

October 7, 2004

The Ellettsville, Indiana, Plan Commission met in regular session on Thursday, October 7, 2004 at the Town Hall. Frank Buczolic called the meeting to order at 7:00 PM. and led in the Pledge of Allegiance.

Roll Call: Frank Buczolic, Don Calvert, Sandra Hash and William Evans were present. Ed Bitner, Lisa Creech and Terry Baker were absent. The PZA position is vacant.

Approval of the minutes for September 2, 2004

William Evans made a motion to approve the minutes of the September 2nd, 2004 Planning and Zoning Commission. Don Calvert seconded. Motion carried.

Old Business

None

New Business

- Rezoning and vacation of alleyway for Robert and Darlyne Sowder at 104-114 W. Temperance Street (Proposed I-1 zone)

Bob Sowder said prior to purchasing their property in 1978 they were told by Town Officials they were zoned the same as Robinson Block which is Commercial, Light Industrial. He said whenever questions have arose in the past about zoning in their area they have asked and always been told they were zoned the same as Robinson. Until June of this year when they received a letter about their zoning being C-2 from Jeffery York, former Planning and Zoning Administrator they have continued to believe their property was zoned the same as Robinson. He then spoke to Mr. York explaining to him they have repeatedly been told they were zoned the same as Robinson. Mr. York sent them a letter in July that stated they were actually zoned C-2 Tourist Commercial which was taken from the 1966 zoning map. Bob said he thinks the current zoning map reads the same but asked if it was a possibility that there was another zoning map in between that the Town Officials were using which showed the Sowder's property zoned the same as Robinson for twenty-six years. According to the land usage listed in the Town Code their type of business is categorized only under industrial-Town Code section 152.080 (warehousing and distribution are acceptable in the I-1 district). Sowder Distributing Company is a warehouse distributor of truck, van and auto accessories and has been for the twenty-six years they have owned the property at 108 W. Temperance Street. In Mr. York's staff report he indicated their business did not have on-site parking and in one of his letters he said they needed one parking space for every 150 square feet used by the public. The staff report indicated one parking space for each 300 square feet of floor area. Our show room is 400 square feet (20 x 20). According to Mr. York's statement we would need two or three parking spaces; therefore, contrary to Mr. York's staff report that we have no on-site parking, we easily have three parking spaces. Our parking area has been graveled for more than twenty-six years and any paving requirements should not effect them because of the grandfather clause. Mr. York states that our property is a vacant single family dwelling, the buildings are not vacant they are full of merchandise. In addition MR. York states the property on the east is undeveloped / vacant residential which it is not, the home is occupied and they're running the carwash. Mr. York states to the south is single-family residential / office, at least one house is multi-family with at least three apartments. We feel that zoning to C-2 is decreasing our property values. Our neighbors to the west thought we were zoned the same as Robinson's and none of our neighbors have voiced opposition to the I-1 zoning. We requested rezoning from C-2 to I-1 to correct the mistake that has occurred somewhere since we purchased the property. If we are not changed to I-1 we fear the next thing that happens there will be another Zoning Administrator come in and tells us we can't operate our business because warehouse distributors can not be on tourist commercial C-2. The property owners near him that he's spoken with are in favor of them remaining zoned I-1. In Mr. York's staff report he recommended denial of rezoning because it would

encourage more industry in that part of Town. Therefore, he's requesting they be officially zoned I-1 which is what they have been told all along. He added he feels it will devalue their property now to be zoned different.

Comments:

Don Calvert asked Mr. Sowder if he had any other plans for this property or was this to just continue with the same business.

Bob Sowder said he no they didn't have any other plans they just want to run the business the same as they always have.

William Evans asked Mr. Sowder if he wasn't questioned back in the late 1980's about the trailers they have on their property.

Bob Sowder yes there were questions at one time. We're renting one trailer and people knew that we were using it for temporary storage and we told them we wanted to get rid of it because it was costing us money. Then in the 80's we were asked to move the trailers and we asked if we were in any violation of any codes and they said no, they just didn't like the looks for the trailers sitting there. I would to like get rid of the trailers but it's not convenient to do so at this time, so we haven't gotten the trailers moved.

William Evans said if he recalls correctly when this issue was discussed earlier this year in a Council Meeting Mr. Sowder said if the trailers were moved now it would hurt his business but after the Christmas season was over he would have less inventory and it would be easier to remove the trailers.

Bob Sowder confirmed yes stating he said at that meeting he would try to get them out of there as soon as he could after Christmas. At that time we said we would try to get them out of there by February or March of 2005 at the latest.

Frank Buczolic said the second part of the Sowder's petition is to vacate the alley.

Bob Sowder said the driveway between 114 and 108 W. Temperance has not been an alley for at least twenty-six years. The prior owners say it was never an alley. Sometime in the 80's we were asked to tear down a storage building that set in the alley so the Street Department could upgrade the alley and we thought that would be a good idea to give access to the back of our buildings for the customers. We hired a contractor to tear down the building then the Street Department came back to us and said they could not upgrade it because it isn't an alley. After that Nancy Acuff, the owner of the property at that time, built a wooden fence across the drive to prevent drive thorough traffic and said her Attorney Fred Gregory said it was not an alley but a private drive. Since INDOT has completed fixing their property the Town thinks again the drive is an alley. He would like to clear up this issue and Attorney Mike Spencer suggested they request the alley be vacated.

Frank Buczolic said here are two separate issues and asked for a motion on each.

William Evans made a motion to recommend to the Town Council the denial of the rezoning petition from C-2 to I-1. Sandra Hash seconded. A roll call vote was taken: Don Calvert - yes; William Evans - yes; Frank Buczolic - yes and Sandra Hash - yes. Motion carried.

William Evans made a motion to recommend to the Town Council the approval of the vacation petition for the alley between parcel #'s listed 114 W. Temperance Street and 108 W. Temperance Street to the Town Council.

Rick Coppock pointed out the Town needs to retain a utility easement and William Evans agreed.

Bob Sowder said he didn't have any problem with that, in fact, he said he had brought that up before saying he would gladly give them a sewer easement.

Don Calvert seconded. A roll call vote was taken: Don Calvert - yes; William Evans - yes; Frank Buczulich - yes and Sandra Hash – yes. Motion carried.

Introduction of annexation request for Arthur and Mary Ann Staggs at approximately 5500 N. Union Valley Road (Proposed Single-Family Residential Development R-1)

Rick Coppock representing Arthur and Mary Ann Staggs explained this is a voluntary annexation and they are requesting an R-1 zoning for 17.98 acres. It is proposed to be a continuation of Union Valley Farms and the existing residents on the property will remain there with a cut out area for them around two or so acres. The lots will be slightly bigger than the ones in Union Valley Farms.

Comments:

Jennifer Freeman asked what R-1 encompasses and asked how many homes were planned and how will these homes be accessed. She said is an adjacent property owner and she and her husband Jason are against changing the zoning code. They have two sons and bought the property about a year ago to escape the hustle and bustle of city life and plan on raising hunting dogs and 4-H pigs. One reason they bought the property was because it wasn't zoned as such. A second point she wanted to mention is that this development will add possibly sixty more homes behind them and Union Valley is already a "deadly road" so they are concerned about adding that many more daily users to that road. She's spoken with most of the other adjacent property owners and no one is in favor of changing this to an R-1 zoning.

William Evans made a motion to recommend to the Town Council to accept the zoning annexation of 17.98 acres to the R-1 classification to provide for Single Family Residential at the address of 5500 N. Union Valley, that is an approximate address. Don Calvert seconded. A roll call vote was taken: Don Calvert - yes; William Evans - yes; Frank Buczulich - yes and Sandra Hash – yes. Motion carried.

Introduction of annexation request for Chris Sims, Timothy Sims and Michael Sims at 5080 N. Capital Avenue (Proposed C-3 zone)

Tim Sims said wants to get this other piece of property annexed with our adjoining property that's already zoned C-3.

One of the pieces of property was half in the Town and half in the County when the bought it, so they wanted it to all be together. There's 2.38 total acres. This is across from Rick's Body Shop and Collision Center.

William Evans made a motion to recommend to the Town Council to zone and annex 1.41 acres to the C-3 classification to provide for commercial development at the address of 5638 W. St. 46, and that is also approximate. Don Calvert seconded. A roll call vote was taken: Don Calvert - yes; William Evans - yes; Frank Buczulich - yes and Sandra Hash – yes. Motion carried.

Preliminary and Final Plat request for Meadowlands, section six subdivision (six lots, zoned R-2) – Rick Coppock

Rick Coppock representing Charlie Wright said this is for six one acre lots. They have a sixty foot front lot set back from the road; the rear yard is forty feet set back. The road is already built. The public improvements are already complete so Rick presented both the preliminary and final plat at the same time. The sidewalks are set away from street. There will probably be no additional street trees added due to the lots being wooded lots already.

Don Calvert and Sandra Hash both questioned if adding these homes will add water and drainage problems to the area.

Rick Coppock said any water run off will go to the creek. There won't be a water problem with these lots and they won't create another water problem.

William Evans made a motion to recommend to the Town Council to accept a Preliminary and Final Plat request for The Meadowlands, section six subdivision (six lots, zoned R-2). Don Calvert seconded. A roll call vote was taken:

Don Calvert - yes; William Evans - yes; Frank Buczolich - yes and Sandra Hash – yes. Motion carried.

Review of grading plan for Ratliff Road church property (First Church of God) – Rick Coppock

Rick Coppock explained the grading plan and drainage for the property. Water will drain to the nature low point. The pond will retain the water in a big storm.

Bryan Cox, 4526 Trooper Lane. He has a major problem with water run off on both sides of his property behind his house. Water has gotten in his home in fact.

Rick and Bryan discussed the drainage issue and how this development will affect his property and Rick explained the water should run off. Further discussion.

Brian Cox said as long as it works he'll be glad.

William Evans made a motion approve the grading plan for Ratliff Road church property located at the First Church of God on Ratliff Road.

Bryan Cox said he wanted to mention the issue of lighting.

Frank Buczolich said that would have to be resubmitted again to the Plan Commission.

Don Calvert seconded. A roll call vote was taken: Don Calvert - yes; William Evans - yes; Frank Buczolich - yes and Sandra Hash – yes. Motion carried.

Don Calvert mentioned the lighting at Phillips 66 and doesn't believe those lights have ever been reduced. Further discussion resulted into this needs to be checked into again.

Privilege of the Floor - None

Adjournment

William Evans made a motion to adjourn. Don Calvert seconded. Motion carried. Meeting adjourned at 8:04 p. m.