inspector went out and took it, but yes.

Amanda Mosiman said the inspector, okay. She asked so that is the shop in question.

President Valiant said I assume it is the one in the back there.

Amanda Mosiman said yeah, okay.

Dirk Stahl, Ziemer, Stayman, Weitzel, Shoulders, LLP, Legal Representative, and Samuel & Joann Hart, owner's returned to the podium.

Dirk Stahl said while you are looking, if I may, beyond the fact that it is not under the purview of this body I think that there is no difference between... parking a semi-tractor in that barn does not cause the water to do anything. He said they had a permit to build the barn and their understanding of what it means to conduct a business out of there is not bringing a semi, every now and then, to do some work on your own semi to park and do some work on it. He said the other thing that I would mention is that if the problem for years and years that he was running impact sockets or whatever outside this barn should alleviate that problem more than anything. He said we see very often situations where people don't like all the equipment that is sitting out in somebody's yard, so they come and they ask to build a barn and then the question is you know for the neighbors would you rather have the equipment sitting around or would you rather have a barn.

Richard Reid said I went out to the property to look at it and it is a quiet area and he only had a trailer out there and nothing else. He said the pole barn is even a gravel floor, or dirt floor inside of it so it is not really finished off that much and he has worked on the drainage on both ends of that property where it goes straight back. He added it actually goes back into the back lot which goes into the cemetery way back there so there is plenty of room for the drainage and everything else, I mean I am not a drainage expert but it looked good to me.

Dirk Stahl said yes, it is a fairly long narrow lot that goes back quite a ways.

President Valiant said I want to say again, Amanda brought up earlier, that drainage is outside of our scope so. He said Counselor, what are your thoughts.

Attorney Doll said it depends on what you count as the operation of a business. He said clearly that is not permitted within the zoning of this property. He said if the maintenance is considered part of the business then it is within violation of the zoning district restrictions. He said now, if you think that periodic bringing home a vehicle and putting it inside the barn to maintain it there and then removing it from there is in fact not the operation of a business from that location then that is up to this Board. He said you know, it seems to me to be a difference between... everyone is talking about putting the tractor of this semi in the building but I guess you can't put the trailer in this building.

Samuel Hart said no, the building is not big enough.

Attorney Doll said okay, thank you. He said so there is the difference and that is what... you know it is one thing to bring the tractor here, is it something different to bring the trailer here, or not, particularly if it is loaded.

Joann Hart said we have already agreed to not bring the trailer home.

Attorney Doll said well...

Joann Hart said I know, but I am just saying that that has already been decided.

Attorney Doll said well, to answer your question, each of you have to decide what you think the operation of a business is and if the activities occurring here by everybody's admission, that maintenance work is being done, and if it is then technically it is in violation of the zoning district.

President Valiant said right, well this is no different than booking logs, doing paperwork for the business.

Attorney Doll said well and as you know, we have a category of a home office exception.

President Valiant said right.

Attorney Doll said and they could do that but we have not heard much evidence about that.

Richard Reid said well you know that trailer is a big investment and it would be a good idea to put it in there just to get it out of the weather is going to be pretty smart to do.

President Valiant said it won't fit.

Attorney Doll said it wouldn't fit in there anyway.

Richard Reid said no, I mean just the tractor.

Attorney Doll said oh, you said trailer.

Richard Reid said no, I am sorry.

Amanda Mosiman said my question lies in, you know, to Morrie's point is maintenance part of running a business but is this maintenance more of a use by their self admittance their hobby or if I have to bring my truck and trailer in or if I am working on the livestock trailer, is that any different than me doing maintenance in my barn. She said so that is where my line is. She asked is the maintenance of that more or less use.

Dirk Stahl said if I could offer one thing, there are many aspects to any business and the fact that the truck has to be maintained, He said if I take my truck to a place that maintains trucks that does not make that company a trucking company. He said if I bring the truck to my home to maintain it it does not make my home a trucking company. He said it is my truck and it is something I need to do. He added economically and in terms of the intensity of the use I agree that there is no difference in working on hot rods or whatever else you have. He said I mean there are a lot of people in the county that do that. He said there a lot of that going on so that is the way I am looking at it from the standpoint of this. He said you know I don't know what your County does about school buses but do you allow people to bring their school bus home if they

are a bus driver. He said if they park that school bus in their barn does that make their whole home property used for commercial bussing.

President Valiant said but they aren't doing maintenance on the busses.

Dirk Stahl asked really.

President Valiant said at their house. He asked don't you have central maintenance places Greg.

Greg Webb said yes, I am not saying all of them are done at the central location but yes.

Dirk Stahl said right but there are, I am sure privately owned... does central maintenance do privately owned as well.

Greg Webb said not typically.

Dirk Stahl said you just do your own fleet.

Greg Webb said right.

Doris Horn asked do you lease the property that you store your trailer on otherwise or is that your personal property.

Joann Hart said no, we rent it.

Doris Horn said you rent it, okay.

President Valiant said so right here under the definition in our ordinance of commercial business it says, "Engaging in the purchase, sale, barter, exchange of goods, wears, merchandise, and services, the maintenance of or operation of offices or recreational amusement enterprises for profit". He said so there is maintenance for business equipment listed right there.

Amanda Mosiman said mhm.

Dirk Stahl said if I may, maintenance in that context means to continue to exist. He said you may maintain a common nuisance it doesn't mean you are changing its oil.

President Valiant said if I am changing my oil in my pickup truck that is one thing, if I have a truck that I use to make my living with, it has my name on the door, and I am changing the oil in my garage then that's a business, I am sorry, in my opinion. He said that is part of my business.

Attorney Doll said it is for profit.

President Valiant said it is for profit, exactly.

Mrs. Barnhill asked do you all remember the landscaping person that we just had in. She said he couldn't have his lawn mower at his house.

Doris Horn said that is right.

Mrs. Barnhill said he had to change the address of the business.

President Valiant said right.

Attorney Doll said it was to his mother's house right.

Mrs. Barnhill said that is where he moved it.

President Valiant said so this is pretty clearly laid out in my opinion.

Attorney Doll said we also had the tree trimming violation, the company that was cutting down trees and he was bringing all his equipment home.

Amanda Mosiman said daily.

Attorney Doll said we made him move it.

Amanda Moisman said daily, he was using the equipment daily.

Doris Horn said and you are using the money off of this, you are turning it in on your taxes so it is a business.

President Valiant asked what are the feelings of the Board.

Jeff Willis asked aren't we allowed to take one work truck home with us.

Amanda Mosiman said yes.

Jeff Willis said so he can take the truck home but he can't work on it.

Attorney Doll said we have never had anybody ask for a semi to go home.

Richard Reid said it is still a truck.

Jeff Willis said I didn't know we had a limit on how many axels it has.

Amanda Mosiman said it says a truck, it is not that defined. She said I mean arguments could be made on both sides.

Attorney Doll said I think the largest we have ever done is a tandem axle, dual wheel pickup truck.

President Valiant said I am fine with the tractor, it is the maintenance where we are kind of crossing the line, you know, unless we are going to have him file...

Attorney Doll said before... provided the tractor is in the barn at all times.

Dirk Stahl said that is not the intent, the intent is to bring it home periodically.

Attorney Doll said no, when the tractor is at this property are you representing that it is in the barn at all times.

Samuel Hart said yes.

Joann Hart said when we have it home it will be in the barn, yes.

Attorney Doll said and it will not be pulling the trailer.

Samuel Hart said correct.

Attorney Doll said the trailer is never coming back. He asked what if you have to do welding on the trailer in the future, what are you going to do.

Samuel Hart said purchase a welder.

Attorney Doll said I thought you already had one.

Samuel Hart said well I have a stationary one at home but we can get a mobile one.

Richard Reid asked so that would be off-site right.

Samuel Hart said yes, we will store the welder in the barn and take it off-site to where the trailer is parked to do the repairs.

Richard Reid said sure.

Bob Johnson said hypothetically, if I raced cars as a hobby on weekends and I store my racecar in my garage and I worked on my car on my free time during the week and I take it out on the weekends and race it for my hobby and I won money, that is... isn't it the same thing.

Attorney Doll said it is an amusement enterprise for profit.

Bob Johnson said exactly, it is the same thing.

Attorney Doll said so according to the Warrick County Ordinance it would be a business enterprise.

Amanda Mosiman laughed.

President Valiant said well I think we have come full circle now.

Amanda Mosiman said yes, we have.

Attorney Doll said well I have never met anybody that won but...

President Valiant said so I think they have agreed to not bring the trailer home and it sounds like we are going to shift the maintenance offsite. He asked what are the feelings of the Board.

Mrs. Barnhill asked what about the home office, do you want to do anything with that.

Attorney Doll said we haven't heard any evidence about that. He said Dirk, what are your clients doing. He asked are they booking loads, are they confirming loads, what kind of office matters are occurring because if that is occurring there lets fix this, lets figure this out.

Dirk Stahl said right and when they came to the APC office originally, I think, they were given a packet for a Special Use for Home Occupation and there is no problem doing that. He said I mean as they have described to me, and you guys can chime in, please, this, as I said, is a business that basically operates by telephone and email. He said again when you talk about the intensity of the use verses the zoning classification there is nothing different then me sitting on my desk at my house doing research or typing letters and it doesn't create traffic, it doesn't create congestion, it doesn't create noise, it is just something that...

Attorney Doll said and I don't think the neighbors are complaining about things going on in the house, you are just complaining about things going on outside.

Rachel Perry was at her seat. She said yes, it is the business being ran outside. She said and I also wanted to say it is an LLC, it is a business. She added if you would look at that paperwork. She said so driving a racecar shop out of your house, it is not an LLC, it is not a defined business.

Attorney Doll said it could be.

Rachel Perry said and I just wanted to make that a point because...

President Valiant said ma'am, ma'am, they are recording this so if you have a lot to say we will have to have you come back up.

Rachel Perry said okay, I will come up when they...

Doris Horn asked do you have any employees.

Joann Hart said no ma'am, and we are not going to. She said it is just me and him.

Richard Reid said and there is no traffic coming to the door.

Joann Hart said no, we have no one coming to the door.

President Valiant said alright, what do you think. He asked do they need to apply for the home office or no.

Attorney Doll said if you are going to find that it is not in violation it would seem to me that it ought to be conditionally found, not to be in violation provided A, B, C, are complied with, okay. He said whatever those A, B, C's are in the Board's mind relative to this set of facts.

Amanda Mosiman said mhm.

Attorney Doll said so if you find it is not in violation you need to make it clear what corrective steps or further steps you expect to be adhered to, okay. He said and if you are inclined to find it in violation then you need to state why, you know, I mean it could be straightforward but I mean why are you so inclined.

President Valiant said gotcha.

Doris Horn asked could we table this to next month so she could bring... I mean you only sent a few pictures and if you have all this proof would that help.

Attorney Doll said you can make whatever motion you would like.

Jeff Willis said but I think the pictures were more of the flooding, weren't they. He added which isn't in our jurisdiction.

President Valiant said right.

Rachel Perry from her seat said I have more pictures of the trailer being there, I have more pictures of the flooding.

Attorney Doll said we are talking again.

Rachel Perry said but, yeah I have more pictures of the tractor.

President Valiant said I will bring you back up.

Rachel Perry returned to the podium.

President Valiant said so you have more pictures of the equipment and what not.

Rachel Perry said yes, I have videos as well.

President Valiant said you know obviously the drainage we cannot do anything with but...

Rachel Perry said I understand about the drainage but I do have videos and then my other question is, we were talking about the racecar. She said I understand that we have cars in our garage that he works on but that is not an LLC. She said that is the evidence I brought in to prove that it is an LLC through... you know through the United States. She added it is a company and then my second thing is where are all their Amazon boxes delivered for their company. She said mail, checks we get those a lot for their company, we get those a lot and they actually get delivered to our house so I think that is another consideration if you are talking about a business being ran out of a home.

Attorney Doll said yeah, but Amazon has changed the whole world.

Rachel Perry said true.

Attorney Doll said and if you are going to say that receiving Amazon packages constitutes conducting a business then you may want to arrest my wife.

Rachel Perry said but um tractor parts... well and I am an Amazon junkie as well, you can ask him he gets mad but I just mean the trailer parts and all that stuff being sent.

President Valiant said but to her point, if they are being sent to XY Transportation then...

Attorney Doll said well and are there packages of truck repair parts.

Rachel Perry said I have taken them over before.

President Valiant said so I think that will all be lined out.

Greg Webb said I do have a question.

Rachel Perry said mhm.

Greg Webb said you said you have pictures of equipment being there on other dates, by equipment do you mean...

Rachel Perry said the trailer and the semi.

Greg Webb said okay because I think we are aware that the semi is there.

Rachel Perry said I have the trailer loaded and unloaded and I have pictures from other neighbors as well.

Greg Webb said okay.

President Valiant said so it sounds like they have agreed to not bring the trailer back so if we get the tractor...

Rachel Perry said can I ask a question real quick, just for my knowledge because we have never done this before, if you rule that the trailer is not allowed to come back and say he is like okay I won't do that and three months down the road the trailer ends up back at his house, how do we file another complaint.

President Valiant said you would give the office a call...

Bob Johnson said take a picture...

Amanda Mosiman said then file another complaint and then the benefit of the doubt is out the door.

Rachel Perry said okay, just wanted to make sure we had never done this before. She said thank you for that.

Amanda Mosiman said yep.

Attorney Doll said can you address... well, I am not a member of the Board, I am just their lawyer.

Rachel Perry said yep.

Attorney Doll said if the cab of the tractor is inside the barn and the trailer never comes back how does that solve or address your concerns.

John Perry said I mean it is constantly on the move, it was almost like a daily or every other day thing you know what I mean.

Attorney Doll said no, I don't.

John Perry said I mean the semi is coming to and from the property constantly.

Attorney Doll said well it needs to be on the road moving trucks.

John Perry said yeah, that's what I think too.

Rachel Perry said it comes home on the weekends and he does his maintenance and then he usually leaves again on Monday and comes again on the weekends and that's when the tractor or the trailer or both sit there.

Doris Horn said so when...

Attorney Doll said well, no wait a minute. He said my question was if the truck is in the barn and if the trailer is not in this location how does this address your complaint.

Rachel Perry responded if the truck stays in the barn with no maintenance done...

Attorney Doll said now wait a minute, wait a minute, what difference does it make if he is doing something to the truck in the barn.

Rachel Perry said the noise, the loudness. She said it is not just the truck back there it is a whole bunch of stuff going on. She said it is loud, it is all of that stuff going on. She said if it stays in the barn I am fine but doing it in the front yard or doing it in the dirt lot you see there, that... our houses back up to each other right there.

Attorney Doll said well, I am not asking about the dirt yard. He said I am asking about if he maintains his truck inside a permitted barn.

Rachel Perry said if it stays in the barn and no trailer backs up.

Attorney Doll said and now, just like everybody else here I might go out and wax my car or I have actually been known to put brakes on my car or shock absorbers or struts on my car in my garage, okay. He said so my question is what he does inside that barn if that semi-tractor is in that barn does that solve your problem and the trailer is not coming back, does that solve your problem.

Rachel Perry said I will tell you right now he will say no because he is still making money off of that, that is making money towards a business by bringing it back to the house, all of the above.

Richard Reid said that is not a good reason.

Attorney Doll said so you are saying there isn't any solution to this problem short of banning the semi and the trailer from this property, that you would be happy with.

Rachel Perry said I will be happy if it stays in the barn and I don't have to see it when I open my door.

Attorney Doll said yeah but that is the first question...

Rachel Perry interjected if the tractor doesn't come and the tractor trailer itself stays in the barn and I don't have to see it on a daily basis or hear it then we are fine with that.

Attorney Doll said but you understand he is going to be changing the oil on it and...

Rachel Perry added in the barn, if it stays in the barn.

Attorney Doll said okay.

Rachel Perry said you said maintenance in the barn.

Attorney Doll said yes, maintenance in the barn.

Rachel Perry repeated maintenance in the barn.

Attorney Doll said okay, thank you. He said I don't know if that has been enlightening to the Board or not.

President Valiant said alright, are you good.

Rachel Perry said yep, that's it.

President Valiant said okay, thank you. He said you guys can come on back up to the podium, lets see if we can address this and come up with some sort of resolution.

Dirk Stahl, Ziemer, Stayman, Weitzel, Shoulders, LLP, Legal Representative, and Samuel & Joann Hart, owner's returned to the podium.

Attorney Doll said so if you are inclined to find it not to be in violation, as I said earlier, it needs to be conditioned upon this, this, and this that it is not found to be in violation. He added now, I think it goes without being said that if any of those conditions are not met your client has a problem. He said if we get another complaint about the trailer being back or you are working on it outside, you have a problem.

Joann Hart said that is the reason for us building the barn was to put it inside so he doesn't have to work on it outside and he wouldn't have to be out there in bad weather.

Bob Johnson said right.

Joann Hart said and we have agreed to no trailer at home so everything that we agreed to is exactly what she said would be okay with them.

Attorney Doll said that is up to the Board.

Joann Hart said I know, I am just saying.

Bob Johnson asked do you agree with performing your maintenance inside the garage only.

Samuel Hart said perform all the maintenance inside the garage, yes.

Bob Johnson said okay.

Samuel Hart said and I will also put a time limit on it, after 8 am in the morning and no later than like 5 or 6 in the afternoon.

Bob Johnson said okay.

President Valiant said I think as long as they are in the barn, I think that is what they were pushing for. He added it will be in the barn, the trailer is not coming back, and are we still going to address the Home Office.

Attorney Doll said that is up to them to file an application for a Home Occupation. He said if... we don't have the Home Occupation, we have a complaint about the operating of a business in a bad zoning.

Amanda Mosiman made a motion to not find the property in violation if the following conditions are continued to be met: the trailer is not brought back to the property and when the semi is home the maintenance is done and it is kept inside the barn. Bob Johnson seconded the motion.

Richard Reid added and no work on the outside of the building.

Bob Johnson said President, you have a first and a second.

President Valiant said well, let's have a discussion. He said so I just asked Molly and this is no different than Morrie brought up the firewood guy. He said the address is listed there as a business, I mean everything is there. He added I mean should we just not look at that now since we have it here in front of us.

Attorney Doll said that is up to you, yes.

President Valiant said I mean we can't let this person get away with it and then the next person not.

Doris Horn said absolutely, I agree.

President Valiant said so I would want to consider that.

Bob Johnson said well Dirk works at home doing his law research and typing up his papers and he makes money doing that...

President Valiant said right.

Bob Johnson asked is that a business from home.

President Valiant said but we literally just went through this and we had that guy file and move and do everything and....

Bob Johnson said that was different.

Amanda Mosiman said that guy was also telling us he wasn't running a business.

Bob Johnson reiterated that was different.

President Valiant said alright, its going to be your precedent, not mine.

Richard Reid said lets call for a vote.

Amanda Mosiman said yeah, I can appreciate what you are saying as far as the addresses and stuff but...

Attorney Doll said well make it a third point.

Amanda Mosiman said yeah.

Attorney Doll said make a third point that you complete the application for a Home Occupation.

Amanda Mosiman said yeah, well I didn't know if I could legally make that condition of not finding it in violation. She said I was going to add that point after the vote, I was going to highly encourage that you guys complete the application for a Home Office.

Samuel Hart asked can you explain to me how that works.

Dirk Stahl said yeah, just to clarify they had already received the packet and started filling that out.

President Valiant said right, right.

Dirk Stahl said that is not a problem at all.

President Valiant said okay.

Dirk Stahl said they have indicated that that is just fine.

President Valiant said you know I think I would prefer to see that done instead of just letting that kind of roll off and we all know about it.

Dirk Stahl said and I understand that.

President Valiant said okay.

Dirk Stahl said I think that there would be a question as to, well we can talk about when we do the application as far as the scope. He said I don't know how you guys treat Home Occupation, obviously as I said, it is somebody sitting at a desk with a computer and a phone. He said I don't know...

Amanda Mosiman said it is probably something you will have to address then.

Richard Reid said no signs out front.

Attorney Doll said there is a square footage limitation, no signage...

Mrs. Barnhill said right, it is to remain to appear as a residence.

Dirk Stahl said right.

Doris Horn said we saw a lot of those before COVID, COVID has kind of changed things.

President Valiant asked so there was a motion on the floor and a second.

Bob Johnson said yes.

President Valiant asked did you get that motion down.

Mrs. Barnhill responded no.

President Valiant said Amanda, could you restate that motion.

Amanda Mosiman made a motion to not find the property in violation if the following conditions are continued to be met: the trailer is not brought back to the property and when the semi is home the maintenance is done and it is kept inside the barn.

Doris Horn asked do you want a time frame on it.

Amanda Mosiman said no.

Doris Horn said okay.

Dirk Stahl said I did have one question, I am sorry to bring it up late but I think everybody understands that when the truck is sitting there it is in the barn but it is going to have to get to the barn.

Amanda Moisman said well, correct.

The Board said right.

Attorney Doll said oh, well yeah. He said I mean you drive it in, you open the door, you put it in the barn.

Dirk Stahl said right, but to say it stays in the barn is....

President Valiant said no, no.

Attorney Doll said no, only a lawyer would think that.

Amanda Mosiman said if you weren't going to make that joke I was.

Attorney Doll added it doesn't magically appear in the barn.

Samuel Hart said so when I drive in my driveway how long do I have to get it in the barn.

Richard Reid said 16 seconds.

The Board laughed.

Amanda Mosiman said we are trying to give you the benefit of the doubt here.
Samuel Hart said right, and no I am not trying to be a smart-aleck about it.

Amanda Mosiman said to Jeff's point, this is a very fine line because we have some businesses where we have... so I made the motion and it is a fine line and if we come back and its in violation, it is not going to go this way again, in my opinion.

Dirk Stahl said right, the reason I ask that question is because if the anticipation is that the neighbors will never see that truck...

Attorney Doll said oh, they will coming and going.

Dirk Stahl said coming and going, that is what I needed to hear.

Attorney Doll added don't shut it off.

The Board laughed.

Attorney Doll said you can put it in park but don't shut it off.

Joann Hart said I will be back there with the door open.

Attorney Doll said there you go.

President Valiant said well it sounds like you guys are willing to do what you need to to appease the neighbors so I appreciate that.

Amanda Mosiman said yes.

President Valiant said and I am sure if this doesn't happen the Perry's will be happy to give us a shout or let us know. He said okay there was a motion.

Bob Johnson seconded the motion and it carried unanimously.

President Valiant said well thank you and thank you to everyone on their input and everyone's willingness to kind of work together so I appreciate that.

Dirk Stahl said just as a house keeping matter, is that something you will put into a letter so that they have a written record of what their requirements are or...

Mrs. Barnhill said well I will type up a letter that the complaint filed is closed but what do you need.

Attorney Doll said he wants the conditions, he wants them in writing.

Mrs. Barnhill asked you want the conditions.

Dirk Stahl said yes.

Attorney Doll said and it ought to be addressed to the Perry's who filed the complaint, who are no longer here and copied to these folks... well or Dirk actually.

Mrs. Barnhill said okay, so I will draft a letter and I will have all that in there.

Dirk Stahl said okay, thank you.

Mrs. Barnhill said thank you.

Bob Johnson said good luck.

ATTORNEY BUSINESS: None.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said nothing further.

Amanda Mosiman asked did the Commissioner's approve the Ordinances for the Accessory Dwelling Unit today.

Bob Johnson said no.

Mrs. Barnhill said no, guess who gave me the most trouble with at that meeting.

Amanda Mosiman asked Bob.

Bob Johnson said I asked questions.

Mrs. Barnhill said they sent it back to APC so we are going to talk about it.

Amanda Mosiman said oh, we have to talk about it again next month, okay.

Bob Johnson said yeah, we are going to talk about it.

Amanda Mosiman said well we want to make sure we got it right, okay.

President Valiant asked wasn't he at the meeting when we talked about it.

Mrs. Barnhill said yes, he was.

President Valiant said yeah, that's what I thought.

Bob Johnson said I was but I...

Amanda Mosiman said he did miss one.

Mrs. Barnhill said not that one, I checked.

The Board laughed.

Amanda Mosiman said Bob I tried to help you, Molly is not going to let me.

Bob Johnson said I could tell.

President Valiant asked anything else.

Mrs. Barnhill said no, that is it.

Richard Reid made a motion to adjourn at 7:01 PM. Doris Horn seconded and the motion carried unanimously.

ATTEST:

Molly Barnhill, Executive Director

Jeff Valiant, President