

Morgan County Planning Commission  
Meeting Minutes  
July 25, 2017 – 7:00 p.m.  
Morgan County Commission Meeting Chambers

**I. CALL TO ORDER**

Meeting was opened at 7:20 p.m.

Members present: George Didawick, Jack Soronen, Eric LaRue, Robert White, Susan Parker and Scott Swaim

Members absent: Carl Cowgill, Robert Ford, Justin Andrews, Lori Hansroth and Wayne Omps

Others present: Alma Gorse, Ginger Johnson and David Miller. See attached sign-in sheet.

**II. MEETING MINUTES**

On a S. Parker/G. Didawick motion, the Morgan County Planning Commission June 27, 2017 meeting minutes was unanimously approved.

**III. WAIVER REQUEST- EXEMPTION SECTION 3.2(1)**

David & Stephanie Miller  
674 Glen Marnay Way  
Berkeley Springs, WV 25411  
Allen District, Tax Map 20, Parcel 1.4  
46.36 acres

Applicant requested to subdivide 5 acres off of the 46.36 acre tract. This lot would contain the existing house. Applicant is not eligible to utilize any exemptions on this parcel therefore requesting a waiver of this regulation.

**Staff Report – July 25, 2017**

Prepared by A. Gorse, County Planner

**Background Information:**

86.36 acre parcel owned by Staubert, Gotwin & Margaret  
Applicant purchased 46.36 acres in August, 2003. Plat was never recorded with deed.  
Planning office approved a division of land plat for two lots, 40.00 acres & 46.35 acres in December 2005.  
One Exemption used – the 46.35 acre lot.

Approved  
8.22.17  
GT

Staubert still owns the 40.00 acre parcel and this parcel is eligible for up to 4 remaining exemption lots for it is the remainder.

**Findings of Facts:**

Public Notice for the Waiver Request was posted as required by the Ordinance in the Morgan Messenger on June 28, 2017. A completed Waiver request was submitted and received on June 19, 2017.

Exemption Section 3.2 (1) states that a parcel is eligible for exemptions and are permitted to divide up to 4 lots under 20 acres in size.

Eligibility is determined by:

- Length of time parcel has remained the same size and/or how many lots have been cut out of the parcel;
- When parcel had been subdivided;
- This parcel was created in 1979, prior to our subdivision regulations and had remained the same size until 2003, making this eligible for exemptions.
- One exemption used when 46.36 acre lot was created (Miller lot).
- Remaining exemptions available stay with the 40.00 acre remainder.
- Mr. Miller cannot utilize the Minor Subdivision section of the Ordinance for this lot does not front a state maintained road;
- The parcel is accessed by a 15 foot right of way and a 25 foot right of way. The Preliminary Plat section of the ordinance requires a 40 foot right of way.

On an E.LaRue/G. Didawick motion, the Planning Commission approved the request for the waiver to subdivide 5 acres off of the 46.36 acre tract with the understanding that this is a one time waiver for Mr. David Miller for this parcel only and that there is an agreement created between the current property owner and the purchaser of the new lot that the expenses will be shared for maintaining the new right of way that will serve both lots. Motion carried.

**IV. DISCUSSION**  
**MORGAN COUNTY SUBDIVISION REGULATIONS**  
**Proposed updates to the Ordinance**

Planning Commission President Jack Soronen requested that the group focus on Article 6- Waiver Section of the Morgan County Subdivision Regulations.

The Planning Commission discussed proposed updates to this section and referenced below are the discussion points.

**Waiver Section:**

- Detrimental to public- physical impact
- Property conditions /Topography;
- Conformance with Comprehensive plan
- Require Reasonable Conditions to the waiver
- Innovative & beneficial approach to develop

- Actions done prior to
- Changes applicant made in good faith with previous approval but circumstances far beyond his control has necessitated a change;
- Circumstances that the owner may have done that were in conformance with subdivision regulations but circumstances require that they be changed
- Person can't ask for waiver because they have done something that requires the waiver
- Developers actions done prior in compliance with the applicable subdivision ordinances and that the change is due to circumstances that were after the prior approval and outside the control of the developer;
- Hardship- significant or extraordinary hardship/monetary

#### **V. ADJOURNMENT**

The meeting adjourned at 8:25 p.m.