



Dearborn County Plan Commission

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www.dearborncounty.org/planning

PLAN COMMISSION AGENDA

Monday, October 24, 2022

7:00 P.M.

***Location:** *Henry Dearborn Meeting Room; Dearborn County Government Center*

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. ACTION ON MINUTES—May 31, 2022, June 27, 2022, September 26, 2022

D. OLD BUSINESS – NONE TO BE RE-OPENED

E. NEW BUSINESS –

- 1. The Technical Review Committee's approval of a Primary Plat for a Minor Subdivision that involves 5 lots, called Brand Minor Subdivision, is being appealed by adjoining property owners, therefore must be heard by the Dearborn County Plan Commission.**

- Applicants: Seig Surveying
- Owner: Jeff and Lisa Brand
- Site Location: 23186 Weisburg Road, Sec. 1, T 7, R 3
Parcel #15-04-01-700-085.000-009 & #15-04-01-200-070.003-009
- Township: Jackson
- Zoning: Agriculture (A)
- Size: 22.57 acres

F. ADMINISTRATIVE

- Review and discuss Affidavit for the previously approved (Moores Hill) Section 2 of West Miller Addition
- Review and discuss proposed ordinance amendments and updates to the Dearborn County Zoning Ordinance, specifically with respect to the draft Zoning Map alternatives and the draft text(s) of: *Articles 9 and 10, regarding Agricultural and Residential Zoning Districts; Article 25, regarding General Standards; Article 27, regarding Definitions*

DEARBORN COUNTY PLAN COMMISSION MEETING

October 24, 2022

7:00 PM

Andrew Baudendistel's reading of the Voluntary Title VI Public Involvement Survey - *As a recipient of federal funds, and in support of Dearborn County's efforts to ensure nondiscrimination and equal access to all citizens, the County gathers statistical data regarding participants in county activities. Therefore, we have provided a Voluntary Title VI public Involvement Survey at this meeting. You are not required to complete this survey. However, the form is anonymous and will be used solely for the purpose of monitoring our compliance with Title VI and ADA*

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

MEMBERS PRESENT:

Dennis Kraus Jr—President
Mark Lehmann—Vice President
Jake Hoog
Jim Thatcher
Russell Beiersdorfer
Joe Vogel
Dan Lansing
Jeff Hermes

Nicole Daily - Planning Director, Secretary
Andrew Baudendistel - Attorney

MEMBERS ABSENT—

Eric Lang

C. ACTION ON MINUTES—May 31, 2022, June 27, 2022 and September 26, 2022

Mr. Beiersdorfer made a motion to approve the May 31, 2022 meeting minutes as written. Mr. Lehmann seconded the motion to approve. All in favor. None opposed. Motion carried.

Mr. Lehmann made a motion to approve the June 27, 2022 meeting minutes as written. Mr. Hoog seconded the motion to approve. All in favor. None opposed. Motion carried.

Mr. Beiersdorfer made a motion to approve the September 26, 2022 meeting minutes as written. Mr. Hermes seconded the motion to approve. All in favor. None opposed. Motion carried.

D. OLD BUSINESS – NONE

E. NEW BUSINESS –

1. Request: The Technical Review Committee's approval of a Primary Plat for a Minor Subdivision that involves 5 lots, called Brand Minor Subdivision, is being appealed by adjoining property owners, therefore must be heard by the Dearborn County Plan Commission
Applicant: Seig Surveying
Owner: Jeff and Lisa Brand
Site Location: 23186 Weisburg Road
Parcel# 15-04-01-700-085.000-009 & #15-04-01-200-070.003-009
Legal: Section 12, Township 7, Range 1
Township: Jackson
Zoning: Agriculture (A) Size: 22.57 acres

Mr. Baudendistal addresses the Board in reference to the County Subdivision Control Ordinance, State Codes and the Zoning Ordinance as it relates to adjoiners ability to appeal the Technical Review Committee's decision of approval of the Minor Subdivision. The Plan Commission regulates and rules on matters of the County Subdivision Control Ordinance, not the Zoning Ordinance. Therefore, any items that were brought up during the Technical Review Committee meeting related to the Zoning Ordinance, as in this matter the driveway locations, can not be determined or heard by the Plan Commission. If the Minor Subdivision meets the Subdivision Control Ordinance, the Plan Commission cannot deny the subdivision plat nor accept the appeals by the adjoiners.

Ms. Daily addressed the Board and asked if they wanted her to go through the presentation or if they wanted to discuss with her and Andy the reasons for this meeting or questions regarding the Subdivision Control Ordinance. Ms. Daily went through the Minor Subdivision process with the Board and for the public.

Mr. Lehmann asked since the Brand Subdivision doesn't have a public road it doesn't meet the standards of a major subdivision.

Ms. Daily explained that a minor subdivision is 7 and a remainder lots or less but greater than 2 new building lots and would not have a proposed public road.

Mr. Lehmann asked if Lot 3 is considered a panhandle lot.

Ms. Daily stated no it would not be considered a panhandle as it meets road frontage and goes back over 150 feet off the road.

Mrs. Allison Kanue asked from the public about what storage facility is on lot 3.

Ms. Daily explained that the old house was turned into an accessory structure and had to remove the plumbing from the house and abandon the septic system through the Health Department.

Mr. Rob Seig, Seig Surveying, representing the property owners, addressed the Board. He explained that the subdivision meets all the requirements of the subdivision code, septic sites have been approved from health department, utility companies have approved future utilities. It all meets code. The lots are similar in size to neighboring size, this is a family division.

Mr. Lehmann makes a motion to open public discussion. Mr. Beiersdorfer seconds the motion. All approve. None opposed. Motion carries.

Mr. Matt Berne, 12334 Harrington Road, is an adjoining property owner. (Ms. Daily handed out pamphlets Mr. Berne brought in for the Board members). His first question is related to the requirements, as it sounds like all the requirements are met and the Plan Commission doesn't have the authority to stop this subdivision. But he would like to point out some technical issues of the subdivision. He stated Ms. Daily mentioned the 30-foot panhandles, but it appears that they are actually 25 feet on the plat.

Mr. Kraus stated that they are 30 feet in width each.

Ms. Daily asked Mr. Berne if he was looking at the easement and not the panhandles.

Mr. Berne asked that the plan he received says 25 feet.

Mr. Kraus stated that was the distance of the half right-of-way of Weisburg Road measurements.

Mr. Berne continued if this is a division made for the family to have the kids living next to them. Then why did they abandon the house next to them. I don't think that's a reasonable argument. The other issue, the house that was abandoned was just recently lived in. It is news to me, since the house was occupied in 2021. Can the health department verify that isn't a residence? The real technical issue is lot 5, it is so small. I measured on Beacon, it is so flat, septic is going to be a real problem. I spoke with an installer, the installer said it is too flat to meet requirements, since there is minimal slope and a perimeter drain has to be 3 feet which would create an issue. The board of health stated he was concerned about how flat the lot is, and would require a mound system. A mound system size will be a raised mound system, a minimum height of 3 feet tall, or taller. My fear is each department looks at their own thing, now there is a 3-foot-tall mound on a 90-degree corner. This is going to be a big problem. Lot 4 is getting an easement to lot 5, because they don't know where lot 4's septic system is. Technical issue is the property owners are not correct, they have myself and my sister on our parents' property.

Mr. Dan Agapie, 23742 Weisburg Road, a concerned citizen that lives more than a mile away near the railroad crossing. He stated that his concern is the traffic on Weisberg Road. The semi-trucks coming through, the subdivision. Or is this just a family separating to the kids. He has been out there 40 years; we watched the houses go up on the other side of the property. I moved out there for privacy. I am concerned about the increased traffic, and the water runoff, and the bridge washing out again. I would just like something done about the traffic. Safety to the kids out there.

Mr. Greg Agapie, he doesn't live on the road but his family does. He lives on Van Wedding. Traffic has been directed down the road; I am just concerned about increased traffic. Our roads don't get taken care of; we can't get anything done with the road. Speed limit is 35 and people are doing a lot faster than 35. I don't want people by me. When it rains the road floods, with more homes it will flood the road more.

Mr. Randy Metzner, 23294 Weisburg Road, who has lived here for 20 years now and I have owned property that ad joins the property. I have a complaint about drainage. It pops up in the heavy rain, run off from the North and South side. There are 3 or 4 streams leave my property between lot 1 and lot 2. A driveway on the back of those lots, I will get water flooding my property. Do you have an ordinance about that?

Mr. Kraus stated that we don't have a flood ordinance for minor subdivisions or flooding issues outside the floodplains. We don't have drainage ordinances for smaller subdivision. If a driveway was built back there, the only recourse you will have been a civil suit.

Mr. Metzner continued, we get a bunch of drainage complaints; I don't have enforcement powers on driveways and culverts. The county has a storm water coordinator, but she doesn't have enforcement powers. So, I don't have anyone to talk to when my property gets flooded. His other concern is traffic.

Ms. Alison Knue, 12347 West County Line Road, doesn't live on Weisburg Road, but her parents and brother live there. She implored the Board to make sure the technical issues are met. The drainage and septic issues that Lot 5 are going to bring to the area.

Mr. Tim Agapie, 23476 Weisberg Road. We just want all the technical aspects met. The traffic on the road is bad, there will be construction there we know it. This neighborhood is a community of families. I just want all the technical issues fixed; the pan handles can't be used because of how the land lays.

Mr. Ronald Papner, 12319 Harrington Road. My concern is the drainage and the run off. My property is to the South of lot 5, we have drainage issues already. The county put in a culvert that runs backward into my property. The ditch has been filled in from building a pond and a pool, and now the water backflows onto my property. This drainage issue is only going to get worse. So, any water from that subdivision will now end up in my field. Lot 5 water flows back and floods my property. Now we are going to have a house, roof, driveway. Even more water.

Mr. Dean Kiner, 23082 Weisburg Road. Regards to what Mr. Papner said, the culvert was in there and changed a year ago in November. That culvert always drained to the South. Mr. Grieve came out, I spent a lot of money to cut the ditch. Jeremy Stenger, opened the ditch and cut the ditch. Marty Hon, tapered it all. If the ditch was naturally cut, the water would flow to the Brands. My concern is the runoff water. Especially where there is a septic site possibly would be. Water comes across the road from all the neighbors, I have spent thousands of dollars to get drainage. After a lot of visits and calls, I got a culvert put in. If a home goes in lot 5, that water will return back after all these years. I just got my FFL license; people don't like guns. I repair guns, I can see where me shooting guns will be a concern. I don't want to lose my license. I am just concerned with the water.

Mr. Tim Agapie addressed the Board again. Are there any technicalities that will stop this subdivision.

Mr. Kraus stated that the Board can not deny the subdivision as it is following all of the necessary Subdivision Control Regulations.

Mr. Tim Agapie asked about the drainage issues and to have these issues checked prior to the approval of this subdivision.

Mr. Kraus stated we don't have a leg to stand on over drainage. We don't have specific guidelines to look at on a minor subdivision for drainage ordinances.

Mr. Beiersdorfer made a motion to close public discussion. Mr. Lehmann seconds the motion. All approve. None opposed. Motion carries.

Mr. Lehmann asked Mr. Seig which lots does the easement feed.

Mr. Seig stated that it will be used to access and utilities for lots 1, 2, and 3.

Mr. Lehmann asked if there will only be one new driveway along Weisburg Road.

Mr. Seig stated that is correct.

Mr. Lehmann stated that he doesn't see anything in the review or the review of the Technical Review Committee that would give the Board any room to deny this request.

Mr. Beiersdorfer stated that he understands the neighbor's issues and concerns but he can't deny the subdivision as it follows the ordinance.

Mr. Lehmann made a motion to approve the Brand Minor Subdivision Primary Plat with 5 lots, at the location of 23186 Weisburg Road in Jackson Township based on the subdivision meeting all necessary ordinances in the Dearborn County Subdivision Control Ordinances. Mr. Beiersdorfer seconded the motion. All in favor. None opposed. Motion carried.

F. ADMINISTRATIVE

Review and discuss Affidavit for the previously approved (Moores Hill) Section 2 of West Miller Addition

Ms. Daily presented the history of the subdivision. The original subdivision plat for West Miller Addition (including 13 lots) was recorded in 2000. There was a subsequent Replat to add easements to the subdivision in 2002. Then in 2007 a different surveyor did a Replat of Lot 1, dividing the original lot 1 into 3 lots, but the surveyor had the Town of Moores Hill sign off on the plat. This property is located in the County and still remains in the County. When it was determined there was an error of the last Replat, an affidavit was recorded in 2009 which stated that the plat should not be relied on for the purposes of seeking transfer of real estate.

The proper procedure for an increase in lots would have been an application to the Plan Commission for review of increasing the density. The other issue with the Replat of Lot 1 is one of the lots is under 1 acre and therefore deemed non-buildable, as the subdivision is served by septic systems. There is no public sanitary within this subdivision at this time.

Lot 14 (on the Replat of Lot 1) was transferred without the problem being noticed, but now the family of the original developer are trying to sell the last two lots (Lot 15 and 16). A meeting was conducted Plan Commission Meeting—October 24, 2022

with Planning and Zoning, Auditor's Office, Recorder's Office, Surveyor's Office and the County Attorney to determine the proper process to correct the original error of the plat signed by the Town or Moores Hill. The decision was made to create an affidavit to correct the error, but in doing so would need the approval of the Plan Commission.

The Board has no further discussions on this subdivision.

Mr. Beiersdorfer made a motion to sign the affidavit to fix the recorded plat issues related to the West Miller Addition Subdivision. Mr. Lehmann seconded the motion. All approved. None opposed. Motion carried.

Continued onto the Zoning Maps

Ms. Daily presents the Sparta Township zone map change. The only notable changes were around Moores Hill.

There were no comments or further discussion on Sparta Township proposed zone map changes.

Ms. Daily presented the Hogan Township zone map changes.

There were no comments or further discussion on Hogan Township proposed zone map changes.

Ms. Daily presented the Center Township zone map changes. The notable changes are around the Lower Dillsboro Road area near Aurora.

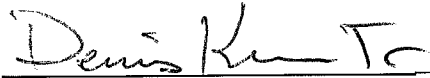
There were no comments or further discussion on Center Township proposed zone map changes.

Continued Administrative with Meeting Time review.

It appears there is a consensus for changing the time of the meeting for the Plan Commission and the Board of Zoning Appeals to change the meetings from 7:00pm to 6:00pm starting January 2023.

Mr. Beiersdorfer made a motion to adjourn the meeting. Seconded by Mr. Lehmann. All in favor. None opposed. Motion carried.

Meeting adjourned at 8:32 pm



Dennis Kraus – President



Nicole Daily—Planning Director, Secretary