

Hamilton County Plan Commission
March 16, 2022

Mr. Habig called the official meeting of the Hamilton County Plan Commission to order at 7:13 p.m.

Members present: Bill Root, Diane Crim, Frank Habig, III, Jim Galloway, Kent Ward, Ron Hall and Tom Clover. *Absent:* Mark Heirbrandt and Steve Schwartz. *Also present:* C. J. Taylor, Director; Aaron Culp, Legal counsel; and Linda Burdett, Secretary.

Declaration of Quorum: *Mr. Habig* declared a quorum with seven out of nine board members present.

Mr. Habig welcomed Ron Hall back to the board. We're glad to have you.

Guests: See sign-in sheet.

Communications/Reports: Nothing to present.

Approval of Minutes: *Mr. Habig* identified the minutes of the December 15, 2021 meeting.

Mr. Galloway moved to approve the minutes.

Mrs. Crim seconded.

With no comments or corrections... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

Public Comment: *Mr. Habig* opened the meeting to the public for anyone who had something to bring up that was not on tonight's agenda. And with no one stepping forward to address the board... *Mr. Habig* closed the public portion of the meeting.

Correspondence: Nothing to present.

President's Report: No report.

Mr. Culp stated... for the record. *Our meeting was advertised to take place across the street in the historic courthouse, but we moved the meeting here today and in order to facilitate that - notice was posted on the entrances to the historic courthouse and the plan commission secretary, Mrs. Burdett, stayed outside the building for 10 minutes after the start of our meeting to direct people here. And then we started our meeting 10 minutes late just to ensure anyone who had gone to the old site would be able to get over here and participate.*

Election of Officers: Mr. Habig opened nominations for President.

Mrs. Crim nominated Frank Habig.

Mr. Ward seconded.

Mr. Ward moved nominations be closed.

Mr. Hall seconded.

With no further comments... *Mr. Habig* called for the vote for Frank Habig as President.
7 yes votes... 0 no votes.

Mr. Habig opened nominations for Vice President.

Mr. Galloway nominated Tom Clover.

Mr. Ward seconded.

Mr. Clover nominated Ron Hall.

Mr. Galloway seconded.

With two nominations for Vice President... *Mr. Habig* called for the vote on Ron Hall first.
7 yes votes... 0 no vote.

Mr. Habig then called for the vote on Tom Clover. **2 yes votes heard.**

Mr. Habig declared Mr. Hall as Vice President.

Mr. Habig opened nominations for Secretary.

Mr. Habig nominated Linda Burdett.

Mr. Galloway seconded.

With no further nominations... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

Appointments: *Mr. Habig* stated that they needed an appointment for the South BZA. After some discussion... the board postponed any action on this appointment at this time.

The next appointment is to choose an alternate for the new appointment. At this time, I am covering that position.

Mr. Taylor asked Mr. Habig if he would continue covering that position.

Mr. Habig stated that he would be willing to do that.

Mr. Galloway nominated Frank Habig for the alternate.

Mr. Culp stated that they didn't have the same residency rule for an alternate. Under the state statute any BZA member from the north board can be an alternate for the south board and vice versa.

Mr. Clover seconded.

With no further comments... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

The next re-appointment is for the director.

Mr. Galloway moved to re-appoint C. J. Taylor.

Mr. Hall seconded.

With no other nominations... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

Old Business: Nothing to present.

New Business: *Mr. Habig* began with **SBZA-L.U.V.-0002-03-2022** a Land Use Variance. We are passing a recommendation on to the South BZA. *This is concerning allowing the operation of a beauty salon business in an A-4 Agricultural Zone District. Whereas, the operation of a beauty salon business is not a permitted or Special Exception use in an A-4 Ag Zone District. Location: 12788 East 191st Street, Noblesville, Indiana.* Would the petitioner step forward?

Keeley Crews-Kalbaugh, of 12788 East 191st Street, Noblesville, stated her name and address for the record. The building already has a bathroom. It already has a parking lot. The plumbing and everything is there. It is just going to be me. There would be at max one car - just my client. I am only going to work maybe four days a week. I would like to go down to three days. And, maybe, 8:00 a.m. to 4:00 p.m. No music blaring. No signage.

I could put it in my house, but I would like to put it in this vacant building because it is just sitting there right now. With contractors being super hard to find right now I would like to fancy up this space out in front. This used to be my husband's lawn and landscaping company. The building is super run down and we are trying to work on it to make it a little bit better.

With a lot of e-learning and virtual learning I want to be able to create a space later on to be a little more at-home so I can be more available.

Do you have any questions?

Mr. Habig asked for clarification. You said that your husband ran a landscaping service out of that?

Mrs. Crews-Kalbaugh answered, yeah. It was already zoning for agriculture.

Broderick Kalbaugh: I ran Mowtime Lawn and Landscaping out of there. Then we ran G K and Property Services out of there. We outgrew the location, so we moved to Hague Road in Noblesville. We ran our landscape company out of there for three years.

Mr. Habig asked if he had a permit to run that business. (2) Is the building all up to code? (3) The restroom inside the building?

Broderick Kalbaugh: We talked with the county and we were approved. (2) It was up to code at the time. (3) Yup. They approved it. We had the board of health up there. They checked everything. Got all the testing done and the survey done so we could run the company out of there.

Mr. Hall asked how long the building had been vacant.

Broderick Kalbaugh: It has been two years since we moved.

We have storage in there. The roof was re-done three years ago. We had Chapman Electric come out and he re-did all the electric out there. Duke came out to run a separate meter to that location. It has concrete floors. We have A/C in there and a regular heating unit.

Broderick Kalbaugh stated his name for the record.

Mr. Clover asked *Mrs. Crews-Kalbaugh* if she anticipated adding more beauty operators or expanding that business.

Mrs. Crews-Kalbaugh answered, no. I am ready to be solo and work on my own.

Mr. Kalbaugh stated that the property has a pull-in. The approach is expanded. They did that when they had the nursery there. It has an asphalt parking area that doesn't affect any rights-of-way.

With no further questions from the board... *Mr. Habig* asked for a motion.

Mr. Hall moved to pass on a positive recommendation to the South BZA that this proposal does not substantially interfere with the comprehensive plan.

Mr. Habig seconded.

Mr. Hall stated that having somebody re-use an existing facility and not adding any signage and only modest traffic, it seems to me we are certainly not going to interfere with our comprehensive plan.

Mr. Galloway stated that he agreed. I think you're dead on.

With no further comments... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

Mr. Habig continued with **SBZA-L.U.V.-0003-03-2022** a Land Use Variance. We are passing on a recommendation to the South BZA. *This is concerning allowing the operation of a softball coaching business in an A-2 Agricultural Zone District. Whereas, the operation of a softball coaching business is not a permitted or Special Exception use in an A-2 Ag Zone District. Location: 19292 Victory Chapel Road, Noblesville, Indiana.*

Casey Clutch-Creakbaum, of 11614 Casco Court, Fishers, Indiana, stated her name and address for the record. My husband and I purchased 19292 Victory Chapel Road in December of 2021 with the intent of moving my family of four to this home and to teach pitching in the existing accessory building. The property is 3.11 acres and currently zoned A-2. I am asking that you grant the Land Use Variance for the operation of a home based business in the existing 56 by 64 ft. building that is located on the rear of the property. I am the sole instructor and lessons are by appointment only.

The building is currently partially insulated and is climate controlled. It will be further insulated, and the walls will be finished. Netting and sports turf will be added for four pitching lanes. Pictures of the barn are included in your package. Some gravel parking is already laid out.

Approval of this variance will not harm the community. The activities are conducted solely inside the building and neighboring homes are not near the building. The lessons are only 45 minutes long and are limited to four pitchers at a time.

Since no additional building is required the adjacent properties will not be adversely affected. Added vehicle traffic will be minimal and only a couple days a week. I currently do two days a week and I've been coaching for 20 years.

We will be adding landscaping bushes around the parking lot area.

The adjacent properties are varied. There is property with some landscaping, a company on 191st Street that is an auto-tow company with salvage vehicles there, there is the Lion's Club along with other residences that have horses and other animals, and 78 acres across the street with a new home built there.

The neighbors closest to our driveway have written a letter of support.

This is a unique request not foreseen by the zoning ordinance for a home occupation type activity to be operated out of an existing barn as I cannot have pitchers pitching inside my house.

Approval of the variance will not change the residential nature of the property. The principal land use will remain residential as my family and I will move once approval is granted and updates to the home are completed.

Not many properties in Hamilton County have a building already existing that is suitable for teaching pitching lessons. My part-time business could not support the cost of a commercial building. Plus, I would have to commute in the evenings.

The Hamilton County Comprehensive Plan proposes that this property will be a rural, residential category. The property will still be used primarily as a residence. I appreciate your time and consideration in this variance.

Mr. Habig asked *Mrs. Clutch-Creakbaum* who she played for. (2) Are you proposing to do this just during the day?

Mrs. Clutch-Creakbaum stated that she played at Frankton High School. I pitched at the University of Evansville. And I pitched post college for the Indiana Slammers. (2) It would be evenings because the kids would be in school.

Mr. Hall asked what the building was used for previously. (2) So it was a commercial use of some kind? Or a hobby use perhaps?

Mrs. Clutch-Creakbaum stated that the previous owner rebuilt cars, sold cars. (2) I would say more of a hobby.

Mr. Ward asked for clarification. You said there were four lanes, so there would be four people at a time. And you said there wasn't any restrooms?

Mrs. Clutch-Creakbaum stated that she didn't mention restrooms, but lessons are only 45 minutes. Currently where I coach, it is very, very rare that kids need to use the restroom in that length of time but if they did, they would go into my parents' house. I would have my home open to that.

Mr. Hall asked *Mr. Taylor* if the state was going to have any authority over this.

Mr. Taylor stated that it was more of a home occupation, but they will be using the building commercially. I think we discussed at least having the fire department come out and check for exits and things like that and make sure there is proper signage. As far as state design release or anything like that... not that I'm aware of.

Mr. Clover asked *Mr. Taylor* if there was nothing about this project that would require restrooms.

Mr. Taylor answered, no. Not anything that I'm aware of.

Mr. Galloway asked for clarification on the parking. It said you planned to pave the parking area? (2) So you would pave your whole driveway back? (3) The driveway is not paved now? (4) That is something that you will bring up next week at the BZA.

Mrs. Clutch-Creakbaum answered, yes. I spoke with Mr. Taylor, if you guys were ok with it, we would commit to two years after I start giving lessons. The entrance to the drive from Victory Chapel is already widened. We did have the highway come by and they said that nothing needed to be done. (2) to the parking area. (3) Correct. It's just gravel.

Mr. Hall stated that if his math was right, she might have 32 cars a day coming in and out. Is that right? (2) I used six hours a day at 45 minute a lesson, and if everybody came in separate cars that would be 32 cars in an out of your driveway when now you probably got a car in and out a couple of times a day.

Mrs. Clutch-Creakbaum answered, yes. I give lessons from 4:00 to 9:15 p.m. currently. So six hours.

With no further comments from the board... Mr. Habig asked for a motion on passing this to the South BZA.

Mrs. Crim made a motion that we pass a favorable resolution to the South BZA for the operation of this business.

Mr. Clover seconded.

Mr. Galloway stated that his only concern was the traffic. That's a lot of cars.

Mr. Hall agreed. That is the only thing that popped out to my mind. The comprehensive plan encourages economic development through small businesses and home occupations, and I think this falls right in it. I like that it is the re-use of an existing building. It's not going to change the density of it, but it could change the rural character for the amount of traffic.

Mrs. Crim stated that it would be four cars per hour for a maximum of six hours and it's not every day of the week from what she's written here.

Mr. Galloway stated that you'd have 8 cars – four leaving and four coming.

With no further comments... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

Director's Report: *Mr. Taylor* stated that they have been working continually on upgrading the ordinances. I have been working with Mrs. Meyer, Mr. Culp, and Mr. Sullivan in our office and going through the ordinance updates, the U.S. 31 Overlay, as well as the solar ordinance. I would expect you to see drafts as early as next month.

Legal Counsel Report: *Mr. Culp* stated that under state statute a person needs to be a resident of the district over which the BZA has jurisdiction or at least a resident of the county who owns property in the district over which it has jurisdiction. However, the Hamilton County Ordinance is more restrictive. It states that a board member must reside in the jurisdiction of the division to which they are appointed. One of the proposals I think is going to come up this year as we overhaul our ordinances is going from two BZA

divisions to one. If we do that it will eliminate that issue. We can continue to use our alternate until we have the new ordinance in place. Our goal is to have the new ordinances in place by the end of the summer, if not sooner.

Mr. Culp stated that he submitted his new contract. It is identical to last year's contract except that it now says 2022 instead of 2021.

Mr. Galloway moved to retain Mr. Culp as their legal counsel.

Mr. Ward seconded.

With no further comments... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.** *Mr. Culp*, we appreciate that.

Mr. Hall stated that their standard for approving a use variance in relationship to the comprehensive plan has such a very, very low bar. Does anyone ever remember having a negative recommendation on that? If that's the case, is there any merit to removing that from the plan commission's pre-approval recommendation? It would still have to go to the BZA, but the standard is not whether it's compatible, it's whether it substantially impairs the comprehensive plan.

Mr. Galloway stated that the plan commission has passed them on with a negative recommendation.

Mr. Culp stated that some of the ones who have gotten negative recommendations have been withdrawn before they got to the BZA.

Mr. Taylor stated that in Cicero / Jackson Township their plan commission doesn't review it. If it is a variance of any kind it goes to the BZA and then the BZA considers the comprehensive plan as well as all of the other criteria.

Mr. Hall stated that he thought there was a lot of merit to the way they do it because in theory it is the plan commission's comprehensive plan and they ought to be able to weigh in on it when it comes to a recommendation to the BZA.

Mr. Culp stated that there has been a couple of times where it is so evenly divided that it went with no recommendation.

Our next meeting will be Wednesday, April 20th, 2022.

Mrs. Burdett stated that the plan commission would be able to use the commissioners' courtroom for their meeting next month.

With no further business to come before the board... *Mr. Habig* adjourned the meeting at 7:59 p.m.

Minutes approved April 20, 2022 by a vote of - 5 yes votes... 0 no votes... 2 abstentions.

Bill Root

Jim Galloway

Steve Schwartz

Diane Crim

Kent Ward

Frank Habig, III

Mark Heirbrandt

Linda Burdett, Secretary

Mr. Heirbrandt and Mr. Schwartz abstaining.