



Anthony Hendricks stated that would be Plan Commission secretary. Mike Polan for Plan Commission Secretary, Doug Biege for Attorney for the Plan Commission, Mr. Minich for the Board of Zoning Appeals position, and a name for the vice-chair of the Plan Commission.

Earl Cunningham made a nomination for Rita Beaty for vice-chair.

Joe Haney seconded.

All approved. Motion carries 7-0.

Anthony Hendricks asked if there is a nomination to accept the other positions. Doug Biege as Attorney, Mike Polan as Secretary of the Plan Commission, and Glen Minich for BZA.

John Carr stated he would make that a motion.

Earl Cunningham seconded.

Joe Haney asked for clarity's sake, can he clarify the position for BZA.

Anthony Hendricks stated Mr. Minich.

Joe Haney stated not the name, but the actual position.

Anthony Hendricks stated it is the Plan Commission's appointment to the Board of Zoning Appeals. One (1) of their members sits on the Board of Zoning Appeals.

Joe Haney stated it is his understanding that the Board of Commissioners appoints that.

Ashley Kazmucha stated there are two (2).

Joe Haney stated okay, he apologizes, thank you.

Anthony Hendricks stated one (1) member always comes from this body.

Earl Cunningham stated one (1) has to be on both the Board of Zoning Appeals and the Plan Commission.

Anthony Hendricks stated yes.

John Carr asked which one (1) is on both.

Joe Haney stated no. Deb Vance is on the Board of Zoning Appeals so that is why he asked. She is there as the Commissioners appointment to the Board of Zoning Appeals.

Anthony Hendricks asked how many members are there for the Board of Zoning Appeals.

Michael Polan stated they lost two (2) members from the BZA so Deb is replacing Dwayne Hogan.

Joe Haney stated Deb is replacing Adam Koronka.

Michael Polan stated okay, she is a Commissioner's appointment. The Plan Commission appointment is Glen.

Ashley Kazmucha stated the other replacement was Vern.

Anthony Hendricks asked if there was anything in the code that precludes that, is there?

Attorney Biege stated no.

Anthony Hendricks stated they will have a full BZA of five (5) members then, if they appoint Glen Minich.

Attorney Biege asked if they replaced Dwayne.

Ashley Kazmucha stated with Vern Schafer.

Anthony Hendricks stated there is a motion and a second on the floor.

All approved. Motion carries 7-0.

Anthony Hendricks thanked Glen and Deb as that is a tough Board. Doug knows that.

#### **Petitions:**

- 1. Petitioner Irish Rentals LLC represented by Wightman** would like to present to the Plan Commission a primary plat for an 18 Lot Subdivision to be known as "Wagner Estates II – Phase B" located between County Road East 800 North, and County Road North 125 East, and Fail Road, LaPorte, IN. Galena Twp. Zoned A consisting of 25.42 acres. There will be street construction required. (Parcels 46-03-20-400-025.000-048, 46-03-20-400-002.000-048, 46-03-20-300-009.000-048) Exhibits attached hereto.

Attorney Biege stated notice is adequate.

Nathan Flickner stated he is with Wightman located at 715 S. Michigan St., South Bend, IN. They are wanting to continue a phase of a plat that was approved in 2005. The economy kind of down turned and they just kind of let it go since 2008. They are not trying to change much with the layout. Actually, no dimensions or anything are changing in it unless they need to conform to a new rule since 2005 that is not on the plans. They really just want to keep continuing the idea that was already there. The plat had already been approved. All the people that were buying in the subdivision in the first phase were aware that there was a second phase going in behind them. It is surrounded by mostly subdivision lots except on the north and south sides. They will all be served by well and septic. They have soils which were included with the packet; an updated soil report

which didn't change much from the original soil reports. That's about all he has on that. Are there any questions for him?

Anthony Hendricks stated no, this went to Plat Review again, correct? They have those notes. This is just an extension of the 2005. They get a five (5) year approval and it time lapsed. His two (2) concerns, which aren't something to hold it up at this Board, are that the furthest end of cul-de-sac on the north end, that road is pretty steep. There is a very high chance, which will happen probably tomorrow of heavy snow and ice, and he would suggest that they get with County Highway Engineer Jay Sullivan and not make that road that slope. To try to accelerate out of the cul-de-sac or down that slope is probably not going to be possible. Then, for safety purposes, the retention pond is very deep so he hopes that they would put a safety ledge in there so if anyone went in there, they wouldn't fall into fourteen feet (14') deep of water. The County Highway Engineer can help them with that. It's not something they get into, it's just a note for the record on their end.

Nathan Flickner stated okay.

Glen Minich stated that it was said the lots in the subdivision hasn't changed, but in the report from the Plat Committee, Ashley stated that Amanda said she had some old stuff, but it looks like the lots changed size and she didn't have any soil borings at that time.

Michael Polan stated soil borings were in the process of being procured. Those will have to be submitted to the Health Department and approved for septic before any permits would be issued, but that would not preclude the Boards decision tonight. As far as the lot sizes, he will let Ashley answer that.

Ashley Kazmucha stated she doesn't recall them changing very much from what they were.

Anthony Hendricks stated they might have changed a little bit because when they first go through primary approval, sometimes they change a little bit with different grades and roads, but not demonstrably from the original plat approval which happened probably way before 2005. They just have to come back and typically they will see a change of ten-twenty-thirty feet (10-20-30'), but the number of lots are the same.

Nathan Flickner stated the number of lots are the same and he believes all the dimensioning is the same if they compare it.

Glen Minich stated he just wondered why the discrepancy was in the report.

Mitch Bishop stated he way probably out there in September or October with the County Engineer, he is the County Planner. He mentioned that it was approved in 2005, is that the reason they say a bunch of power boxes and gas lines are out there? It was also cleared already. He was just wondering why that was there.

Nathan Flickner stated he had no idea that work was going on at all.

Mitch Bishop stated it's all existent right now. When they were out there it was all bush hogged and there was NIPSCO run and everything. He was wondering if that was maybe in 2008 and was a carry over because it was interesting that it was done before coming to the Board.

Nathan Flickner stated he is not sure about that. He knows they had utilities up to the stub street. They're going all the way across?

Mitch Bishop stated yes.

Nathan Flickner asked if he saw gas flags.

Mitch Bishop stated yes. There were actual electrical boxes too.

Nathan Flickner asked if it was all the way across the property.

Mitch Bishop stated it was down on the cul-de-sac. It was newly mowed. This was back in September or October.

Nathan Flickner stated they probably haven't been to the site since August or before. He thinks their last field date out there was a while ago.

Mitch Bishop stated it was interesting; it caught their attention.

Nathan Flickner stated he is going to drive by there and see what is going on.

Anthony Hendricks stated not that it is normal, but in their practice and what's happening right now, they're lucky they have boxes because they can't even get boxes right now.

Nathan Flickner stated he is concerned how they knew where they went as they didn't give anybody any information.

Anthony Hendricks stated somebody might have known that if they didn't get them then, they wouldn't have them. They do not have them.

Mitch Bishop stated it was interesting because it was all newly mowed so it was roughly twenty-foot (20') wide and there were boxes all throughout.

Nathan Flickner stated he will have to investigate a little more.

No remonstrators present.

John Carr asked how big the houses will be.

Nathan Flickner stated he can't answer as he hasn't seen the plan, but he is assuming they would be comparable to what is in the first phase. That is the last he heard from them, but he hasn't seen a design plan or anything.

Anthony Hendricks stated they are typically a three (3) bedroom two (2) car garage. Most of them are ranch.

Nathan Flickner stated he has seen some two (2) story plans.

Anthony Hendricks stated they're not the most expensive, but definitely not cheap. They are not on the low end.

John Carr asked if they have basements.

Nathan Flickner stated some do.

Mitch Bishop asked if it's similar to the Phase 1 that is already constructed.

Nathan Flickner stated yes. It is going to be similar to the Phase 1. It is the same builder.

Rita Beaty made a favorable recommendation for Petitioner Irish Rentals LLC represented by Wightman for a primary plat for an 18 Lot Subdivision to be known as "Wagner Estates II – Phase B" located between County Road East 800 North, and County Road North 125 East, and Fail Road, LaPorte, IN. Galena Twp. Zoned A consisting of 25.42 acres. There will be street construction required. (Parcels 46-03-20-400-025.000-048, 46-03-20-400-002.000-048, 46-03-20-300-009.000-048)

Joe Haney seconded.

All approved. Motion carries 7-0.

**2. Petitioners Dale A. Elkins and Samantha D. Elkins represented by Dave Ambers** respectfully petition the Plan Commission to vacate unimproved Lilly Lane from North Hemlock Lane to North Walnut Lane Lots 4050, 4910, 4884, 4051-4055, 4511, 4612-4629 and North Spruce Lane from East Poppy Lane to East Lilly Lane Lots 4898-4910, 4911-4922 and North Hemlock from East Poppy Lane to East Lilly Lane Lots 4040-4050 and 3980-3989 located in New Carlisle, Hudson Twp. Exhibits attached hereto.

Attorney Biege stated notice is adequate.

David Ambers stated he was here last month; they had a notice issue. He is still licking his wounds; it was the first time in thirty-three (33) years he had a notice issue, but they all live and learn. They have attached to the petition the map with the crosshatched area being the streets that his clients wish to vacate. They own on both sides of all of these except for Mr. and Mrs. Obanion who do not object to this petition. It was brought to his attention after the last meeting that there might be a concern with regard to Hemlock and with regard to that being the proposed street for water and sewer in the area. He spoke with Mr. Elkins and he advised him that there are already electric transmission lines down that street so he would have no objection to any vacation of that roadway

being subject to water and sewer lines being installed. In fact, he is anxiously awaiting to hook up to those both his home and business. With that, he will leave it to them if they have any questions.

*Board deliberates amongst themselves.*

Glen Minich stated he has a question for Attorney Biege. Could they actually make the requirement that they do hook up to the sewer when it comes to their lot.

Attorney Biege stated no, that is beyond their jurisdiction.

Anthony Hendricks stated the State will require them if they are within so many feet.

Attorney Biege stated he thinks so, yes.

Glen Minich stated okay. He thought they could tie it to the motion.

David Ambers stated his client is anxiously awaiting it. He would much rather have city water and sewer.

Glen Minich stated he understands that, but that's why it's good to put it down in pen.

Attorney Biege stated he understands, but they will be required, but it won't be from them.

David Ambers stated he thinks the sanitary district.

Attorney Biege stated yes. If there is an easement that they will retain for water and sewer, he said it was on Hemlock.

David Ambers stated that's what he was advise by Mr. Hendrick who thought it would be most likely to come down Hemlock.

Attorney Biege asked from where to where?

Anthony Hendricks stated probably to the deer processing facility from the north.

Attorney Biege stated he has to write it.

Mitch Bishop stated the Regional Sewer and Water District are in the process of sewerage both Hudson and Saugany Lakes. He could tell them exactly where it would go.

David Ambers stated in the crosshatched area, Tony thought it was going to come down Hemlock.

Attorney Biege stated he's only going to do the part that is going to be vacated. He has to draft it so what does he draft.

David Ambers stated if the sewer comes down Hemlock or Spruce, they will consent.

Mitch Bishop stated it comes down both.

Attorney Biege stated okay.

Mitch Bishop stated as long as they're protected.

David Ambers stated if the plans change or something and they get out there, hit wetlands or something, everybody is covered.

Joe Haney stated he mentioned the Obanion's. He would assume that Kaecher was also noticed.

David Ambers stated they were noticed, yes.

Joe Haney asked what his proposal for that is. Is all of that to go to his petitioner?

David Ambers stated except for the part that Obanion's abut, that would go to them.

Joe Haney asked about the Kaecher side.

David Ambers asked which part it is.

*Joe Haney shows David Ambers the parcel in question.*

Joe Haney stated it would be the little corner right there.

David Ambers stated that would go to them under the statute.

Joe Haney stated it would be split in half.

David Ambers stated they are not doing a land grab. Each adjoining owner by statue would get their half that adjoins their property.

Joe Haney stated thank you.

Anthony Hendricks stated they are not vacating Poppy.

David Amber stated no.

Anthony Hendricks stated the people at the dead end of Hemlock could cycle back to Spruce along Poppy. He is concerned the Hemlock is a dead end; he has been down there.

David Ambers stated he is only vacating Hemlock between Poppy and Lilly.

Anthony Hendricks stated he isn't vacating Poppy.



David Ambers stated no, they are not vacating any portion of Poppy.

Anthony Hendricks stated he is just looking at it to cycle back through to Spruce which it really should for emergency purposes because the dead end there on Hemlock is very, very narrow. It is not the wisest thing to be. It's a long way from Emery down Hemlock to a dead end, but they're not locking them in; they can go down Poppy.

David Ambers stated no, not at all. Hemlock south of Lilly they aren't touching so that intersection will be clear because there are several homes south of there. He owns on both sides there where his driveway goes up to his home on Lilly and then there's the part that goes through the swamp.

Anthony Hendricks stated if they vacate this, everybody gets their half.

David Amber stated right, absolutely. He is not trying to land grab by any means.

No remonstrators present.

Earl Cunningham made a motion to approve the Petitioners Dale A. Elkins and Samantha D. Elkins represented by Dave Ambers to vacate unimproved Lilly Lane from North Hemlock Lane to North Walnut Lane Lots 4050, 4910, 4884, 4051-4055, 4511, 4612-4629 and North Spruce Lane from East Poppy Lane to East Lilly Lane Lots 4898-4910, 4911-4922 and North Hemlock from East Poppy Lane to East Lilly Lane Lots 4040-4050 and 3980-3989 located in New Carlisle, Hudson Twp. It is subject to all water and sewer easements present or pending.

John Carr seconded.

Anthony Hendricks stated for their new members and past members, it is his understanding and their attorney's understanding that if they pass this, it does not go to the Commissioners, it is done.

Attorney Biege stated that is correct because it is not improved.

Anthony Hendricks stated so once they pass it, they get it.

All approved. Motion carries 7-0.

### **Old Business:**

Anthony Hendricks stated Councilman Earl Cunningham brought up that they did not do approval of minutes from the old meeting. Is there a motion to approve the minutes as presented.

Ashley Kazmucha stated the minutes are not passed out. She just finished them today from the last meeting.

Earl Cunningham stated they have minutes from August 11<sup>th</sup>.

Ashley Kazmucha stated those minutes are from the Plat Meeting. The Plan Meeting minutes from November she just finished today. They will be in the next meeting packet. Her foot pedal got drenched.

Anthony Hendricks stated they will hold until February. For the public viewing audience, they are under quite duress right now. They are lucky they have a desk and a computer. Everyone knows.

### **New Business:**

Earl Cunningham stated it is worthy of discussion; they talked before the meeting and they can't find any attendance policy. He thinks they should come up with an attendance policy of some type or say that they are going to accept the Commissioners' policy or Council's policy or something. He thinks the State law is very clear that they locally develop their own policy.

Joe Haney stated that is correct. If they want any members to participate electronically, they would have to have a policy. If they don't, then they don't have to have a policy, but as it stands now without having a policy, they couldn't have any members attend virtually.

Earl Cunningham stated since the members to this Board are all appointed by some other agency, it would seem to them that they should include a paragraph that says if they miss X number of meetings via present or Zoom, that their appointing agency should be advised of that and to encourage better attendance. They have had some people that have not had good attendance and it seems to them that there has to be an appropriate way. They don't have the authority to throw Glen Minich off because he doesn't come to a meeting. He doesn't think he's ever missed one (1) in the time he has served with him, but using that as an example, they don't have that authority, but they certainly would have the authority to send a letter to the County Commissioners who appointed him and say he hasn't been at three (3) meeting in a row. Most places, that would get them thrown off the Board. He thinks it is something for thought between now and the next meeting and their attorney can maybe give them some advice. The Commissioners just took a stance at the last meeting.

Joe Haney stated they did. Since they are talking about it, would there be a pleasure of the Board to give some direction to the attorney to mirror some sort of policy or is there any preference from the Board here. The Commissioners policy right now is to allow one (1) virtual attendance per year. He doesn't know based upon everybody's schedule here if that would work. He seems to recall when he was on the Plan Commission a year ago, pretty much everybody showed up in person. He thinks he had to attend once virtually during that time. It would be whatever the pleasure of the Board would be to figure out if once per year is good or two (2). They have to make sure they meet the minimum standards put forth by the State, but it's whatever the pleasure of the Board would be.

Rita Beaty stated that's what they did before was always follow the State because they've had issues in previous years, but if it's not in the book, then they did follow the State.

Attorney Biege stated he will have to see what the State standards are. They had a problem for almost a year with attendance. What was that, two (2) years ago maybe?

Anthony Hendricks stated four (4) years.

Rita Beaty stated she is thinking a lot further back than that.

Attorney Biege stated it has happened a couple cycles and couple times. If they want to be more strict than the State they can. Let him find out what the State standard is and maybe somewhere between the Commissioners policy. They have a larger Board so his thought is maybe it would be a bit more lenient on Zoom attendance since they have more members. Commissioners only have three (3) and they have to get something done.

Joe Haney stated by State law they have to have at least half the body present physically which is of course two (2) out of three (3) Commissioners.

Attorney Biege stated they could afford to be a little bit more lenient than the Commissioners.

Joe Haney stated sure. It would be his recommendation to make a motion to accept the County Council's policy with the thought that if somebody needs to attend virtually at the next meeting, they will be able to since they will have a policy in place. He suggests the Council's policy because they are more lenient than the Commissioners. They can always come back and revisit that next month or the month after, but at least if one (1) of them can't attend next month, they would be able to attend virtually because without a policy in place prior to they wouldn't be able to meet electronically.

Earl Cunningham stated he would second that motion.

Anthony Hendricks stated for all the new members, they have two (2) different scenarios that their attorney is going to look into. One (1) is that they have a State statute about attendance and how many times they could not and then they would recommend the appointing authority come back and tell them to either attend or not. Then they have the covid attendance Zoom policy that they have to do something now or they can't have somebody attend by Zoom. So the motion on the floor is for the Zoom policy and then they will have the attorney look at both parts of that for next month.

Joe Haney stated the covid was repealed.

Anthony Hendricks stated the Zoom policy.

Joe Haney stated yes, just the electronic meeting policy. That's why he suggested the Council's since that's already been vetted. It is a placeholder at least until the Board figures out what it wants to do.

Anthony Hendricks stated they will have a policy in place.

All approved. Motion carries 7-0.

John Carr asked how many members are on the Plan Commission.

Anthony Hendricks stated nine (9).

John Carr stated there's also one (1) alternate.

Anthony Hendricks stated he believes the law allows the Commissioner and the Surveyor to appoint an alternate.

Doug Biege stated the alternate would only attend in the event that someone had a conflict of interest and the are conflicted out, not if somebody doesn't attend.

Anthony Hendricks stated it's very confusing; the law let's the Commissioner and elected officials have alternates. The Council maybe.

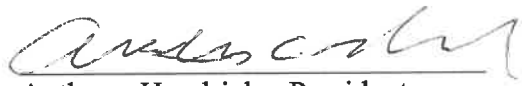
Attorney Biege stated he would have to look to see who can appoint.

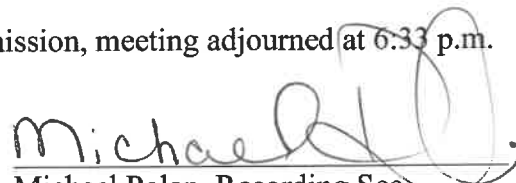
Anthony Hendricks stated they came up with that because they had a conflict and they didn't want to leave an empty board.

Attorney Biege stated right, but there has been misnomer in the past where Plan Commission members thought the alternate could sit in when someone just didn't show up. That's not the case. It's only when there is a conflict. He will double check on who can appoint though. He doesn't know off the top of his head.

Anthony Hendricks stated he doesn't know if anything has changed either.

There being no further business before the Plan Commission, meeting adjourned at 6:33 p.m.

  
Anthony Hendricks, President

  
Michael Polan, Recording Sec.