

**Fortville Plan Commission
Meeting Minutes**

Tuesday, 1/30/2024 - 6:30 pm

1. OPENING OF MEETING

The meeting was called to order at 6:30 p.m. by Nathan Sturdevant followed by the Pledge of Allegiance.

ROLL CALL

- **Commission Members Present:** Mike Siebert, Amandia Jeschke, Nathan Sturdevant, Brittney Layton, & Robert Holland - **Quorum established.**
- **Commission Members Absent:** Jason Stein & Dan Justus
- **Town Staff Present:** Adam Zaklikowski – Planning & Building Director, Alex Intermill - Town Attorney (via Zoom), Andy Williams – Recording Secretary

2. APPROVAL OF AGENDA

B. Layton motioned to approve the agenda with the addition of administering the Oath of Office to new member, Robert Holland, 2nd – A. Jeschke. Motion carried 3-0.

3. PLAN COMMISSION TO SELECT PRESIDENT & VICE PRESIDENT FOR 2024

- **Presidential Nomination** – B. Layton nominated Nathan Sturdevant for President, 2nd – A. Jeschke. Motion carried 5-0.
- **Vice Presidential Nomination** – B. Layton nominated Amandia Jeschke for Vice President, 2nd – N. Sturdevant. Motion carried 5-0.

4. APPROVAL OF MINUTES

A. Jeschke motioned to approve the 12/26/2023 minutes, 2nd – B. Layton. Motion carried 5-0.

5. OATHS OF OFFICE

Andy Williams, Recording Secretary, administered the Oath of Offices to new members.

- Mike Siebert
- Robert Holland

6. BOARD OF ZONING APPEALS MEMBER NOMINATION

Commission to consider nominating Amandia Jeschke as the Plan Commission’s appointment to the Board of Zoning Appeals. B. Layton motioned to nominate Amandia Jeschke to the Board of Zoning Appeals, 2nd - R. Holland. Motion carried 5-0.

7. NEW BUSINESS / PUBLIC HEARINGS

Case No. RZ-04-2023 9737 N. Fortville Pike – Marmion Property Rezone

To review and consider issuing a Positive Recommendation to the Town Council regarding Ordinance No. 2023-12B, a petition from Clay Marmion to re-zone property from Residential: 3.5 (R3.5) to Residential: Rural (RR) at 9737 N. Fortville Pike.

Adam Zaklikowski gives the staff presentation via slides including a plan overview –

- Location: 9737 N. Fortville Pike
- Owner/Petitioner: Clay Marmion
- Zoning: Residential: 3.5 (R3.5)
- Use of Property: Single-family residential/rural estate

- Request: Clay Marmion would like to possibly have a horse(s) on his property. He also wants to have a metal pole barn on the property (a Use Variance was already granted by the BZA for this item – December 2023).
 - This would decrease zoning intensity.
 - “Grazing & Pastureland” & “Livestock Raising & Breeding” are Permitted Uses in the Residential: Rural (RR) zoning district.
- Maps & images of the aerials, location, zoning, rezone exhibit, and the design concept elevations of the pole barn permitted by BZA.
- Town Council comments:
 - 1st Reading (introductory) of Rezone ordinance (Ordinance # 2023-12B) occurred on December 18th, 2023.
 - The council appeared to be supportive of the request. Asking how this would impact the South Madison Boulevard plans.
 - The planned right-of-way was considered when the home was built, well outside the future right-of-way.
- Community response requirements were completed and met for the Rezone.
- Public Remonstrance for Rezone – None
- Decision Criteria specific for Expansion Rezone:
 - Consistent with the Comprehensive Plan – No. The area was identified as “Industrial” in March of 2016 on the Town of Fortville’s Future Growth Concept Map. The 2017 South Madison TIF district Master Plan identified the area as “Open Space”. Marmion purchased the property in 2020, utilizing the existing residential zoning (R3.5) to build the house. Comprehensive Plan Map & South Madison TIF District Master Plan Map are shown as exhibits.
 - Consistent with current conditions/character of current structures – Yes
 - Consistent with the most desirable use of land - Yes
 - Consistent with conservation of property values throughout the jurisdiction – Yes
 - Consistent with responsible growth and development - Yes

Staff recommended a Favorable Recommendation of the rezone to the Town Council.

Commission Questions for Staff

B. Layton – Does Fortville have RR properties elsewhere, not surrounded by housing? Adam – Yes, 9168 N. 200 W. is surrounded by farmland & houses that front 200 W. in the County. B. Layton – None in the vicinity of this property? Adam – No.

B. Layton – Does Fortville allow farm animals? Adam – Town Code that predates today’s zoning regulation. The Town Council can review. 2020’s Zoning Ordinance clarifies farm animals are allowed in the zoning district if the council approves & if it doesn’t run afoul of the Zoning Ordinance. Example: Somebody wants a horse on an R3.5, the Zoning Ordinance would prohibit that. The town council just has to say it’s fine. The council must approve the rezone ordinance legalizing allowing farm animals on the property.

B. Layton – With the Comprehensive Plan, all the properties are anticipated to be industrial or residential. Does not anticipate being rural. Looking forward, not looking back. Adam – Correct.

B. Layton – Are there codes in place to mitigate the smells and sounds of livestock so as to not negatively impact the environment? Adam – Not familiar with any ordinances of that nature.

Amandia Jeschke – Acreage? Adam – 6.6 acres. A. Jeschke – “Open space” referenced in staff analysis, hoping for a park or retention/detention pond. Designated for this purpose? Adam – Yes, but there are a multitude of property owners in the specific area. Marmion developed under the existing zoning of R3.5. A. Jeschke – Nothing is stopping another owner from coming to get rezoned R3.5 direction? Adam – Correct.

M. Siebert – Understanding that RR is less restrictive than R3.5, even if someone went back it would be asking for a more restrictive zoning? Adam – Correct. M. Siebert – My biggest concern is with the livestock itself. Anything that prohibits certain livestock? Adam – I don't think so. I would suggest putting a condition restricting the number of livestock allowed. The council gets the certified recommendation from the commission.

R. Holland – Spot zoning, in my opinion, with the zoning that's already there. Any concerns about runoff from the animals into the stream into Old Bridge, the park? Adam – Presumably, the whole waterway may have runoff from the other farmland. The question would be the intensity of waste from the Marmion property. R. Holland – This is right along what will be one of the main thoroughfares. Adam – Balancing current property rights versus the future of the community's best interest.

Petitioner Presentation / Statement

Clay Marmion, property owner – Has a young family, not looking to have several animals, maybe just a couple of horses. The ability to have a horse or two is the main goal.

Commission Questions

Amandia Jeschke – If left at R3.5, could we put a Special Exception on for the life that Marmion owns the property? Adam – Potentially through the BZA, seeking a Use Variance. Amandia – Conditions with the number of animals &/or type of animals. Adam – Yes. N. Sturdevant – Control over what happens on the property, if ever sold. Adam – You may issue a Condition. Alex - The zoning would run with the property. The petition for animal control would go to the town council, considering the size of the property, and the nature of the neighborhood, but wouldn't be a rezone. That would be a much narrower approach.

Alex – The zoning code does not trump the council's ordinance. Town Council's ordinance prohibiting farm animals would trump the zoning. The petition for an exception to the council to allow farm animals on the property doesn't have to run through the commission. A rezone or a town council petition of the animal ordinance.

Clay Marmion – Was hoping to rezone it to have it all resolved.

M. Siebert – The main concern is the future state of the property or if others allow a broad rezone. C. Marmion – Could that be tacked onto the rezoning? Alex – Recommend Mr. Marmion to seek approval from the town council for relief under the Animal Ordinance. If the commission were to recommend that avenue, legally, we would be satisfying the spirit & the plain language of the exception provision to the animal ordinance to put this on the council agenda. N. Sturdevant – How would we recommend this for the next council meeting? R. Holland – Recommendation or no recommendation with additional commentary, subject to Mr. Marmion converting his rezone request to a request for an exception under the animal control ordinance for a couple of horses. If the council grants the rezone, recommend putting certain conditions on it or have it kicked back to the Plan Commission.

Commission Questions for the Petitioner

Public Response - None

Government Officials Comments / Remonstrance – None

Petitioner Comments/Rebuttal

Amandia Jeschke – Doesn't want to go backward in zoning but wants Mr. Marmion to get his end goal without regressing.

Commission Motion

R. Holland motioned to make an unfavorable recommendation to the Town Council, at this time. 2nd – M. Siebert. No discussion. Motion carried 4-1. Add commentary of 'Unfavorable recommendation on the rezone but would like to convert the request to a Variance to the animal control ordinance requested from the Town Council to allow for multiple horses on the property. Correct, we would advise him to seek approval through an exception of the council's Animal Control ordinance. Limit to 3 horses & horses only, no other livestock.

8. BOARD COMMENTS

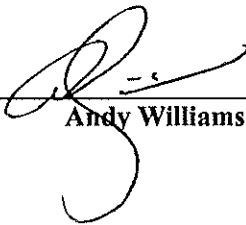
Amandia – Welcome to Robert & Mike.

N. Sturdevant – Thank you all for the great discussion. Thank you to Mr. Marmion.

9. ADJOURNMENT

B. Layton motioned to adjourn at 7:34 p.m. 2nd – R. Holland. Motion carried, 5-0.

Board Chairperson: *Nathaniel Sturdevant*
Nathan Sturdevant

Recording Secretary: 
Andy Williams