

MINUTES
ELKHART COUNTY PLAT COMMITTEE MEETING
HELD ON THE 9TH DAY OF OCTOBER 2008 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plat Committee was called to order by the Chairperson, Meg Wolgamood, with the following members present: Tom Holt, Jeff Burbrink, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Holt/Yoder*) that the minutes of the regular meeting for the Elkhart County Plat Committee held on the 11th day of September 2008 be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Yoder/Holt*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearing and the motion was carried unanimously.

4. The application for Primary approval of a one lot minor subdivision to be known as **DMB CR 22 MINOR**, for DMB Custom Carpentry represented by B. Doriot & Associates, on property located on the South side of CR 22, 180 ft. East of Azelea Court, East of CR 11 in Concord Township, zoned R-1, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082817*. He then explained that Mr. Doriot has submitted a revised Primary and everything has been corrected. They are still awaiting approval from the Health Department for an acceptable septic layout.

Blake Doriot, B. Doriot & Associates, P.O. Box 465, New Paris, was present representing David Bates. Mr. Doriot then submitted a copy of an aerial photo to the Board of the proposed property [*attached to file as Petitioner Exhibit #1*]. He explained everything is done apart from the septic. Currently, Mr. Doriot is working with Mr. Hartsuff regarding that matter.

When this process was started, Mr. Bates went to the Health Department to find out if a septic could be placed on this property. The Health Department told him that he would be able to get a septic on this lot and he was told a building permit could be issued. Mr. Bates was required to go to the Board of Zoning Appeals to ask for a front yard Variance, a lot area Variance, and an Appeal to be relieved from the Subdivision Control Ordinance. At which time, the Board granted the lot area Variance and the front yard Variance, but they required him to go through the Subdivision Control Ordinance.

While going through the Subdivision Control Ordinance, Mr. Doriot discovers that when he dedicates the right of way, the lot area is less than what was approved by the Board of Zoning Appeals. Mr. Kanney then brought the petition back before the Board of Zoning Appeals to get a clarification, which has now been cleared up.

Mr. Doriot said they now have a site that has been approved by the Health Department and the lot size has been figured out. After doing soil borings and having the septic approved, the subdivision was filed and the Health Department indicated they needed to hire a soil scientist. Mr.

Doriot hired a soil scientist and Mr. Bates incurred another \$300. He then plotted on the two systems that Mr. Hartsuff is requiring and he is now saying the petitioner can't build here because it won't meet the standards for a platted lot.

Mrs. Wolgamood questioned whose standards it won't meet and Mr. Doriot indicated the Health Department Standards. They have a different standard for a metes and bounds lot versus a platted lot. Mr. Doriot said they are still working with Mr. Hartsuff on this and they may have to go to the Health Board. If Mr. Bates had been aware of all of this, then he may not have gone forward with it. They are confused as to why the petitioner could build on the property two months ago, but now he can't.

Mr. Yoder asked what the difference is in the two standards. Mr. Doriot said metes and bounds require you to have one system and a 30 ft. clearance down-gradient. In a platted subdivision, you have to have one system, a reserve system, and 50 ft. clearance down-gradient. He explained that there is a shed down-gradient the property to the west. There is also a collapsing pool to the north which is down-gradient. To the south, there is another shed and an above ground pool, which are down-gradient as well.

Mr. Yoder then asked if this would be down-gradient from the reserve system. Mr. Doriot said he thinks they can clear it with one system and it would be 50 ft. from the reserve.

The Board questioned what triggered this request for needing to apply for a minor subdivision. Mr. Doriot said the Board of Zoning Appeals usually won't grant relief from the Subdivision Control Ordinance.

Mrs. Wolgamood said there are issues in this area regarding the water table, drainage, and Health Department regulations for septic. The Board of Zoning Appeals felt that it needed to go through the technical review process.

Mr. Yoder moved that the Plat Committee grant Primary approval of this one lot minor subdivision in accordance with the Staff Analysis and comments of the Technical Advisory Committee with the following conditions imposed:

1. Provide two details – elevated sand mounds or at grades (assume 3 bedrooms at 300 sq. ft.). Show proposed home, well, two systems along the contour over boring locations. Must maintain isolation distances.
2. Need to show setback lines, seal of surveyor, delineation of soils, and correct right-of-way dedication.
3. How will drainage stay on site with no easements.

David Bates, 61706 CR 3, Elkhart, clarified that the reason he designed this plan to fit this lot is because he's only going in the ground about three ft. The house is a bi-level and he is aware of the water table. The original borings showed a 100 year floodplain of five feet, but there was no evidence of water recently. He has no intentions of going into the ground any farther, which was the big issue. Mr. Bates wouldn't want to do that and cause the neighbors problems.

With the mound system they designed, Mr. Bates was told they would have no problem fitting it on the lot. At that point, the contour of the lot was fairly flat and they could have situated the mound either way. Now that it's a subdivision lot, the Health Department is requiring it to set at an angle. He said they could have fit one system with a reserve had it been an east to west system.

Mr. Watkins explained he has reviewed the soil report and he's not going to debate where the water table is or will be. The soil report said it was 30 inches at the seasonal high water table. As a result of the application, a private soil boring was done, which indicated a seasonable high

water table of 24 inches. He indicated he would like the Board to know that if someone digs a hole that is five feet deep, it will be underwater part of the year. This has happened far too frequently lately and a statement will be added to the Building Department application that these situations will be put right back into the lap of the builder.

When the water table is that high, Mr. Burbrink asked why the staff made a recommendation for approval. Mr. Kanney indicated they have not received anything from the Health Department stating that this can't be done. Mr. Watkins said there was a recommendation for a mound. The reason that the down-gradient area is important is because there will basically be sewage running through the top soil.

Mrs. Wolgamood said they could consider tabling the request.

Mr. Yoder said he believes it meets the Board's criteria and the Health Department will have the final say on this.

According to Mr. Kolbus, if it is a condition of the primary, then it won't get secondary approval if the issues aren't resolved. Mr. Doriot indicated he fully understands that.

Mrs. Wolgamood said that has been done on numerous occasions.

Mr. Yoder's motion was then seconded by Mr. Holt and was carried with a unanimous vote.

5. The application for Primary approval of a two lot minor subdivision to be known as **HARVEST MINOR**, for Larry R. & Freda Hochstetler (owners/developers) represented by Bradso-Ko Engineering & Surveying, on property located on the South side of CR 52, 925 ft. East of CR 19 in Jackson Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082862*.

Mrs. Wolgamood asked what the staff recommendation is for the three to one depth to width ratio Variance which will be heard at the October Board of Zoning Appeals meeting. Mr. Nemeth indicated there is a favorable recommendation.

Mrs. Wolgamood asked if that is for proposed lot two and staff indicated yes.

The frontage was also questioned by Mrs. Wolgamood and staff indicated they have 207 feet, but 250 feet are required.

Barry Pharis, 1009 S. 9th Street, Goshen, was present representing Larry and Freda Hochstetler. Mr. Pharis clarified that the minimum standard in Elkhart County is 100 feet of frontage, but 250 feet is a waiver of the three to one depth to width ratio requirement.

Mr. and Mrs. Hochstetler sold their property and home to move to this site and take care of Larry's sister. A month and a half ago, they went to the Board of Zoning Appeals and requested an Appeal to have two residences on one 12 acre parcel. The petitioner stipulated that when his sister passed away, the primary residence would be torn down. The Board denied the request and told the petitioners they would need to ask for a minor subdivision. Mr. Hochstetler will still stipulate that the primary residence will be torn down when his sister passes away.

Mr. Pharis explained they will need a three to one depth to width ratio Variance on lot number two and they are scheduled for the October Board of Zoning Appeals meeting. They have a favorable recommendation for the Variance and upon approval, they will return to Plan Commission for Secondary approval. He asked that the Board approve the Primary plan as presented.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Holt*) that the Plat Committee grant Primary approval of the two lot

minor subdivision in accordance with the Staff Analysis and comments of the Technical Advisory Committee with the following condition imposed:

1. If more than 1 acre is disturbed, a storm water pollution prevention plan must be submitted and approved.

The motion was carried with a unanimous vote.

6. The application for Secondary approval of a Detailed Planned Unit Development known as ***SIMONTON LAKE MARATHON DPUD***, for Kalyana & Sumathy Sundram (owners) and SPM Group, Inc. (developer) represented by Marbach, Brady & Weaver, on property located on the Northwest corner of SR 19 (Cassopolis Street) and Roseland Road in Osolo Township, zoned R-2/B-3, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082840*.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Holt/Burbrink*) that the Plat Committee grant Secondary approval as this Development Plan (PUD plat) meets the requirements of the Subdivision Control Ordinance and the adopted Detailed Planned Unit Development. The motion was unanimously carried.

7. The meeting was adjourned at 8:54 a.m.

Respectfully submitted,

Kate A. Keil
Recording Secretary