

Area Plan Commission allows man living in school bus time to change situation

Written by Marty Randall

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Carl Butera has a year to change his living circumstances, thanks to a decision reached by members of the Scott County Area Plan Commission (APC) at a meeting held Wednesday night, December 9.

Five APC members were in attendance, chairman Dale Hobbs, David Kilburn, Jim Boswell, Jim Craig and Ed Cozart. It was Kilburn's last meeting because he submitted his resignation after serving for three years as Mayor Bill Graham's representative. It was Cozart's second; he was recently appointed by Scott County Commissioners to take the seat of the late John McDonald. Member Donald Wilkerson was absent because of another obligation. The seventh seat is to be filled by the county extension agent, a position which has not yet been filled by Purdue University.

Also on hand were APC Executive Director Jamie Knowles and APC attorney Mike Carter.

The matter before the Commission involved Carl Butera, a man who is buying a one-acre plot on Frog Pond Road from Rex Plessinger. It wasn't the size of the property in question because it was in that configuration prior to the adoption of a county zoning ordinance. The current ordinance requires two acres and 200 feet of road frontage in unincorporated area.

Rather, the APC had received a complaint before its November meeting about Butera's home, an old school bus which he had converted into what he considers a residence. Butera had been living in the bus near Blocher for several years, but a complaint against his living quarters was not filed until he moved the bus to the property he is buying.

Frog Pond Rd. is a few miles east of Scottsburg off State Road 56.

At the APC's November meeting, several members said they wanted to visit the site before making a decision. The current Zoning Ordinance does not allow persons to reside in what could be considered an recreational vehicle (RV). Butera said he felt the ZO violates his constitutional rights to live in the manner he prefers. He said he has no running water nor electricity. He rents a Port-a-Pot for restroom facilities, stores his water in large containers and heats the bus with a wood stove.

"I'm not unhealthy. I'm clean. I'm off the (electrical) grid. I'm more (environmentally) 'green' than all of you," he told the APC in November.

Butera and several of his friends came to the December meeting. He said he had talked to several members of the APC during the previous month when they visited him. "I want to decline all offers of help. Your ordinance still infringes on my liberties," he stated.

Chairman Hobbs explained to Butera that many areas of the United States have zoning ordinances, and the use of such ordinances has been found to be constitutional. "Even though we all have the right to some civil liberties, in some fashion, we all have laws which we must observe to have an orderly society in which to live. Our zoning ordinance is one of those laws," he told Butera.

Knowles said that several board members had visited Butera's home; the session was then opened to obtain the members' views on the matter before them.

Jim Boswell said his interest in Habitat for Humanity spurred his interest in Butera's situation. "I'd like to take on a (home construction) project like Habitat for you. I'm sure there are others in our community that would be interested as well," Boswell related to Butera. "I hoped that you'd 'warm up' to an idea like that."

Hobbs said he's served on the APC for eight or nine years. "I realize that this structure meets your (Butera's) needs at this time. I don't know how long it would take you to do something different, but we must all meet the rules of the land, and this (bus) does not meet those rules," he commented.

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Craig said he felt like Butera was "...between a rock and a hard place, just like this board is (when considering his home). Carl here has things in order out there, but I understand we can't let people live in RVs all over the county. In this case, though, maybe he just needs some time to put up something else. I ask that we give him a year to make a change."

Knowles said he had the property tested to see if it would accept a septic system. "It will support a system," he reported.

Cozart asked Butera, "So, you don't want any other improvements?" Butera didn't answer; rather a friend in the audience, John Phillips, interjected, "Sure he would if you'll build the house and pay his bills, he'd jump at it."

Cozart considered that answer and then commented, "I came here tonight all prepared for (giving him) an extension (of time), but the county's ordinance is very clear on this and the need for a sanitary sewer. It doesn't matter what I think because we are here to enforce this ordinance, and that's what it says."

Taking comments from the public, Phillips and several others wanted leniency for Butera. Phillips described him as "...a guy just getting by. He's pretty much screwed if you don't (consider his background)." Phillips said he would be willing to build a stockade-type fence to hide the school bus if the sight of it offends people.

Another friend, Ed Turner, said the county's ordinance "...violates how a man can live. He ain't hurting anybody. He needs a chance."

Cozart said he was sympathetic toward Butera. He said, "I've got no problem giving him some more time, but Carl says he doesn't want to change the way he lives. His finances are a big issue, but if Carl isn't willing to give some leeway, I don't know that we can help him."

Boswell asked Knowles and Carter if a home actually needs running water. "It's never been addressed," Carter related. He went on to extrapolate about if the school bus could be considered an RV, with or without its tires and pointed out that at both this meeting and in November no one was at the meetings to voice any opposition.

Craig went ahead and made a motion to give Butera a year to "...improve his situation there." Carter asked him if Craig's motion was due to what the attorney described as "...unique circumstances, i.e., he's not married and there are no children involved and no one has complained (at meetings over the matter)." Craig replied, "That's right. This is a hardship case, a one-time case."

With that, the vote was 5-0 to extend the time on the matter to a year. Knowles told Butera he would provide him with a formal letter to that effect.

The APC members then discussed constitutional rights, the issue touched on by Butera in his arguments against changing his style of living. Carter reiterated that zoning ordinances have been found constitutional in courts of law. "And our job here is to enforce what is in place," stated Cozart.

Carter agreed with that, but he said anyone could suggest amending the ordinance. "Our legislators constantly change state law. When this (latest) ordinance was being written, we tried our best to anticipate everything, but you just can't do that," he stated.

Hobbs, who also helped to write the ordinance, noted that those involved "...tried not to make it as stringent as what is in force in counties around us, but you don't always win."