



LAPORTE COUNTY BOARD OF ZONING APPEALS

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ANNEMARIE POLAN
Building Commissioner

January 17, 2012

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, January 17, 2012, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: William Eaton Dwayne Hogan
Paul Zona Melissa Mullins Mischke
Ed Kogut

OTHERS PRESENT: Ray Hamilton, Recording Secretary, Douglas Biege, Board Atty.,
Darlene Pavey, Secretary

The Pledge of Allegiance.

President Dwayne Hogan read Procedures for presenting petitions to the Board.

Melissa Mullins Mischke made a motion to approve minutes of December 20, 2011. William Eaton seconded. All approved. Motion carried 5-0.

Dwayne Hogan, President said that in light of some of the new evidence that has been presented in front of us this evening, we will hear Petition Number 3 first.

David Ambers is up at the board.

Dwayne Hogan, President said that in light of more news coming in front of us this evening, we will revert back to Petition Number 1.

1. To review the Petition for Kelly and Anthony Norris to operate a small business (home based) from residence – transport sick people to doctor appointments. This property is located at 5774 W. 300 N., La Porte Indiana, Center Twp., zoned R-2.

Paul Zona asked Mrs. Norris if they are moved into the pole barn?

Kelly Norris stated yes. Mrs. Norris said that it is built.

Melissa Mullins Mischke asked Mrs. Norris if her husband's cars are in the pole barn?

Mrs. Norris stated yes.

Paul Zona asked Mrs. Norris if there are any cars on the street?

Mrs. Norris said that a van is still on the RV pad in the back, because the pole barn is not for the business. Mrs. Norris told the board that they are welcome to come and look at the pole barn. Mrs. Norris said that it is identical to their home.

Paul Zona said that his understanding was that in fact that would eliminate any kind of traffic in front of the house.

Mrs. Norris said that there's never any traffic in front of the house. Mrs. Norris said that the problem with the pole barn was that the gentleman was afraid that if they sold their property in fifteen years, someone might use that pole barn to open up a motor business. Mrs. Norris said that she came back before the Board to get a variance for the business to do paperwork out of her home for medical transportation. Mrs. Norris said that they only keep one wheelchair van on the back RV pad.

Dar Pavey, told Mr. Zona that Mrs. Norris is here this evening for review on the business running out of her home and that this has nothing to do with the pole barn. Dar told Mr. Zona that there were two Petitions filed.

Mr. Zona said that his problem is that when they talked at the time that they passed the variance on the pole barn, was the fact that would alleviate any kind of problem with any vehicles from Norris Transportation being parked outside on the street around the house.

Mrs. Norris said that they're not parked on the street. Mrs. Norris said that they are in the driveway. Mrs. Norris said that they live out in the country and there's really no place to park on the street.

Ed Kogut told Mrs. Norris if her dwelling changes hands, that person would have to come before the board for a variance.

No remonstrators present.

William Eaton made a Motion for Kelly and Anthony Norris to operate a small business (home based) from the residence transporting sick to doctor appointments. This property is located at 5774 W. 300 N., La Porte, Indiana, Center Twp., zoned R-2 be approved. Ed Kogut seconded.

Attorney Biege asked if we could rephrase the Motion to read from the previous grant. Attorney Biege said that technically this has been granted.

William Eaton made a Motion to approve the review on this business. Ed Kogut seconded. All approved. Motion carried 5-0.

2. The Petition for Chris Kolasa and Connie Kolasa to operate a recycling business.
This property is located at 10673 W. 300 N., Michigan City, Indiana, Coolspring Twp., zoned General Business.

Legal work complete. No remonstrators present.

Chris Kolasa, 10673 W. 300 N., Michigan City, Indiana.

Dwayne Hogan asked Mr. Kolasa what he would like to do this evening?

Mr. Kolasa said that actually they don't want to open a business, they just want a place for their dumpsters and take a little bit of metal out of the dumpsters and the rest goes to landfill. Mr. Kolasa said that they don't want to buy metal. Mr. Kolasa said that they had a complaint and that is why they're here.

Dwayne Hogan asked Mr. Kolasa if he is going to operate a recycling business?

Mr. Kolasa said that it is recycling out of his dumpsters only.

Ed Kogut asked Mr. Kolasa to explain a little bit more of what they do.

Mr. Kolasa said that they drop the dumpsters off and he tells all his customers to put all the metal on top of the dumpsters and then when he goes back to his place and they take the metal off and throw it into another dumpster. Mr. Kolasa said that the rest of it goes to waste management in Kingsbury.

Ed Kogut asked Mr. Kolasa where the metal comes from?

Mr. Kolasa said that it is scrap metal. This business is basically cleaning up basements and garages.

Mr. Kolasa said that they don't drop it off at his place. Mr. Kolasa said that he drops the dumpsters off at their place and then they throw the metal on top of the dumpsters and he takes that metal back to his place and throws it into another dumpster to recycle.

Ed Kogut asked Mr. Kolasa if he is just sorting the metal?

Mr. Kolasa stated yes.

Dwayne Hogan asked Mr. Kolasa how many dumpsters they go through in a month?

Mr. Kolasa stated maybe four.

Dwayne Hogan asked if that was in one week?

Mr. Kolasa stated yes.

William Eaton asked Mr. Kolasa if he collected pallets?

Mr. Kolasa said that he had pallets there but he put them up for sale, however nobody wants the pallets.

Dwayne Hogan asked Mr. Kolasa how much property he had?

Mr. Kolasa said that he has three and a half acres. Mr. Kolasa said that they have a new house there and eventually he wants to wing this out. Mr. Kolasa said that he would like to put mini storage units there eventually.

Melissa Mullins Mischke asked Mr. Kolasa if he was ever going to have people coming to the site directly to drop things off?

Mr. Kolasa said that it would just be his truck. Mr. Kolasa said that there will not be a sign. Mr. Kolasa said that this is just for him and he plans on putting a fence up and putting the dumpster behind the fence.

Melissa Mullins Mischke asked Mr. Kolasa how soon he plans on putting up a fence?

Mr. Kolasa said when the weather clears. Mr. Kolasa said that he has been cleaning up this property.

William Eaton asked Mr. Kolasa if he would eventually have all the stuff he has stacked up on his property cleaned up?

Mr. Kolasa said that it will all be cleaned up by spring as long as the weather cooperates with him. Mr. Kolasa said that he will drop pictures off to Mr. Hamilton's office.

William Eaton said that there is a lot of stuff on the property that is not metal.

Mr. Kolasa said that is all going to go. Mr. Kolasa said that he made a lot of progress in a short period of time. Mr. Kolasa said that Mr. Hamilton has been out there a few times and he knows I've been working on cleaning this property up.

Ed Kogut asked Mr. Kolasa what he would call the business that he has?

Mr. Kolasa said that people call him up and tell him that they are cleaning out garages and he will drop the dumpster off in front of their garage and they will throw their stuff in the dumpster.

Ed Kogut asked Mr. Kolasa how many dumpsters he had?

Mr. Kolasa said that he has twelve dumpsters.

Ed Kogut asked Mr. Kolasa what the property is to the north of his property?

Mr. Kolasa said that it is a landfill. Mr. Kolasa said that actually the property values are down quite a bit. Mr. Kolasa said that in the last ten years he and his wife have been living there and they have a special needs child. Mr. Kolasa said that he and his wife went to the bank to try to borrow money and they would not lend them any money. Mr. Kolasa said that they paid one hundred fifty nine thousand dollars to live there in the last eleven years. Mr. Kolasa said that they have suffered with that smell for years and it is awful.

Paul Zona made a Motion that the Petition for Chris Kolasa and Connie Kolasa to operate a minimal recycling business be granted, with the stipulation that in six months (July 17, 2012) they must reappear in front of this Board to see if this property has been cleaned up. William Eaton seconded.

Ed Kogut told Mr. Kolasa that he knows where this property is and that there have been complaints in the past on stuff lying around. Mr. Kogut told Mr. Kolasa if he could keep this clean it would probably make everyone happy.

Melissa Mullins Mischke told Mr. Kolasa that she would like to see how much progress is made on the fence.

All approved. Motion carried 5-0.

- 3. The Petition for Richard Loniewki and Shirley St. Arnaud ("Fee Owners"), and John Burys, d/b/a Phoenix Enterprises of America, LLC ("Petitioner"), respectfully represents to the Board to operate a Gentlemen's Club. This property is located at 5906 N. US Highway 35, La Porte, Indiana, Springfield Twp, zoned Accommodation Business.**

Attorney David Ambers said that he would like to correct one item that he filed last Friday. Attorney Ambers said that he filed with the Board's secretary an amendment to the Petition removing Shirley St. Arnaud from this zoning Petition. Attorney Ambers said that since the time this variance request was filed to this evening, there has been a transfer of interest in the property and she is no longer a property owner.

Attorney Ambers said that attorney Biege called him last night around five o'clock and they discussed which ordinance was going to apply. Attorney Ambers said that they are under the belief that this was filed under the old ordinance and that would apply. Attorney Ambers said that given his calendar today and his trial schedule he didn't have time to research this. Attorney Ambers said that they would like to table this matter until next month so they can sort out a legal issue as far as which ordinance applies. Attorney Ambers said that if the new ordinance applies, attorney Biege pointed out that there is a fifteen day notice requirement that they're shy of by one day. Attorney Ambers said that he thinks that it is in the interest of all parties to table this matter to next month.

Attorney Ambers said that they would as they had previously, want to reserve under *England vs. Board of Medical Examiners* 375 US 411 to litigate any federal claims in federal court as they did at the previous meeting.

Attorney Ambers said that last time they had a disc of several studies, which Ms. Mischke stated that it would have been nice to have had that disc ahead of time to prepare. Attorney Ambers delivered the disc to the Board members so the members will be able to review this.

Paul Zona said that right now he doesn't think that we can be ready for next month's meeting. Mr. Zona said that there are other things that have come to light during the course of this afternoon. Mr. Zona said that the State has its fingers in it and they want to change that area totally. Mr. Zona said that there are also some EPA questions. Mr. Zona said that with the new ordinances coming in effect, he would like to see this tabled at least ninety days so this Board has the time to gather its thoughts. Mr. Zona said that remonstrators approached him and said that they did receive mail that was sent to a neighbor by accident, but it offended them because they couldn't receive the mail directly.

Attorney Ambers said that the addresses that they used were shown by the county. Attorney Ambers said that he'll double check that to see if he missed a number, but the statute requires that we use the address on the tax records of La Porte County.

Dwayne Hogan asked Mr. Zona if this was in the form of Motion?

Mr. Zona stated yes.

Dwayne Hogan said that he has a Motion on the floor to suspend Petition number three for ninety days. Melissa Mullins seconded.

Attorney Biege said that for all those in the audience clarifying why some say there's confusion in the ordinance. Attorney Biege said that this Petition was filed on the 3rd and we have adopted a new zoning ordinance for La Porte County. Attorney Biege said that the law said it takes effect fourteen days after the date of publication, which is the 8th. Attorney Biege said that they filed the Petition under the old ordinance, the new ordinance passed and here we sit now. Attorney Biege said that the new ordinance applies tonight and forward. Attorney Biege said that he received several phone calls today and some people were operating under the thought that they would be arguing under the old ordinance tonight. Attorney Biege said that he wants to make sure that tonight we are operating under the joint zoning ordinance adopted and drafted November 15, 2011 if there is any confusion on that.

Melissa Mullins Mischke said that it would have been nice to have had the cd a week ago to look at the information. Melissa said that she received quite a bit of information the last few hours that also leads her to believe that she wants to take some extra time and review the information that has been presented to the Board.

Dwayne Hogan also agreed.

Dwayne Hogan asked the board all those in favor of postponing this for ninety days?

All approved. Motion carried 5-0. Petition reset to April 17, 2012 at 6:00 p.m.

Other Business:

Elections:

Paul Zona made a Motion that everything be kept as status quo.

Dwayne Hogan told Mr. Zona that he needed to be more specific. Paul Zona made a Motion for the President, Dwayne Hogan; vice president, Ed Kogut.

Ed Kogut said that he is no longer on the board. Ed said that it has been a pleasure to serve on the county and being with this Board. Mr. Kogut said that he enjoyed it. Mr. Kogut said that he was removed from the Plan Commission.

Dwayne Hogan thanked Mr. Kogut.

Paul Zona made a Motion for Melissa Mullins Mischke be nominated as vice president. Ray Hamilton, Building Commissioner.

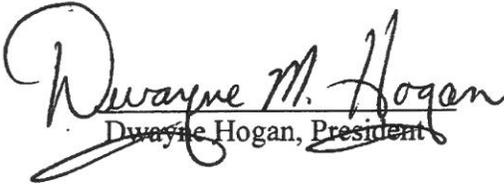
William Eaton seconded. All approved. Motion carried 4-0.

Paul Zona made a motion that this meeting be adjourned. Melissa Mullins Mischke seconded.

Dwayne Hogan thanked Ed Kogut for serving on this board and being a hard worker. Dwayne told Mr. Kogut that he will truly be missed.

Ed Kogut thanked Mr. Hogan.

There being no further business this evening, meeting adjourned at 6:35 p.m.


Dwayne Hogan, President


Ray Hamilton, Recording Secretary
Annemarie POLAN