



LAPORTE COUNTY BOARD OF ZONING APPEALS

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ANNEMARIE POLAN
Building Commissioner

March 20, 2012

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, March 20, 2012, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: Glen Minich Dwayne Hogan
 Paul Zona Melissa Mullins Mischke
 William Eaton

OTHERS PRESENT: Annemarie Polan, 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 February 21, 2012. William Eaton seconded. All approved. Motion carried 5-0.

- 1. The Petition for Cooreman Real Estate Group, Inc** to construct a home with 196.87 road frontage on .98 acres not including the right-of-way. This property is located at 4811 N. 600 E., Rolling Prairie, Wills Twp., zoned R1-B. **(This petition was tabled from February 21, 2012.)**

Steven Cooreman thanked the members of the La Porte County Board of Zoning Appeals. Mr. Cooreman said that he is with the Cooreman Real Estate Group, with offices at 4404 Technology Drive, South Bend, Indiana. Mr. Cooreman said that they are here today to seek a variance from the one acre rule and the two hundred feet rule. Mr. Cooreman said that if you may recall from the meeting last month, the issue addressed that we needed to have covenants that would fully protect the new two lots along with the previous eleven lots that were platted several years ago. Mr. Cooreman said that they have corresponded with attorney Biege's office and they have a copy of his letter here today that they would be glad to pass those out.

Mr. Cooreman said that they also recorded the new covenants this afternoon that attorney Biege had a chance to review. Mr. Cooreman said that he is open to any questions that the Board may have.

Paul Zona told Mr. Cooreman said that he answered all the questions that he had.

William Eaton asked Mr. Cooreman the size of the other lot that he already sold.

Mr. Cooreman stated one (1) acre with two hundred feet of road frontage.

Melissa Mullins Mischke asked if the remaining road frontage is one hundred ninety six feet on the second parcel.

Mr. Cooreman said that it is just a few feet short.

Glen Minich said that he believes that the only thing we put before him last time was that we wanted the covenants to cover the old lots and the new lots and we're happy with this now.

Dwayne Hogan asked if there were any questions or comments from the Board.

No Remonstrators present.

Paul Zona made a motion that the Petition for Cooreman Real Estate Group, Inc. to construct a home on one hundred ninety six point eight seven feet (196.87) road frontage with just shy of one (1) acre point nine eight acres located at 4811 N. 600 E., Rolling Prairie, IN. Wills Twp. zoned R1-B be granted. Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there were any questions, comments, or concerns of the Board.

All approved. Motion carried 5-0.

Mr. Cooreman asked if there was anything else that they need to do to make this a legal buildable lot in La Porte County.

Paul Zona told Mr. Cooreman to sell it to somebody and have them come up and see Ms. Annemarie Polan.

Mr. Cooreman thanked Annemarie as she was very gracious and really tried to help us as much as possible to work through this and he also wanted to thank Mr. Biege too.

- 2. The Petition for Michael Frederick & Dorothy Gustafson** for continued placement of a mobile home. This property is located at 2288 Rolling Meadow Drive, Michigan City, IN., Coolspring Twp., zoned R1A.

Legal work complete. No Remonstrators present.

Michael Frederick, 2288 N. Rolling Meadow Drive, Michigan City, IN.

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

Mr. Frederick said that he would like to continue placement of a mobile home on his property.

Dwayne Hogan asked if that was for his grandma.

Mr. Frederick said that it is for his mother-in-law.

Melissa Mullins Mischke asked Mr. Frederick if he had a separate address for that mobile home that is different from his residence.

Mr. Frederick said that they call it 2286 Rolling Meadow Drive.

Melissa Mullins Mischke asked Mr. Frederick the year of the mobile home.

Mr. Frederick said that he thinks that it is a 1999.

Dwayne Hogan asked if there were any other questions, comments, or concerns from the Board.

Paul Zona said that it is beautiful and kept up very well.

Dwayne Hogan told Mike that he has done a very great job out there.

William Eaton made a Motion for Michael Frederick and Dorothy Gustafson for continued placement of a mobile home be granted for a period of six years. This property is located at 2286 Rolling Meadow Drive, Michigan City, Coolspring Twp., zoned R1A.

Paul Zona seconded. All approved. Motion carried 5-0.

3. The Petition for Jason & Janette Turley for continued placement of a mobile home. This property is located at 9901 N. Old Buffalo Road, La Porte, IN., Springfield Twp., zoned Residential.

Legal work complete. No remonstrators present.

Janette Turley, 9901 N. Old Buffalo Road, La Porte, In.

Dwayne Hogan asked Ms. Turley what she would like to do this evening.

Ms. Turley said that she would like to have continued placement of her mobile home that they are currently living in.

Dwayne Hogan asked Ms. Turley the year of the mobile home.

Ms. Turley said that it is a 1988.

Dwayne Hogan asked Ms. Turley if she has had a variance before.

Ms. Turley said yes.

Dwayne Hogan asked Ms. Turley if that was three years ago.

Ms. Turley stated yes.

Melissa Mullins Mischke asked Ms. Turley how long the mobile home has been there.

Ms. Turley said that she believes that it is six years.

Melissa Mullins Mischke asked Ms. Turley if she has any intentions of building in that location.

Ms. Turley said that she would love to.

Paul Zona made a Motion that the Petition for Jason & Janette Turley for continued placement of a mobile home be granted for a period of three years. This property is located at 9901 N. Old Buffalo Road, La Porte, IN, Springfield Twp., zoned Residential.

William Eaton seconded. All approved. Motion carried 5-0.

4. The Petition for Kevin Lutton for continued placement of a mobile home. This property is located at 2133 W. Springville Road, La Porte, IN, Springfield Twp., zoned R-2.

Legal work complete. No remonstrators present.

Kevin Lutton, 2133 W. Springville Road, La Porte, In.

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

Mr. Lutton said that he would like to continue placement of his mobile home on the property.

Dwayne Hogan asked Mr. Lutton the year of the mobile home.

Mr. Lutton said that he was told that it's a 1968.

Dwayne Hogan asked Mr. Lutton if he had records to prove what year it is.

Mr. Lutton said no. Mr. Lutton said that he went to the license bureau to see if he could get a title on it, and they don't have anything on that. Mr. Lutton said that they told him it has been there as near as they can tell it is a1968.

Dwayne Hogan asked Mr. Lutton if he has had a variance before.

Mr. Lutton said no.

Dwayne Hogan asked Mr. Lutton if this is his first one.

Mr. Lutton stated yes.

Dwayne Hogan asked Mr. Lutton how long he has lived in the mobile home.

Mr. Lutton said that he has lived there for ten years.

Melissa Mullins Mischke asked Mr. Lutton if the mobile home was there when he purchased the property.

Mr. Lutton stated yes. Mr. Lutton said that his parents purchased this property for him and they told him that they had to go through a variance and he was good to live on the property. Mr. Lutton said that the Building Department contacted him three weeks ago and he's been scrambling to find out all the legalities since and he's learned a lot in the last three weeks. Mr. Lutton said that he understands that he doesn't have enough road frontage to build a house on this property. Mr. Lutton said that he's still looking at options on what he can do with the property.

Dwayne Hogan asked Mr. Lutton if he had aspirations of building there.

Mr. Lutton said when he bought the property he thought it would be a nice place for a house.

Dwayne Hogan asked if there were any questions from the Board.

Paul Zona said that if this Board would grant three more years for you, do you think you could come up with some kind of an idea if you could get a variance to build on that property.

Mr. Lutton said that he would be happy to remove the mobile home and see what we could come up with to develop the land. Mr. Lutton said that he would purchase a new home for his family to live in and take care of the mobile home.

Paul Zona asked Mr. Lutton if he resides in the mobile home now.

Mr. Lutton said yes.

William Eaton asked Mr. Lutton if this Board grants a variance for three years, if he could clean up this property a little bit better.

Mr. Lutton said that they've already started. Mr. Lutton said that the kids have a fort on the corner of the property and he realizes that it was looking a little ratty. Mr. Lutton said that he was going to build a shed with a deck on it this year. Mr. Lutton said that he also has lumber on the property from a building that he took down at a friend's establishment and they were going to use the wood to rebuild that shed and deck.

William Eaton asked Mr. Lutton if he was going to build that on the trailer.

Mr. Lutton said yes.

Dwayne Hogan asked Mr. Lutton if he still plans on building something there.

Mr. Lutton said that he doesn't know what to do yet because of the frontage problem and the acreage. Mr. Lutton said that he did talk to a building contractor and to be honest with you, he laughed and said when I get more property call him. Mr. Lutton said that he honestly doesn't know what to do yet.

William Eaton asked Mr. Lutton how many people are living in that mobile home.

Mr. Lutton said that he has two children that come every other day because he has joint custody, a fiancé, and she also has a child that comes every other weekend.

William Eaton asked Mr. Lutton if he has ever checked the electrical part of that mobile home.

Mr. Lutton said that he has been through this and replaced any wiring with any problems and also he has replaced all of the outlets and the breaker system has been updated. Mr. Lutton said that it has been dry walled from one end of the house to the other, full carpeting, wood floor, new cabinetry, new plumbing, faucets, sinks and counters.

Dwayne Hogan asked about the well and septic.

Mr. Lutton said that the well is a four inch submersible beautiful well and he has had no problem with the septic since he's been there. Mr. Lutton said that they have replaced several of the windows that were leaking with double pane insulated windows and his heating bill his roughly fifty bucks a month for the gas. Mr. Lutton said that they spend about fourteen hundred dollars a year on utilities total.

Dwayne Hogan asked the Board its pleasure.

Melissa Mullins Mischke asked Mr. Lutton if the Board does choose to grant you a variance, she wants to make sure that Mr. Lutton understands that it would be his responsibility to come back to this Board in the period that this Board designates. Melissa told Mr. Lutton that this Board isn't going to contact him.

William Eaton made a Motion for Kevin Lutton for continued placement of a mobile home be granted for a period of three years. This property is located at 2133 W. Springville Road, La Porte, IN, Springfield Twp., zoned R-2. Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there were any questions, comments, or concerns from the Board.

Paul Zona said with the granting for three years he would suggest maybe a larger area or a larger trailer. Paul said that as long as you are more than twenty three feet wide on a foundation that could qualify.

All approved. Motion carried. 5-0.

5. The Petition for Donald J. Satoski, II, by attorney Brad Adamsky to operate a sand and gravel pit on the property, in continuation of a previous zoning variance granted to the petitioner by this Board in 1997. This property is located at 4998 W. Sand Road, Noble Twp., zoned AG and contains forty eighty (48) acres. (Attorney Adamsky informed Annemarie Polan, Building Commissioner that Ray Hamilton told Mr. Satoski that he did not need to go back to the BZA for the five (5) year extension although Ray Hamilton nor Donald Satoski put anything in writing.

Legal work complete. No remonstrators present.

Attorney Brad Adamsky from Newby, Lewis, Kaminski and Jones, 916 Lincolnway, La Porte, Indiana.

Dwayne Hogan asked attorney Adamsky what he would like to do this evening.

Attorney Adamsky said that they're seeking a continuation of the variance previously granted to our client on property near Sand Road for continued operation or hopefully the completed operation on the sand mining operation previously granted in 1997.

Attorney Adamsky is up at the bench passing out pictures to the Board members.

Attorney Adamsky said that they filed this as a petition for variance or continuation variance, and we'd ask in the alternative for a granting of special exception. Attorney Adamsky said that Mr. Satoski was initially before this board in 1997 and they have the minutes from that April

meeting. Attorney Adamsky said at that time, he and his brother were seeking a petition for variance to put in a larger pond on the property, and clearly the project has gotten larger than that over the years. Attorney Adamsky said the Board granted a variance with commitments for a period of ten (10) years. Attorney Adamsky said that part of the commitments also said that with the understanding that they can come back and ask for the additional five (5) years if necessary.

Attorney Adamsky said that Mr. Satoski did not come back to the Board in 2007; however he made a request of the Building Commissioner at that time, Ray Hamilton and was advised by that county employee that he didn't need to come back to the Board as he was in compliance with the variance granted at that time. Attorney Adamsky said had he known, he would have come back to this Board clearly in 2007 and that five years essentially would put us at this month now. Attorney Adamsky said that it is their position that they're still acting under a valid variance that was granted in 1997 and a continuation of that for five (5) years today. Attorney Adamsky said that is why we're here before the Board now to grant a continuation so we can actually finish this project.

Attorney Adamsky said that the petitioner requests a continuation of this variance for an additional five (5) years; we believe the project can be done in that five (5) years. Attorney Adamsky said that it is very possible admittedly we may be back before the Board at the end of that five year period to wrap this up.

Paul Zona asked attorney Adamsky that essentially he's saying that this is grandfathered in.

Attorney Adamsky said that is their position.

Paul Zona said that he is quite impressed and he was there in 1997 and he saw it this weekend.

Attorney Adamsky told Mr. Zona that he saw in the minutes that you actually seconded that Motion in the minutes.

Attorney Adamsky said that he will also hand out in addition to the notices that were mailed out to all the neighbors, Mr. Satoski went around and visited all the property owners and took a signed petition with him that said "I'm in support of the continued existence of the sand mining operation located at 4998 W. Sand Road, Union Mills, and owned by Don Satoski, II and aware that he is seeking permission from the county to continue the operation. Attorney Adamsky said that Mr. Satoski has been a good neighbor this entire period of time and he doesn't think the Board will see anyone here remonstrating against him.

Attorney Adamsky told the Board that this is a family business and the sole source of income for the family and has been since operation in 1997. Attorney Adamsky said as far as reasons to keep the variance in effect, the property value would be diminished if it were no longer an on-going business concern. Attorney Adamsky said that Mr. Satoski does provide service to the county through the sand that is mined there and we have invoices and statements dating back to

2005 through 2011 where he has provided sand to the county for salt operations in the winter. Attorney Adamsky said that clearly there is a public benefit to this business as well.

Attorney Adamsky said that he has two letters from businesses that rely on Mr. Satoski's business. Tri-Way Trucking Inc., who says that their sand road gravel is a valuable account to our company, and we rely on them heavily to operate our business and it would be an economic upset if we couldn't do business with them.

Markman Peat's letter read: To whom it concerns: Sand Road & Gravel has been a major supplier for our facility in La Porte, Indiana for a number of years. The proximity of his plant gives us a lot of different avenues for sales both locally and to the surrounding area in La Porte County. We purchase several thousand tons of material annually from Sand Road & Gravel and it would be difficult to remain competitive in the market place if we would have to get material elsewhere.

Paul Zona said that he was by Markman Peat today and they had one heck of a sand pile.

Dwayne Hogan asked if there were any remonstrators here this evening for Petition No. 5, for or against it.

Paul Zona told Mr. Satoski that he's had a few phone calls and a certain UPS driver approached him and said that everyone praises this operation. Paul said that over the years, he was down there once before and he was down there again and he told Mr. Satoski that he is doing a beautiful job.

Mr. Satoski thanked Mr. Zona.

Paul Zona made a Motion that the Petition for Donald J. Satoski, II by attorney Bradley Adamsky to operate a sand and gravel pit on the property be continued because it's grandfathered in. This property is located at 4998 W. Sand Road, Noble Twp, zoned AG containing approximately sixty five (65) acres.

Attorney Adamsky asked if there were any stipulations beyond the original variance.

Dwayne Hogan asked if he wanted anything else.

Attorney Adamsky said that the original acreage he believes was forty (40) acres, and the actual acreage is sixty-five (65) acres with the additional parcel.

William Eaton asked attorney Adamsky how many acres have been mined already.

Donald Satoski said that there is about twenty-eight (28) acres of water opened up and when it's all done it will be about thirty-eight (38) acres.

William Eaton asked Don if he was going to mine the whole area.

Don Satoski said that they're about done totally going outward and they are just working in.

William Eaton asked Don if he was going to leave some ground to build on.

Donald Satoski said that he would like to build a house right where the shed is on the property and there will be about three or four acres left in the middle. Don said that they will continue digging around the plan until they get it as small as they can where they can't safely mine and still run it through the plan. Don said at that point, they will tear the plan down and haul it out and the sand that is left on the couple of acres will be used to put the slope on the bank around the outside.

Melissa Mullins Mischke seconded the Motion.

Dwayne Hogan asked if there were any more questions, comments, or concerns.

Attorney Biege wants to clarify that we've made a Motion, but there's no requirement for mining in the old code when we talked about that being grandfathered, but there are requirements in the new code. Attorney Biege asked if we are waiving the requirements of the new code as part of the Motion

Paul Zona stated yes. Paul said that he will add to the Motion that it's there, but over the years, he has seen it and this is one application that he feels very comfortable with trusting Mr. Satoski.

Dwayne Hogan asked if there are any other clarifications.

All approved. Motion carried 5-0.

6. **The Petition for Clinton James Fugate** for continued placement of a mobile home. This property is located at 1257 W. 650 N., La Porte, IN, Springfield Twp., zoned R1. **(Legal work wasn't complete. Matter tabled to May 15, 2012 at 6:00 p.m.)**
7. **The Petition for David Boyce & Eddie Heavner (Homemakers Plus Inc.)** to operate an Adult Day Care Service. This property is located at 933 Nursery Road, La Porte, Scipio Twp., zoned R1E. **(Legal work wasn't complete. Matter tabled to May 15, 2012 at 6:00 p.m.)**
8. **The Petition for Karen Beth Mann (Seller) and Ecko D. Mann (Buyer)** to split 7.49 acres into two parcels. This property is located at 4953 N. US Highway 35 and 4949 N. US Highway 35, La Porte, IN., Center Twp., zoned Res-1. **(Legal work wasn't complete. Matter tabled to May 15, 2012 at 6:00 p.m.)**

9. The Petition for Dorothy Webb (Seller) and Harlen Fifield (Buyer) to build a pole barn/living quarters, consisting of 960 square feet. This property is located on Indiana & Volk Road (Old Highway 30), Hanna, IN. Hanna Twp., zoned CBD2.

Legal work complete. No remonstrators present.

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

Harlen L. Fifield, Jr. told the Board that he has always been a garage guy and he's always liked being around cars. Mr. Fifield said that he got a divorce and he would like to build a pole barn that is going to look nice and stay there the rest of his life.

William Eaton asked Mr. Fifield if it will have living quarters.

Mr. Fifield said that is correct.

Melissa Mullins Mischke asked Mr. Fifield what size the pole barn is going to be.

Mr. Fifield said it will be 30x75. Mr. Fifield said that he was going to have a four bay, but he was told he needed 960 square feet for living space so he's going to eliminate one bay to bring the living space out so he'd have enough.

Melissa Mullins Mischke asked Mr. Fifield if this would be a one story with living space.

Mr. Fifield said that is correct.

Dwayne Hogan asked Mr. Fifield if it is going to have one bathroom.

Mr. Fifield said one bathroom.

Dwayne Hogan asked if there is going to be a septic.

Mr. Fifield said it will have a septic and well.

Melissa Mullins Mischke asked Mr. Fifield if the pole building is going to be used to tinker with vehicles. Melissa asked Mr. Fifield if he's going to be running a business.

Mr. Fifield said that there will be no business. Mr. Fifield said that this is for his own personal use.

Dwayne Hogan asked if there were any questions or concerns from the Board.

Mr. Fifield said that it's going to be real nice with landscaping.

Melissa Mullins Mischke told Mr. Fifield that she drives through that area everyday and she'll be checking.

Mr. Fifield up at the bench showing the Board pictures of how this is going to look.

William Eaton made a Motion for Dorothy Webb (Seller) and Harlen Fifield (Buyer) to build a pole barn/living quarters consisting of 960 square feet. This property is located on Indiana and Volk Road, (Old US Highway 30), Hanna, IN, Hanna Twp., zoned CBD2 to be approved. Paul Zona seconded. All approved. Motion carried 5-0.

OTHER BUSINESS:

Attorney Biege said that they have received a postponement in filing an answer to the plaintiff's complaint on the first Petition. They are currently in the process of attempting to set up a joint executive session with the BZA, the Plan Commission and the County Commissioners. Attorney Biege said that we can have a presentation from the attorney who's been obtained by the insurance company to defend. Attorney Biege said that we're also going to have some discussion on adopting a new adult business ordinance as we see some problems with our old one, and the current one, and there will be a proposed new one. Attorney Biege said that they will get notice off to our members as soon as we have this coordinated. Attorney Biege said that it has to be an executive session because it's going to be a discussion on current pending litigation.

Attorney Biege said that he has received nothing from the petitioners on the adult entertainment petition for next month.

Melissa Mullins Mischke asked if we could have Annemarie contact them to see where they're at with their paper work and Mr. Bury's.

Annemarie said yes.

Dwayne Hogan said that we don't want to come in here on the third Tuesday and all of a sudden have reams of paper work at five minutes to six to look at it.

Melissa Mullins Mischke said that they have historically given up multitudes of information right at the meeting. Melissa said that she hates in her mind to have all of them come in with a number of remonstrators that she anticipates and say "well we just got this information and we want to table". Melissa said that she would like to get an idea what information they have for us to prepare and see where we're at with the schedule of uses.

Paul Zona said we are not babysitters. They were instructed what to do. If we have to go back and tell them what to do, they already know what they have to do. Let them handle it their way. Paul said that if we get it in the next week or two, he can't guarantee he's going to have time.

Melissa Mullins Mischke and Dwayne Hogan told Paul Zona that they agreed with him.

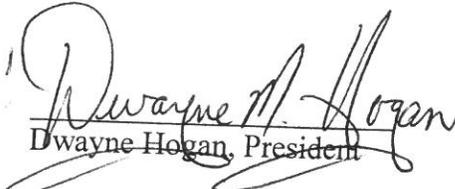
Annemarie Polan, Building Commissioner told the Board members that she thinks we're going to have an abundance of variances if the last two meetings is any indicator. Annemarie said that you can only have one detached building per lot. Annemarie said that she has had four or five very livid people that have come in to get a building permit. Annemarie said that one guy is going to tear down his ten by eight shed because he's a little over one hundred forty four square feet and according to the new one you can only have one per lot. Annemarie said that this guy has three hundred feet behind him and he went over to see the Commissioners and frankly Annemarie said that she agrees with him and she thinks it's kind of over kill.

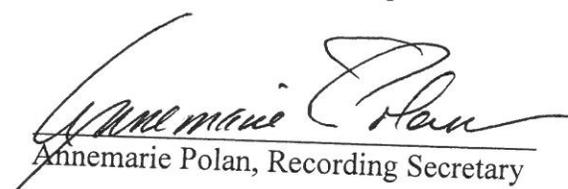
Dwayne Hogan asked Annemarie what page that is on.

Annemarie Polan said that it is Article 16, page 16-2, and paragraph B. Annemarie said that she is hoping that this is something we can change through the Plan Commission.

Paul Zona made a Motion to adjourn. Melissa Mullins Mischke and Glen Minich seconded. All approved. Motion carried 5-0.

There being no further business this evening, meeting adjourned at 7:10 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary