

MINUTES
MEETING OF DEKALB COUNTY PLAN COMMISSION
Tuesday, December 6, 2022

The Regular Meeting of the DeKalb County Plan Commission was called to order at 8:31 a.m. in the DeKalb County Commissioner's Court by Sarah Delbecq.

ROLL CALL:

Members Present: Sarah Delbecq, Sandra Harrison, Jerry Yoder, Jason Carnahan, Mike Watson, Frank Pulver, Elysia Rodgers, Bill VanWye, and Suzanne Davis

Members Absent: Michelle Lassiter

Staff Present: Plan Commission Attorney Andrew Kruse, Zoning Administrator and Director Chris Gaumer and Andrea Noll, Secretary

Community Representatives Present: None

Public in Attendance: Sarah Wimer, Travis Hill, and John Kennerk

The Pledge of Allegiance was led by President, Sarah Delbecq.

APPROVAL OF MINUTES:

Motion was made by Mike Watson and seconded by Jason Carnahan to approve the October 19, 2022 minutes. Motion carried.

APPROVAL OF CONSIDERATIONS:

Motion was made by Jerry Yoder, seconded by Sandra Harrison to approve October 2022 and November 2022 considerations of Claims for \$41,185.28. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

Petition: # 22-44: Jonas Graber requesting a 1 Lot Minor Subdivision known as Elysian point Acres. The proposed 1 lot subdivision will be a total of 27 acres. The subdivision will be used for a single-family residence. The property is located at the northeast corner of County Road 45 and County Road 64, Spencerville, Indiana and is zoned A2, Agricultural.

Chris Gaumer explained to the members the intentions of the petitioner. Jonas Graber plans to build a single-family residence and was made aware that if he would want to build and/or subdivide more parcels, he would have to go through a re-plat process. He wanted the entire 27 acres to be included in the plat.

Chris Gaumer read the Staff Report and asked if Mr. Graber or a representative was in the public audience. No one representing the petition was in attendance.

Mr. Gaumer proceeded to explain to the members which options they have when a petitioner is not present in the audience. He informed them that staff had not received an approval letter from the Health Dept. yet, due to issues finding suitable sites for the septic system. However, Cathy from the Health Dept. had informed him that she was okay with moving forward with this petition, providing there is a condition that suitable soils be found and the soil borings for a primary and secondary (or area set aside), placed on the plat prior to recording. If they are not found, the plat will not be recorded and would expire to be null and void.

Mr. Gaumer asked if the board members had any questions.

One of the board members commented and/or asked a question that is not audible on the recording of the meeting.

Chris Gaumer responded to the comment and/or question, stating that he wasn't sure and assumed wherever the septic sites can be located.

There was another comment and/or question from the board members that is also not audible on the recording.

Chris Gaumer stated that his assumption is that the home is going to be along CR 64, somewhere in that general vicinity.

Bill Van Wye asked if there was a wetland or pond on the property and pointed on the map provided.

Chris Gaumer said that it did look like there was a pond with a small island of some sort in it, but that it was not part of the property in discussion.

Mr. Van Wye asked if the wetland/pond had anything to do with the Health Dept. not being able to find their soil borings.

Chris Gaumer was not privy to that information.

Jerry Yoder explained that the state was in the process of introducing a new bill in July of 2023 that was recently passed. The bill regarded septic systems and developing new systems that would assist in allowing anyone in the State of Indiana to be able to build. Trial systems were projected to be up and working before July 2023.

Frank Pulver asked if the septic soils in question would be for a mound system.

Chris Gaumer replied that he didn't know what they were proposing to do until he receives the approval letter from the Health Dept.

Chris Gaumer explained to the board members that it was up to them whether or not they would like to continue the petition since the petitioner was not in attendance.

Bill Van Wye asked what had done in a similar situation in the past.

Chris responded that other boards/commissions had typically approved the previous petition(s) with conditions, if there were no immediate questions (for Mr. Graber) from the board members.

Bill Van Wye suggested the condition that if the septic issues were not addressed within 60 days, the petitioner would have to come back for an additional approval.

Chris Gaumer informed the board members that in the DeKalb County UDO, that petitioners have 6 months to get their plat recorded. If the plat is not recorded within 6 months of the hearing, it will be considered expired.

Bill Van Wye said that was fine with him.

Sandy Harrison agreed with Bill Van Wye.

Sarah Delbecq asked if there were any other questions or comments from the members. Then she asked if anyone from the audience wanted to speak on this petition. There were none. The public hearing was closed.

Attorney Andrew Kruse reviewed the Findings with Members:

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application completed and filed on **November 3, 2022.**
2. Legal notice published in The Star on **November 25, 2022** and Publishers Affidavit was given to staff.

3. Certificate of mailing notices sent and receipts were given to staff.
4. Report from the County Board of Health had not been completed by the public hearing.
5. Report from the County Highway Department, dated **November 14, 2022.**
6. Report from the DeKalb County Soil & Water Conservation District, dated **November 10, 2022.**
7. Letter from the Drainage Board, dated **November 14, 2022.**
8. Airport Board report, if applicable: **not applicable.**
9. Plat prepared by **Gouloff – Jordan Surveying and Design, Inc.**
10. The real estate to be developed is in Zoning District A2 which permits the requested development.

PROPOSED FINDINGS OF FACT:

These Findings of Fact proposed by the Zoning Administrator are based off the knowledge and understanding of the proposed project.

1. Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?
Yes, the minor subdivision will be used for a residential use, which is compatible to the existing and adjacent land uses.
2. Does the Minor Subdivision conform to the following UDO standards:
 - a. Minimum width, depth & area of lot(s). *Yes. See Plat & Staff Report.*
 - b. Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. *Adequate access off County Road 64 and County Road 45 with dedication of right of way. The applicant has received a driveway permit off County Road 64 from the DeKalb County Highway Dept.*
 - c. The extension of water, sewer & other municipal services, if applicable or required. *None required. The property owner or buyer will need to apply for and receive a permit for a residential onsite sewage system from the DeKalb County Board of Health.*
 - d. The allocation of areas to be used as public ways, parks, and schools, public and semipublic building, homes, businesses, and utilities, if applicable or required. *None required.*

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Staff is recommending approval to allow the Minor Subdivision and recommends the following conditions:

Standard Conditions to be recorded on or with the plat:

1. This lot shall be included in any subdivision arising from any further development from the land involved. However, there is no intention that any terms, conditions, or restrictions on a future plat will have any retroactive applicability to this division of land.
2. There shall be compliance with the laws and regulations of any Federal, State, or local agency.
3. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate shall be obstructed by any development on the site. The Plan Commission may enforce these conditions by injunctive relief with attorney fees.
4. The appropriate agricultural covenants, drainage covenants and airport zone covenants shall be on the plat, if required.
5. Soil Borings for primary and secondary (set-aside) septic sites must be approved by the DeKalb County Health Department and must be placed on the plat prior to recording.

Conditions that will not be recorded but must be met:

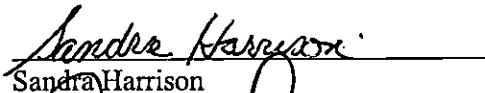
1. Comply with the Staff Report.
2. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
3. Comply with the Flood Hazard Area for DeKalb County Ordinance and any wetland laws and regulations, if required.
4. Provide covenant for compliance with Airport Board requirements, if required.
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation District, or other agency as applicable. File written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

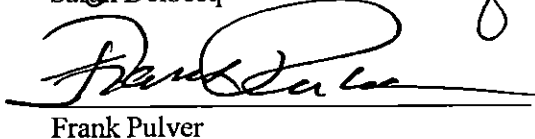
IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION THAT THIS PRIMARY AND SECONDARY PLAT, PETITION #22-44, JONAS GRABER, IS HEREBY GRANTED APPROVAL WITH AMENDED CONDITIONS ON THIS 6TH DAY OF DECEMBER 2022.

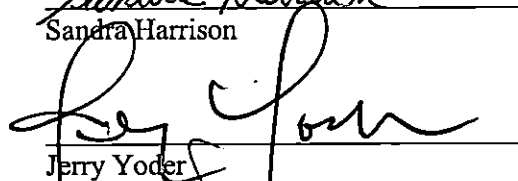
Motion was made by Mike Watson, Seconded by Jason Carnahan.

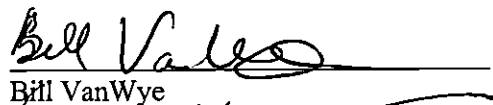
Vote tally: Yes: 8 No: 0

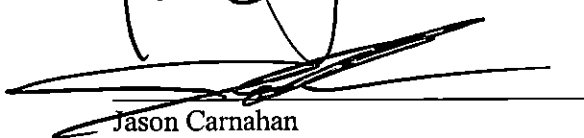

Sarah Delbecq



Sandra Harrison

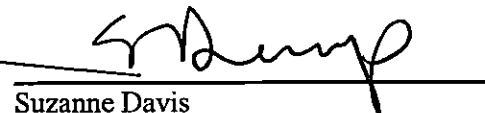

Frank Pulver


Jerry Yoder


Bill VanWye


Jason Carnahan


Mike Watson


Suzanne Davis

Petition # 22-45: Eric Wimer requesting a Zone Map Amendment from IN - Institutional to A2 - Agricultural. The property is located at 4635 County Road 45, Auburn.

Chris Gaumer read the Staff Report, as well as explain the petitioner's intentions. Then, he asked if there are questions or comments from the members.

Sarah Delbecq inquired about the zoning prior to 2009 and about when the old church was converted into a single-family residence.

Chris Gaumer responded that there was an institutional use prior to the 2009 ordinance and that the petitioner could clarify when it was converted.

Bill Van Wye clarified the existing structure's septic, sewer, and water.

Mr. Gaumer stated that in rezones, there is no additional soil testing required since it is already an existing structure.

Sandy Harrison asked if that was the reason why the petitioner wanted to rezone.

Mr. Gaumer that was incorrect and that the petitioner wants it rezoned for a single-family residence, for the already existing single-family residence. When the existing structure was converted from a church to a single-family residence, they never went through the rezoning process.

Jason Carnahan stated that the petitioner probably needs it rezoned for insurance purposes. If it should ever burn down, it needs to have the correct zoning in order to rebuild.

Sarah Delbecq asked the petitioner to explain the church conversion into a single-family residence.

Sarah Wimer (representing her husband, the petitioner) came to the podium to clarify the petitioner's intentions. She stated that when they purchased the property, it had already been converted into a single-family residence. They got denied for a home-equity loan because of the zoning (Institutional) and insurance. Mrs. Wimer was not aware of when the existing structure was converted from a church.

Frank Pulver inquired why the parcel wasn't rezoned back when the existing structure was originally converted from a church.

Jason Carnahan stated that the zoning should have been caught and dealt with back then.

Chris Gaumer clarified that the structure was converted into a single-family residence sometime between 2004 and Sept of 2011 (when the petitioners purchased it). He also stated that only in recent years, mortgage companies have started to look at the zoning of property to make sure they can rebuild.

Sarah Delbecq asked if there were any other comments from the audience. There were none. The public hearing was closed.

Attorney Andrew Kruse reviewed the Findings with Members:

JURISDICTIONAL FINDINGS:

1. The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.
 1. Application completed and filed on **October 28, 2022**.
 2. Legal notice was published in The Star on **October 7, 2022** and Publishers Affidavit was given to staff.
 3. Certificate of mailing notices was sent and receipts were given to staff.
 4. Report from the County Board of Health, dated **November 1, 2022**.
 5. Report from the County Highway Department, dated **October 31, 2022**.
 6. Report from the DeKalb County Soil & Water Conservation District, dated **November 1, 2022**.
 7. Report from the County Surveyor, dated **October 31, 2022**.

UDO & STATUTORY MATTERS TO CONSIDER:

1. Is the change in zoning in harmony with the Comprehensive Plan?
The subject site has a Future Land Use (FLU) designation of Mixed Agricultural/Rural Residential. The proposed zoning district is compatible with this FLU designation.
2. Do the current conditions and the character of current structures and uses in each district adapt to the proposed zoning?
The existing development surrounding this property is residential and agriculture. This change in zoning will be consistent with the surrounding properties.

3. Is the change in zoning consistent with the most desirable use for which the land in each zoning district is adapted?
The proposed zoning district is desirable for this property and the area.
4. Will the change in zoning help with the conservation of property values throughout the jurisdiction?
The property values of the area should not be disturbed negatively considering the adjacent uses.
5. Does the change in zoning promote responsible development and growth?
In changing the zoning of the property to A2, Agricultural, the Plan Commission will be promoting the desired use for the land.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

The recommendation from staff is to give a favorable recommendation to the County Commissioners for the requested Zone Map Amendment.

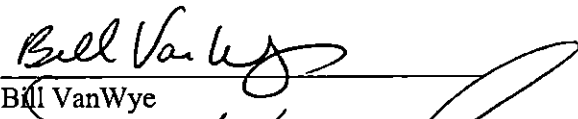
IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION THAT THIS ZONE MAP AMENDMENT, PETITION #22-45, ERIC WIMER, IS HEREBY GRANTED APPROVAL ON THIS 6TH DAY OF DECEMBER 2022.

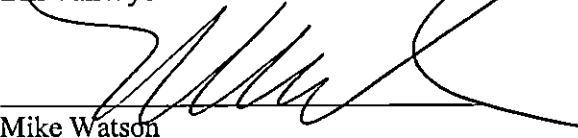
Motion made by Bill VanWye, Seconded by Jerry Yoder


Vote tally: Yes: 8 No: 0



Sarah Delbecq



Frank Pulver

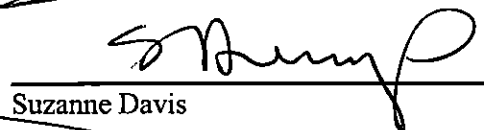

Bill VanWye


Mike Watson


Sandra Harrison


Jerry Yoder


Jason Carnahan


Suzanne Davis

Petition # 22-46: John M. Kennerk requesting a 3 Lot Minor Subdivision known as Honey Bee Acres. The proposed 3 lot subdivision will be a total of 13 acres. The subdivision will be used for single family residences. The property is located at the southeast corner of County Road 75 and County Road 64, Spencerville, Indiana and is zoned A1, Conservation Agricultural.

Chris Gaumer read the Staff Report, as well as explain the petitioner's intentions. Then, he asked if the board members had any questions.

Sarah Delbecq clarified that these were all of the splits that can happen on this plat without the petitioner going through an additional hearing with the BZA to allow for additional lots to be split.

Bill Van Wye asked the petitioner to come to the podium to ask about the existing well house.

John Kennerk stepped to the podium and stated that the well house was from the original farmhouse and it will go with the lot. Mr. Kennerk shared that the well house does have electricity going to it and it is in working order. He uses it for the livestock and is not used for the existing home.

Andrew Kruse asked for clarification on what the well is currently being used for.

John Kennerk replied that they use it for cattle and that it is not being used for the house anymore.

Bill Van Wye inquired about the creek and if it had any effect on any of the surrounding properties.

Chris Gaumer stated that the creek is an un-regulated drain and was recently heard by the Drainage Board.

Sarah Delbecq asked the members and the audience if there were any other questions. There were none. The public hearing was closed.

Attorney Andrew Kruse reviewed the Findings with Members:

JURISDICTIONAL FINDINGS:

The Petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application was completed and filed on **November 14, 2022.**
2. Legal notice published in The Star on **November 25, 2022** and Affidavit was given to staff.
3. Certificate of mailing notices sent and receipts were given to staff.
4. Letter from the County Board of Health, dated **November 18, 2022.**
5. Letter from County Highway dated **November 15, 2022.**
6. Report from the DeKalb County Soil & Water Conservation District, dated **November 15, 2022.**
7. Letter from the Drainage Board, dated **November 18, 2022.**
8. Airport Board report, if applicable: **not applicable**
9. Plat prepared by **DA Brown Engineering Consultants, Inc.**
10. The real estate to be developed is in Zoning District A1 which permits the requested development.

PROPOSED FINDINGS OF FACT:

These Findings of Fact proposed by the Zoning Administrator are based off the knowledge and understanding of the proposed project.

1. Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?
Yes, the minor subdivision will be used for a residential use, which is compatible to the existing and adjacent land uses.
2. Does the Minor Subdivision conform to the following UDO standards:
 - a. Minimum width, depth & area of lot(s). Yes. See Plat & Staff Report.
 - b. Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. Adequate access off County Road 45 and County Road 64 with dedication of right of way. The applicant or buyer(s) will need to apply for and receive a driveway permit from the DeKalb County Highway Dept.
 - c. The extension of water, sewer & other municipal services, if applicable or required. None Required. The property owner(s) or buyer(s) will need to apply for and receive a permit for a residential onsite sewage system from the DeKalb County Board of Health.
 - d. The allocation of areas to be used as public ways, parks, and schools, public and semipublic building, homes, businesses, and utilities, if applicable or required. None required.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Staff is recommending approval to allow the Minor Subdivision and recommends the following conditions:

Standard Conditions to be recorded on or with the plat:

1. This lot shall be included in any subdivision arising from any further development from the land involved. However, there is no intention that any terms, conditions, or restrictions on a future plat will have any retroactive applicability to this division of land.
2. There shall be compliance with the laws and regulations of any Federal, State, or local agency.
3. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate shall be obstructed by any development on the site. The Plan Commission may enforce these conditions by injunctive relief with attorney fees.
4. The appropriate agricultural covenants, drainage covenants and airport zone covenants shall be on the plat, if required.

Conditions that will not be recorded but must be met:

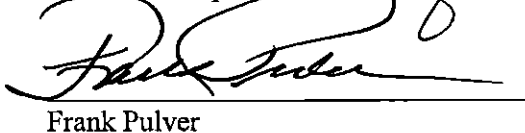
1. Comply with the Staff Report.
2. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
3. Comply with the Flood Hazard Area for DeKalb County Ordinance and any wetland laws and regulations, if required.
4. Provide covenant for compliance with Airport Board requirements, if required.
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation District, or other agency as applicable. File written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

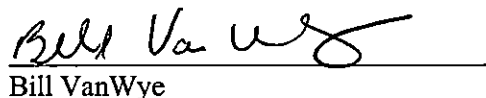
IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION THAT THIS PRIMARY AND SECONDARY PLAT, PETITION #22-46, JOHN KENNERK, IS HEREBY GRANTED APPROVAL ON THIS 6TH DAY OF DECEMBER 2022.

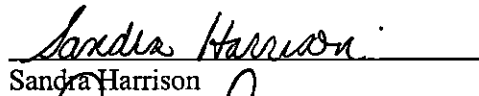
Motion made by Sandy Harrison, Seconded by Jason Carnahan.

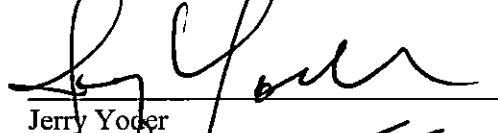
Vote tally: Yes: 8 No: 0

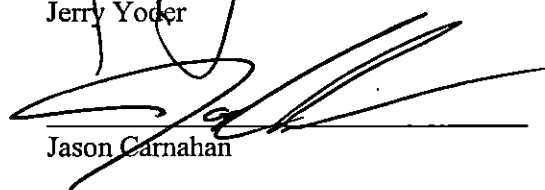

Sarah Delbecq


Frank Pulver


Bill VanWye

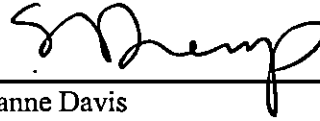

Sandra Harrison


Jerry Yoder


Jason Carnahan



Mike Watson



Suzanne Davis

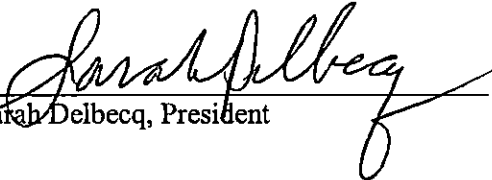
REPORTS FROM OFFICERS, COMMITTEES, AND STAFF OR TOWN/CITY LIAISONS:

Sandy Harrison reported updates for Butler, Hamilton, and Waterloo.

Frank Pulver reported updates for Garrett.

Mike Watson gave an update on Auburn developments.

The meeting was adjourned by Sarah Delbecq at 9:24 a.m.



Sarah Delbecq, President



Secretary, Andrea Noll