

PLYMOUTH PLAN COMMISSION

April 2, 2024

The Plymouth Plan Commission met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on April 2, 2024, at 7:00 p.m.

Commission President Doug Feece called the meeting to order for Commissioners Alex Eads, Mark Gidley, Randy Longanecker, Shiloh Carothers Milner, Beth Pinkerton, Angela Rupchock-Schafer, Linda Secor, Dan Sellers, and Paul Wendel answering roll call whom were physically present. Commissioner Fred Webster was absent. Others present were Building Commissioner Dennis Manuwal Jr., Clerk-Treasurer Gorski, City Attorney Jeff Houin, and Plan Consultant Ralph Booker. The public was able to see and hear the meeting through Microsoft Teams.

Commissioners Eads and Gidley moved and seconded to approve the minutes of last regular meeting of February 6, 2024. The motion carried.

Clerk-Treasurer Gorski Administered the Oath of Office to Randy Longanecker.

The following legal notice was advertised in the Pilot Newspaper on March 21, 2024:

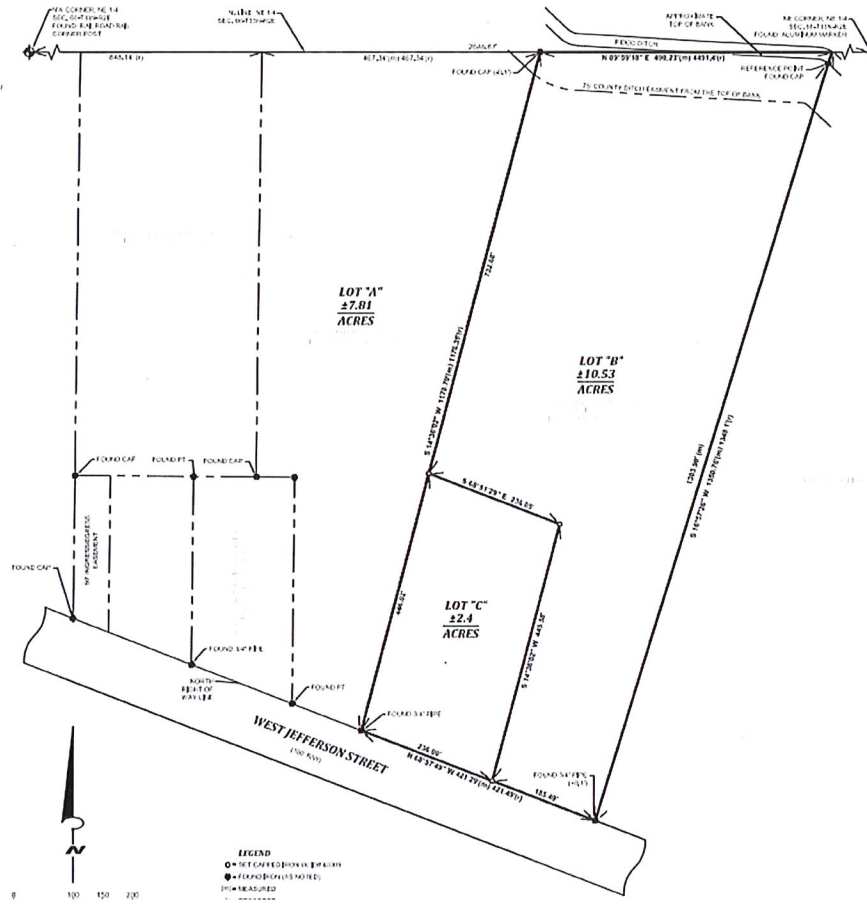
<p align="center">116 Legals</p>	<p align="center">116 Legals</p>	<p align="center">116 Legals</p>	<p align="center">116 Legals</p>
<p>NOTICE OF PUBLIC HEARING The Plan Commission of the City of Plymouth, Indiana will hold a hearing on April 2, 2024 at 7:00 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters: PC 2024-02: James and Sarah Stone, 2280 W. Jefferson St., Plymouth, IN 46563: A two (2) lot Subdivision, a replat creat-</p>	<p>ing a 2.4-acre lot separating an existing home from a 12.94-acre lot on parcel 50-32-06-201-217.006-019, located at 2280 W. Jefferson Street, Plymouth, IN 46563, zoned I Industrial District. PC 2024-03: Daniel Sharp, 1891 Pioneer Dr., Plymouth, IN 46563: A replat of Lot 15 in the replat of 13 in VanVactor Farms PUD Phase III and replat of Lot 5 in VanVactor Farms Phase IV</p>	<p>on parcels, filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary. PC 2024-04: Edwin and Jane Yochum, 11829 Maple Rd., Plymouth, IN 46563: A minor subdivision to separate the home onto a 3.42-acre parcel and leaving the remaining 7.79-acre parcel to cropland on parcel</p>	<p>50-32-16-000-016.000-018, located at 11829 Maple Rd, Plymouth, IN 46563, zoned R-1, Rural Residential District Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN and telephone #574-936-2124. Written objections to the proposal If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948. Kyle Williams, Recording Secretary, Plan Commission, March 21, 2024 March 21, 2024 P14354989 hspaxp</p>

PC 2024-02: James and Sarah Stone, 2280 W. Jefferson St., Plymouth, IN 46563: A two (2) lot Subdivision, a replat creating a 2.4-acre lot separating an existing home from a 12.94-acre lot on parcel 50-32-06-201-217.006-019, located at 2280 W. Jefferson Street, Plymouth, IN 46563, zoned I Industrial District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant.

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Bernie Feeny (1405 N. Michigan Street, Plymouth, IN 46563)

Feeny states he is with Wightman Associates and they have prepared the plat this evening. He states this is the third plat they have seen enacted upon in the last six months. He states the Stone's had originally acquired the property next to them and started recombining the property. He states they sold and disposed of the property to the west and then they had a buyer for their home. He states the process they are going through here is to accommodate the sale of their current residence on West Jefferson Street. He explains this will put 2.4 acres with the existing house and outbuildings shown. He states the remainder of the property for 10.53 acres will remain with the Stone's for the current time with the eventuality of it being sold rather shortly.

Gidley asks if there is a drive to the outbuilding that comes off from the new piece. He states that for the building clear in the back that the drive is accessible from the new lot. He asks if Stone will have to change how they get to that outbuilding.

Feeny responds by stating there are two methods for that. He states the first is they could write an easement.

Gidley asks if that will come into play when they sell the bigger lot.

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Feeney responds by stating the possibility would be that the Stone's may want to set the driveway up on this piece of property. He states there is plenty of room there.

Wendel asks if he will be in front of us again for the same piece of property.

Feeney responds by stating he does not believe he will but it is a possibility. He explains they are trying to accommodate to the wishes of the buyer.

Commissioners Eads and Wendel moved and seconded to open the public hearing. The motion carried.

There were no comments at this time.

Commissioners Wendel and Rupchock-Schafer moved and seconded to close the public hearing. The motion carried.

Commissioners Gidley and Rupchock-Schafer moved and seconded to approve PC 2024-02 as presented. The motion passed by roll call vote.

In Favor: Eads, Gidley, Longanecker, Milner, Pinkerton, Rupchock-Schafer, Secor, Sellers, Wendel, and Feece

Opposed: None

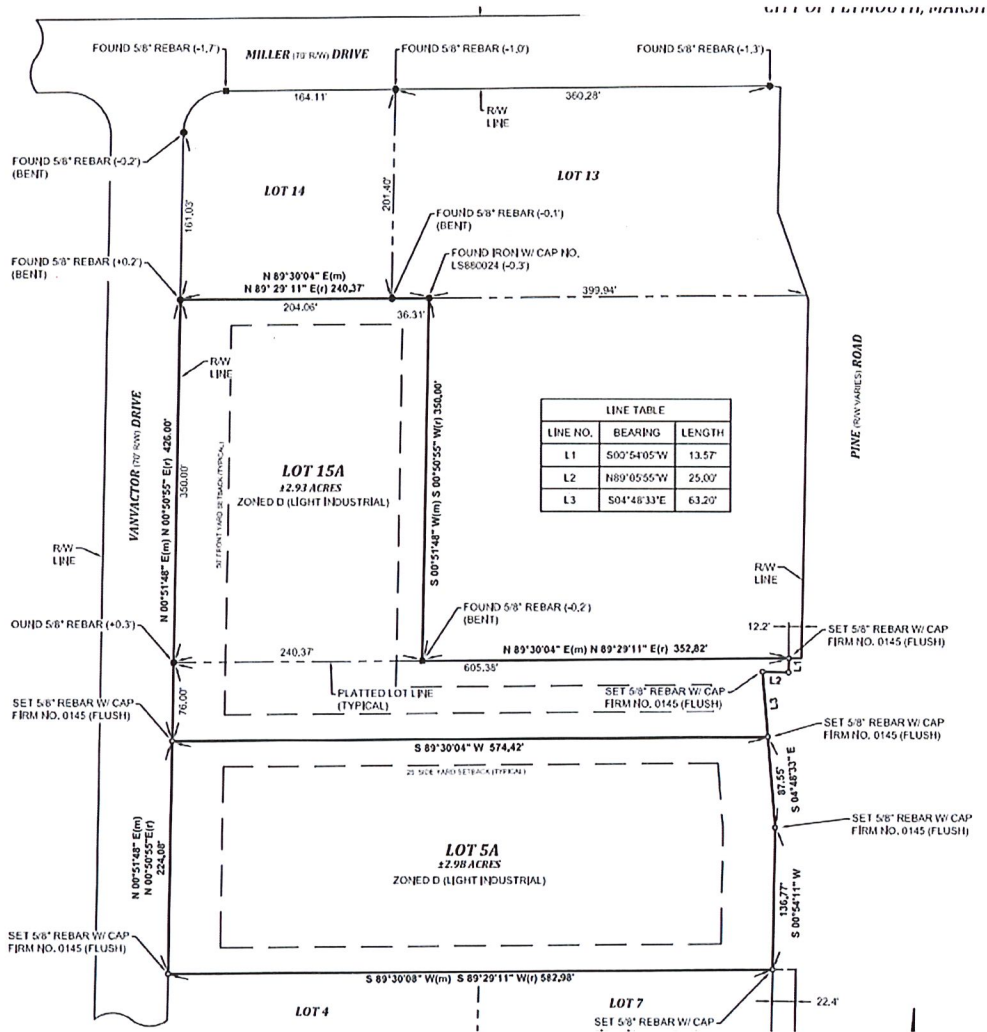
Absent: Webster

PC 2024-03: Daniel Sharp, 1891 Pioneer Dr., Plymouth, IN 46563: A replat of Lot 15 in the replat of 13 in VanVactor Farms PUD Phase III and replat of Lot 5 in VanVactor Farms Phase IV on parcels, 50-41-36-000-024.003-020 and 50-41-36-000-008.000-020 located at 1891 Pioneer Drive, Plymouth, IN 46563, zoned Corridor Commercial and Industrial District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant.

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Bernie Feeny (1405 N. Michigan Street, Plymouth, IN 46563)

Feeny states Dan Sharp purchased Lot 15 and Lot 5 in the VanVactor Farms Subdivision PUD. He states when he purchased those lots he knew the trucking company that sits on developed piece of property to the north and west of the pieces that he purchased. He states the trucking company had been using the property that Sharp had purchased to the rear of the existing trucking company to store some of their vans and truck bodies. He states an agreement was reached and Sharp agreed to sell them an additional acre of land on the south side of their property and Lot 15. He states in order to make it one piece of property and an easy transfer that they surveyed the acre and attached it to Lot 15. He states we have called it Lot 15A and that will make it much easier to transfer when it comes time for the deed.

Booker states because of the width of the 1-acre southern section of Lot 15A that they will not be able to put any structures without a variance.

Sellers states his understanding was that the trucking company owns the west part. He states Sharp owns the south part.

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Feeney responds by stating that may be but they are putting the two together. He states that would be the one acre that Sharp is selling along with Lot 15A. He states Sharp will retain what we show as 5A. He explains it is still perfectly buildable as it is 2.98 acres and the setbacks are shown on the plat and will be recorded along with the plat.

Commissioners Pinkerton and Wendel moved and seconded to open the public hearing. The motion carried.

There were no comments at this time.

Commissioners Wendel and Rupchock-Schafer moved and seconded to close the public hearing. The motion carried.

Commissioners Wendel and Longanecker moved and seconded to approve PC 2024-03 as presented. The motion passed by roll call vote.

In Favor: Eads, Gidley, Longanecker, Milner, Pinkerton, Rupchock-Schafer, Secor, Sellers, Wendel, and Feece

Opposed: None

Absent: Webster

PC 2024-04: Edwin and Jane Yochum, 11829 Maple Rd., Plymouth, IN 46563: A minor subdivision to separate the home onto a 3.42-acre parcel and leaving the remaining 7.79-acre parcel to cropland on parcel 50-32-16-000-016.000-018, located at 11829 Maple Rd, Plymouth, IN 46563, zoned R-1, Rural Residential District.

Plan Consultant Booker states he had received a call today that explained the applicant would want to table this for 30 days.

Commissioners Longanecker and Rupchock-Schafer moved and seconded to table PC 2024-04 as presented. The motion passed by roll call vote.

In Favor: Eads, Gidley, Longanecker, Milner, Pinkerton, Rupchock-Schafer, Secor, Sellers, Wendel, and Feece

Opposed: None

Absent: Webster

Other Business:

Houin states the Plan Commission and City Council both approved the new Plymouth Forward 2040 Comprehensive Plan at the end of 2023. He states one of the recommendations of the plan was to form an advisory body that would continue the work on the identified strategies of the plan and move it forward. He explains that they have formed that committee and last month the city council officially adopted a resolution to establish the Plymouth Comprehensive Plan Advisory Committee. He explains the structure has four standing members who are the City Attorney as the Chairperson, the City Plan Consultant or Plan Director, a City Council appointment, and it asks the Plan Commission to appoint one of their members. He states after his update he will ask them to consider who among them they would like to appoint to that committee. He states the way the committee operates is without

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authority. He explains it is simply an advisory committee that meets through subcommittees to work on the strategies and goals identified in the Comprehensive Plan and to make recommendations to both the Plan Commission, City Council, and any other bodies that may be authorized to act. He states in addition to those four standing members, membership on the committee is open to anyone who is interested and willing to participate. He states the committee has been currently meeting once a month on the fourth Thursday of the month but anticipate in the near future the full committee will move to a quarterly meeting schedule. He states the reason for that is subcommittees are formed to handle the actual work and those subcommittees will either be standing, if their work is ongoing, but some may come and go as needed. He states the current committees formed include a marketing committee, which he anticipates will be a permanent subcommittee that works on both informing and involving the public. He states a membership subcommittee is anticipated to be ongoing, that is tasked with identifying other potential members of the committees to ensure we are involving the most diverse representation of the city as possible. He states there is also a subcommittee working on reviewing the zoning ordinance to identify potential changes and updates to the zoning ordinance. He states there is a separate subcommittee working on a building trades program, which Building Commissioner Manuwal co-chairs with Allie Shook at the Lifelong Learning Network to buildout the program already established to connect the building trades vocational classes with residents looking to do upgrades/renovations to properties in the city. He states the last subcommittee is tasked with looking at revisions to the city's current façade grant program to make it more efficient and have a better outcome to property owners in the city who would like to utilize that. He states it is very possible that the subcommittee may finish that work and present their proposal to the city council, the city council would adopt a new program, and then that subcommittee can be eliminated and move onto another one. He explains as they identify other strategies that they want to work on or are appropriate to work on that they can work on other subcommittees as needed.

Gidley asks what the timeframe is when those meetings occur.

Houin responds by stating each subcommittee will be at different times. He states the full committee has been meeting on the fourth Thursday of every month at 3:30 PM in the Council Chambers. He states they have kept that schedule because that is what the Steering Committee had when drafting the plan.

Rupchock-Shafer asks if there is a possibility that it could move times or meet less frequently.

Houin responds by stating he does not believe they have discussed changing the time of the meeting but the frequency would probably reduce.

Gidley states he went to the zoning subcommittee to watch as he has been on the Board of Zoning Appeals (BZA) for so long. He explains as they were talking, he would chime in on where we have been over the years so he sees himself more as a historic resource to them as he does not intend to vote when they vote. He believes it is great they have this Comprehensive Plan and they are actually coming up with a method to implement the plan but honestly, he is 68 years old and the plan is for 2040. He comments about his uncertainty if he will make it to 2040. He states when he looks at all of us, he sees how many work for a living and then the rest of us are older. He states we need someone younger and asks if a representative has to come from the Plan Commission.

Houin responds by stating that is the way it is set up currently but it does not have to necessarily. He explains you could appoint someone to represent the Plan Commission who is not a member.

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Booker comments that you could choose to appoint someone for one year. He states you do not have to be here until 2040.

Houin states the reason they included a Plan Commission member as a member of the standing committee is because it is their plan, as they had to approve the Comprehensive Plan before it even came to the City Council. He explains that many of the strategies involve action by the Plan Commission so they believe it is important to have their input and perspective. He states if they want to wait and discuss this or consider someone else to represent them.

Commissioners Gidley and Milner moved and seconded to appoint Angela Rupchock-Schafer to serve as the acting member from the Plan Commission on the Comprehensive Plan Advisory Committee. The motion carried with Rupchock-Schafer abstaining.

Houin introduces Ty Adley who is the Marshall County Plan Director. He explains he is also an educator for planning officials and he is also serving on the Comprehensive Plan Advisory Committee. He states in the course of those discussions, we thought it would be appropriate for him to come and give a presentation about Planning Commissions. He states this would include what your purpose is, roles and responsibilities, and allow you to determine if there is other specific and detailed training that you would like to have.

Adley provided an introduction and gave a presentation on the basics of the Plan Commission which list the responsibilities, meetings and hearings, and proper decision making. After the basics were discussed in depth, common pitfalls were addressed and a Citizen Planners Guide was provided to each member present at the Plan Commission meeting.

Ty Adley, AICP

- Marshall County Plan Commission
- Plan Director
- APA-IN PODO
 - Planning Officials Development Officer

Education

- BUPD & MURP

Work History

- Berkeley County, SC
- Madison County Council of Governments
- Ball State University Urban Planning Department
- City of Fishers

Plan Commission Basics



Responsibility

Comprehensive Plan
Zoning Ordinance
Subdivision Ordinance
Ordinance Recommendations
Map Amendment
Recommendations
Subdivision Review
Review of Development Plans



Meetings and Hearings

All Plan Commission meetings are public meetings*

Public hearings are for certain cases to receive public comment on

Hearings are included on; adopting or amending the comprehensive plan, adopting or amending zoning ordinance text, amending the zoning map and subdivision of land.



Decision Making

Issues will often be complicated

Peer Pressure

Public Pressure

Comprehensive Plan as a Guiding Document

Developer & Business Pressure

Political Pressure

Desire for Compromise

Outside Influences (Ex Parte Communication)

Pitfalls

- Ways to avoid common pitfalls;
 - Prepare for the Public Hearing
 - Follow Due Process
 - Manage the Meeting
 - Make a Good, Clear Motion
 - Avoid Emotions
 - Beware of Takings
 - General defined as “seizure of private property or substantial deprivation of the right to its free use or enjoyment as a result of government action...”
 - Beware of Variances
 - Keep Good Records

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Citizen Planners Guide

1. Plan Commission Basics
2. BZA Basics
3. Avoiding Pitfalls
4. Communications
5. Rules of Procedure
6. Ethics
7. Comprehensive Plan
8. Zoning Ordinance
9. Subdivision Control Ordinance
10. Site/Development Plan Review
11. Economic Development
12. Planning for Public Health
13. Water Resources

During the discussion of “Beware of Takings,” the question was brought about by Gidley if takings strictly referred to eminent domain. He states he does not believe the Plan Commission has ever had to resort to eminent domain.

Houin responds by stating the legal definition of that is a lot longer. He states it refers to seizure of property or deprivation of use of a property without just compensation. He explains in something like eminent domain, there is a process that has to be followed that ensures that it is first of all necessary and that the owner is appropriately compensated for it. He states what you have to beware of with taking is any sort of seizure or deprivation where the owner is not compensated or that it does not follow the required legal process.

Gidley asks as an example when the County needed frontage to redo some bridges that those were takings but they were compensated for those takings.

Houin responds by stating by the legal definition, those were not a taking but rather an acquisition. He states they had acquired those properties through a purchase.

Gidley states those people were compensated but they were not happy.

Houin responds by stating they often are not.

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Gidley asks at what point it becomes a taking.

Houin responds by stating it becomes a taking if they are not compensated. He states if the County came in and said it was their property now and told them to leave that it would be a taking. He states with the County buying property for bridges that it becomes a pretty clear case. He explains where it becomes less clear and you need to be more observant where something denies an owner the use of their property. He provides the example if some development blocks off driveway access and now the owner that has a commercial business can no longer get in or out of their property. He states those are the takings where it is not depriving them of ownership of the property but it does not do them any good of owning their property if they cannot use it anymore.

Gidley asks in the circumstance where they receive their packet and there is a complicated case where the City Attorney cannot attend that meeting, should there even be a decision made without legal counsel representing us.

Houin responds by stating ultimately that it is a judgement call. He states if you feel you are not comfortable in making a decision then you always have an option of tabling an action. He explains the purpose of tabling an action is to take more time to gather more information or ask questions for clarification before you make a decision.

Booker comments that there are plenty of Plan Commissions that do not have their attorney present. He states at times when there was a complicated case that he would often invite the attorney to come. He states in tonight's set of cases, he would not have an attorney here. He explains there are plenty of counties that cannot afford to have attorney's present.

Houin states he had represented private clients in front of the County Plan Commission in the past where a question came up where they tabled the motion until they were able to speak with their attorney.

Gidley states he saw some reference to State Law and asks if you could write locally write a law that is tougher than a State Law that already covers that topic.

Adley responds by stating Indiana is a home rule state so the majority of the laws are allowed to be created through the zoning ordinance that can be stronger. He states there can be rules from the State that you cannot exceed. He states there are a few where they have put a cap on what your extension of the law can be.

Adley comments during the "Keep Good Records" part of the discussion, that if your records are unbecoming then that is going to make the administration portion from a staff perspective unbelievably complicated that they won't be able to reference what was approved and what was not approved. He states for the enforcement of what was approved it is good to make a clear motion. He explains everyone may have the same recollection but if it never came through the motion into the minutes portion in not enough detail, that you will be missing out. He states it is good when approving the minutes that there is enough detail in there that 10 years from now, when none of the original board is sitting there, that someone can make reference that it was never part of that conversation.

Booker comments from his understanding that the only thing we can enforce is what is in the motion. He expresses that you cannot enforce the discussion if the discussion is not in the motion. He states in

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cases where it is relevant, it is important to list hours of operation, number of employees, etc. He states exactly what you want decided needs to be in the motion. He states there are some seminars around the State that you can attend for additional training. He states the reason he does not push them enough is because we do not have the funding as some have a registration fee.

Pinkerton asks if we are so responsible for all that is going on and we are the first committee that receives this, along with the Board of Zoning Appeals (BZA), then why are neither of these committees compensated in any way.

Booker comments that this discussion has happened before as the County is compensated. He believes the rationale has been that the County has to travel further than the City so they receive compensation for travel. He asks Adley if it is still \$50 per meeting.

Adley responds by stating it has gone up to \$75 per meeting.

Pinkerton states she understands as she volunteers for several boards but she has always wondered the reasoning if we are so important.

Gidley asks if a BZA is a quasi-judicial body. Adley agrees. Gidley asks what a Plan Commission is and what the difference is.

Adley responds by stating that a quasi-judicial body is essentially a local court as it is the first step into circuit court. He states a Plan Commission is a recommending body.

Houin states the biggest way is the difference the information is presented to you for the decisions you make. He states the decisions you make tonight are an exception as most of your role is to create the plans. He lists the Comprehensive Plan, Zoning Ordinance, etc. He states you set up the plans while the BZA makes decisions that can contradict that plan. He states they do that based upon the evidence presented to them before and against in the same way that a court hears arguments from both sides and will make a decision based upon the evidence that is presented. He states that is why it is quasi-judicial as it follows a similar procedure to a judicial proceeding and makes a binding decision based upon that evidence. He states it is not as quasi-judicial as it is not truly bound by the full rules of evidence applied in a court and it is appealable to a court.

Booker states the BZA is supposed to base their hearings upon the findings of fact that are presented in the meeting.

Houin states another distinction that Booker is getting at is that it may not be appropriate for you to have a conversation before the meeting with the applicant or other people but there is no prohibition against it. He states it is not that you are not allowed to but rather if you feel if it is appropriate. He states there are actual legal restrictions against communicating with BZA members before a certain time period before the meeting.

Gidley asks if someone comes to them and asks how to do something, if it is wrong to explain how to approach the system.

Houin responds by stating the restriction would be on information intended to influence your decision upon a particular case. He states the BZA is required to make their decisions based on the information

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presented during the hearing and not based on a conversation you had with someone before the hearing.

Adley comments that it would be the same thing if you were discussing with Houin about your case or one for a friend on how the outcome would be. He states from your perspective on the Plan Commission, you can have basic conversations that explain a particular case is coming before them. He states you can explain how the case works and provide a time for the meeting. He states if you were to predetermine with someone from an outside influence on a given project that it would land you in hot water. He suggests keeping it simple.

Houin provides the example of a person coming to you and asks adding onto their garage and they ask if they need a variance to do that. He states you may answer that based upon your knowledge. He explains if someone has already filed that variance request and asks if they can talk to you about your variance request so we can have an understanding on what they want to do then at that point no. He states that discussion should not occur until the actual hearing.

Booker states if you do have some interest or financial interest in a case then you are supposed to excuse yourself from that particular case. He explains that is why we do have some alternates that are supposed to come in at times.

Feece asks if a Plan Director is allowed to provide their opinion on whether they believe something should be approved or declined.

Adley responds by stating that is proper. He states a staff report is a given report from a professional that is hired by the Plan Commission or the local elected official to run the administrative portion of it and go through with a fine-tooth comb against what Indiana Code has laid out and give a recommendation based upon their perception.

Feece states he does not always go along with his recommendation but he has lived long enough to go through quite a few Plan Directors and they have all done that. He states at times it felt wrong so that is why he wanted to ask the question.

With there being no other business to come before the Commission, Commissioners Wendel and Rupchock-Schafer moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:22 p.m.



Kyle Williams, Recording Secretary