

**MINUTES**  
**ELKHART COUNTY PLAT COMMITTEE MEETING**  
**HELD ON THE 12<sup>TH</sup> DAY OF AUGUST 2010 AT 8:45 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, Mike Yoder, with the following members present: Blake Doriot, Meg Wolgamood and Jeff Burbrink. Staff members present were: Duane Burrow, Senior Planner; Robert Nemeth, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Doriot/Wolgamood*) that the minutes of the last regular meeting of the Elkhart County Plat Committee held on the 8<sup>th</sup> day of July 2010 be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Doriot/Wolgamood*) 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 **RABER MINOR SUBDIVISION**, for Joni B. & Fannie Mae Raber represented by Brads-Ko Engineering & Surveying, on property located on the East side of CR 43, 2,000 ft. North of CR 10 in York Township, zoned A-1, was presented at this time.

Mr. Nemeth submitted a revised Staff Report/Staff Analysis to the Board [*attached to file as Staff Exhibit #1*], which he then presented and is attached for review as *Case #54168CR 43-100702-1*.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9<sup>th</sup> St., Goshen, was present on behalf of this request. He explained that Mr. and Mrs. Raber own about 30 acres and they want to transfer acreage to their son so he can build a home. As he understood the ordinance, Mr. Pharis said there was no longer any parent-to-child split or any minimum acreage and you just had to meet the subdivision ordinance. After suggesting that the petitioners look at the acreage they wanted their son to have and where they wanted to place the house, they have submitted an approximately 5.5 acre parcel for this minor subdivision.

Mr. Pharis pointed out that the last item of the Site Description states the balance of the property is now an illegal tract and you cannot obtain a building permit. The way the ordinance is interpreted, if he splits five acres from a 200 acre parcel, he said the remaining 195 acres are illegal.

If it's a farm, he said he can't even get a building permit to construct a barn or pole building. He doesn't believe the Plan Commission or the Commissioners, in their approval of the Subdivision Ordinance, intended to create illegal tracts by the subdivision of property whether it's a 38, 28 or 200 acre parcel. He understands the staff's position saying they are caught between the wording of an ordinance that is unclear. If it was the intent of the Plan Commission to create this situation, he said they need to know that's what they want them to do, or they need to correct it now because he has two more situations that are almost identical. Mr. Pharis then indicated that he would be agreeable to transfer this minor subdivision to the full Plan Commission.

If you subdivide a portion of property off of a farm, Mr. Doriot said it was his understanding that the residual parcel was still buildable.

Mr. Yoder asked what he would subdivide the remaining parcel from and Mr. Doriot said itself. In this case, Mr. Pharis said he will have to come back and subdivide the 30 acres as a one lot subdivision and both Mr. Yoder and Mr. Burbrink agreed this doesn't make a lot of sense.

Mrs. Wolgamood wondered if this application should be presented to the full Advisory Plan Commission as Mr. Pharis suggested. She said the policy will be set by the entire Plan Commission and not the Plat Committee.

Mr. Nemeth explained that the old subdivision regulations had an exemption clause; however, the new subdivision regulations say if you create a new parcel, it has to come in as a major, minor or an administrative subdivision and there is no exemption clause. He said the staff feels they are being generous by not requiring this to come in as a two lot minor subdivision. According to Mr. Nemeth, the staff goes to lengths of looking for any future variances as they want to let the applicant/owner know up front what they need to do if they have to go to the Board of Zoning Appeals for a variance.

Mrs. Wolgamood then questioned why this was not an administrative subdivision and Mr. Nemeth commented that they do allow that in their subdivision regulations.

Mr. Pharis said he feels the Administrative Subdivision Ordinance does no good for the public, the planning staff or the County. He said it gives you nothing recorded that is available to everyone that says it is legal. He also said it gives the owner nothing other than the same cost as a minor subdivision with the exception of a recording fee for the plat. Therefore, Mr. Pharis said he will only use the minor subdivision process.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Burbrink*) that this request for a one lot minor subdivision be transferred to the full Advisory Plan Commission on the August 12, 2010, agenda. The motion was carried with a unanimous vote.

5. The application for Primary approval of a one lot minor subdivision to be known as ***CRIFE MINOR SUBDIVISION***, for Cripe Estate c/o Rodney Cripe represented by Brads-Ko Engineering & Surveying, on property located on the South side of CR 40, 2,640 ft. West of CR 21 in Elkhart Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20480CR 40-100701-1*.

Present on behalf of this request representing the Marshall Cripe Family Trust was Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9<sup>th</sup> St., Goshen. He explained that this farm is split by a county road, which he does not feel is a unique situation in Elkhart County. He said the purpose of this request is to allow the trust to divest the property now that Marshall Cripe is deceased.

According to Mr. Pharis, the petitioners want to leave the 26 acres on the north side of CR 40 as tillable land, and he believes one of the children intends to buy that acreage and lease it to a farmer. If anyone wants to build on these 26 acres in the future, he said they will have to come back with a one lot minor subdivision.

Another relative, Gerald Marshall, has a two acre parcel to the east, and Mr. Pharis said he wants the balance of the property between the farm house and the center of ditch that runs through there. Therefore, he said they have created a 4.5 acre tract that will be transferred to Mr. Marshall so he will now have approximately seven acres. If Mr. Marshall decides to build another house, he said he will have to come back with a one lot minor subdivision.

The final parcel is the farm house itself, which Mr. Pharis said has not been lived in and is dilapidated. He said whoever buys this property will probably destroy the house and build a new one so they are asking for a one lot minor subdivision.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Burbrink*) that this request for a one lot minor subdivision be approved in accordance with the Staff Analysis as this meets the requirements of the Subdivision Control Ordinance. With a unanimous vote, the motion was carried.

6. The meeting was adjourned at 9:01 a.m.

Respectfully submitted,

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Kathleen L. Wilson  
Recording Secretary