



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

May 15, 2012

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, May 15, 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

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 April 17, 2012. Glen Minich seconded. All approved. Motion carried 4-0.

- 1. 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 & R2.

Legal work complete. No Remonstrators present.

Attorney Biege said that publication is adequate. Attorney Biege said that he shows in his notes that he was to show at this meeting verification of ownership of the real estate, as well as an easement. Attorney Biege said that he has presented a quit claim deed filed in 2009 indicating that he does own the real estate and there in an easement included in the deed.

Clinton Fugate, 1257 W. 650 N.

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

Mr. Fugate said that he would like a variance to continue living in the trailer for two years.

Dwayne Hogan asked Mr. Fugate how long he has lived there.

Mr. Fugate said that he has lived there since 2009.

Dwayne Hogan asked Mr. Fugate if he had a variance before then.

Mr. Fugate stated no.

Dwayne Hogan asked Mr. Fugate if this is his first variance.

Mr. Fugate stated yes.

Dwayne Hogan asked the year of the trailer.

Mr. Fugate stated that it is a 1972.

Paul Zona asked Mr. Fugate if he was going to build in two years.

Mr. Fugate said that is the plan.

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

Dwayne Hogan asked the board's pleasure.

Paul Zona made a Motion that the Petition for Mr. Fugate be granted for a period of two years.
Melissa Mullins seconded.

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

All approved. Motion carried 4-0.

- 2. The Petition for David Boyce & Eddie Heavner** (Homemakers Plus, Inc.) to operate an Adult Day Service. This property is located at 933 Nursery Road, Scipio Twp., zoned R1E.

Legal work not complete. No remonstrators present.

Attorney Biege said that we had notice issues at the last hearing. Attorney Biege said that he has verified notices to all neighbors except for Herbert Olson at 896 S. Mayflower Road. Attorney Biege said that David Boyce is here this evening and he represents that they did in fact attempt to mail certified mail to Mr. Olson, however they did not bring their receipts with them tonight.

Attorney Biege said that if the board were to be so inclined, we could make any approval contingent upon supplying an attempt to send certified mail notice to Mr. Olson.

Paul Zona asked attorney Biege if they already tried to mail to Mr. Olson.

Attorney Biege said that is what he says, but we don't have written verification here tonight, but they tell us that they have.

David Boyce, 7736 Chase Street, Merrillville, Indiana.

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

Mr. Boyce said that he would like to ask for a special exception for property at Faith Baptist Church, 933 Nursery Road, Scipio Twp. to be approved for an adult day service.

Paul Zona asked if this was strictly for the day time only.

Mr. Boyce said that 8:00 a.m. to 4:00 p.m. would be their respective hours.

Mr. Zona asked if it would be 8:00 a.m. to 5:00 p.m.

Mr. Boyce said that is not their plan right now.

Mr. Zona said that we need to know now, unless you want to go through this whole procedure again.

Mr. Boyce asked if they would need to make the time earlier also.

Dwayne Hogan said that we need to know the hours of operation.

Mr. Boyce asked if they could get approved from 6:00 a.m. to 6:00 p.m.

Dwayne Hogan told Mr. Boyce that he could request that.

Mr. Boyce asked if they could have the hours of 6:00 a.m. to 6:00 p.m.

Melissa Mullins Mischke asked if that was Monday through Friday.

Mr. Boyce stated yes.

Paul Zona asked if there would be weekends.

Mr. Boyce stated no.

Dwayne Hogan asked if it would be housed in this building at 933 Nursery Road.

Mr. Boyce stated yes.

Mr. Boyce up at the bench going over the parcel.

Paul Zona asked if there was new construction going up.

Mr. Boyce said that is not their property.

Dwayne Hogan asked if they would be housed in one of the two buildings on this parcel.

Mr. Boyce said that those two building are church property.

Mr. Boyce up at the bench going over the parcel.

Dwayne Hogan asked Mr. Boyce how many adults they could handle at one time.

Mr. Boyce said that upon approval from Medicaid services, they would house thirty to forty.

Dwayne Hogan asked, when you say adults, what are the ages starting at.

Mr. Boyce said approximately forty-five (45) and up.

Dwayne Hogan asked Mr. Boyce if they were going to put a sign in the front.

Mr. Boyce said if that would be approved by the board.

Paul Zona asked Mr. Boyce how big the sign is going to be.

Mr. Boyce said that it would probably be three feet tall and at the most, three feet wide.

Dwayne Hogan asked if the sign would be lighted.

Mr. Boyce said that it would not be a lit sign.

Dwayne Hogan asked if there were any other questions of the board.

Dwayne Hogan asked the pleasure of the board.

Paul Zona made a motion that the Petition for David Boyce & Eddie Heavner (Homemakers Plus, Inc.) an Adult Day Care Center, located at 933 Nursery Road, Scipio Twp, zoned R1E be granted with the following stipulations:

- a) Hours of operation being ran from 6:00 a.m. to 6:00 p.m., Monday through Friday.
- b) To not house over or more than thirty to forty maximum adults.
- c) A sign being 4x4.
- d) No operation whatsoever on the weekends.
- e) Proof of publication by certified mail to Mr. Herbert Olson given to the La Porte County Building Department.

Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there were any other questions or concerns.

All approved. Motion carried 4-0.

3, 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 complete.

Paul Zona said that the way this property is split, each property will own two hundred feet of road frontage.

Ms. Mann said that the property on the other side of the tracks will not have road frontage.

Paul Zona asked if the railroad was abandoned.

Ms. Mann stated no. Ms Mann said that they were sent a notice.

Dwayne Hogan asked Ms. Mann her name and address for the record.

Beth Mann, 4877 N. US Highway 35, La Porte, IN.

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

Ms. Mann said that they would like to split this parcel of land into two parcels by the railroad tracks.

Dwayne Hogan asked each lot having how much property.

Ms. Mann said that they're trying to get this surveyed so they could figure this out. Ms. Mann said that it is 7.49 acres total, but when she goes up on the county website, there is about eleven acres. Ms. Mann said that one would have six point eight and the other one would have about three point something.

Ms. Mann up at the board showing pictures of the parcel.

Attorney Biege said that he would suggest depending on the board's inclination if it were to be inclined to grant this, that a survey be subject to a drawing by a registered surveyor, showing what the split is and showing the access. Attorney Biege said that it is impossible to describe it verbally right now.

Paul Zona told Ms. Mann to try to have a minimum of fifty foot of road frontage.

Ms. Mann said that Tony Hendricks is the one who told us that we needed to come before this board.

Melissa Mullins Mischke made a motion that the Petition for Karen Beth Mann and Ecco D. Mann to split 7.40 acres into two parcels, located at 4953 N. US Highway 35 and 4949 N. US Highway 35, La Porte be tabled to the June 19, 2012 meeting.

Attorney Biege said that he would suggest that we table this and reset upon petitioner's request.

Melissa Mullins Mischke said that her motion is to table this until the petitioner's contact us with a survey.

Dar Pavey asked how long we can table.

Paul Zona told Dar as soon as June and as late as whenever.

Dar Pavey asked if there was a time frame.

Paul Zona said that there is no time frame. Paul said that it's up to when they can get the surveyor.

Glen Minich seconded. All approved. Motion carried. This matter is tabled. 4-0.

4. The Petition for Mark & Angela Prast to build an addition with a setback change to fifteen (15') feet from thirty (30)' feet requirement. This property is located at 3998 East 100 South, La Porte, IN, Pleasant Twp., zoned Ag.

Legal work complete. No remonstrators present.

Mark Prast, 3998 East 100 South, La Porte, IN.

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

Mr. Prast said that they're asking for a variance to build an addition to their home and a deck within fifteen (15') feet of their property line.

Dwayne Hogan asked Mr. Prast if they have started this project yet.

Mr. Prast stated no.

Dwayne Hogan asked if there were any comments from the board.

Dwayne Hogan said that he will entertain a motion.

Paul Zona made a motion that Mark & Angela Prast to build an addition with a setback change requirement to fifteen (15') feet and a deck be granted. This property is located at 3998 East 100 South, La Porte, IN, Pleasant Twp. be granted.

Glen Minich seconded.

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

Melissa Mullins Mischke said that she's not clear from the pictures where the deck is going to be placed.

Mr. Prast said that the deck will be right behind the addition.

Melissa Mullins Mischke asked Mr. Prast what kind of an addition he is putting on. Melissa also asked if there was any way to put this on the other side of the house.

Mr. Prast stated no. Mr. Prast said that the other side of the house has a garage on it.

Dwayne Hogan said we have a motion and a second.

All approved. Motion carried 4-0.

Dwayne Hogan told Mr. Prast to make sure he gets his building permits.

- 5. The Petition for James & Jacqueline Misiukiewicz** to build a third accessory building on property and second driveway. This property is located at 3978 W. Schultz Road, La Porte, Center Twp., zoned R1B.

Legal work complete. No remonstrators present.

James Misiukiewicz, 3978 W. Schultz Road, La Porte, IN.

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

Mr. Misiukiewicz said that he's looking for a variance to build a post frame building on his property. Mr. Misiukiewicz said that he already has one out building on the property and he was told he needs a variance if he wants to put up two.

Paul Zona said that this is a new ordinance.

Dwayne Hogan asked Mr. Misiukiewicz how much property he had.

Mr. Misiukiewicz said that he has ten acres.

Dwayne Hogan asked how big the building is going to be that he is putting up.

Mr. Misiukiewicz said that it will be no smaller than a twenty by sixty until he gets a salesman out there to tell me how much he can spend. Mr. Misiukiewicz said that it will probably be no more than a fifty by eighty.

Melissa Mullins Mischke asked Mr. Misiukiewicz if he was planning on putting electric and water in this pole barn.

Mr. Misiukiewicz said that he will have electric for lighting only. Mr. Misiukiewicz said that it's just a storage building for his rv and boat.

Melissa Mullins Mischke asked if this was going to be a single story.

Mr. Misiukiewicz said yes.

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

Dwayne Hogan asked the board's pleasure.

Melissa Mullins Mischke made a motion that the Petition for James and Jacqueline Misiukiewicz to build a third accessory building on their property and a driveway be granted. This property is located at 3978 W. Schultz Road, La Porte, zoned R1B.

Glen Minich seconded.

All approved. Motion carried 4-0.

6. The Petition for Shane & Allison Morton (Buyer) and Wayne & Rebekah Sears (Seller) for continued placement of a mobile home with new owners. This property is located at 0605 S. 700 E., Mill Creek, IN , Lincoln Twp., zoned Ag.

Legal work complete. No remonstrators present.

Attorney Biege said that this is a land contract purchase.

Allison Morton, P.O. Box 43, La Porte, IN, 46350.

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

Ms. Morton said that she is requesting a variance for continued placement of a mobile home.

Dwayne Hogan asked if this mobile home has been there before.

Ms. Morton said that it has been there since 1994.

Dwayne Hogan asked the year of the mobile home.

Ms. Morton said that it is a 1994.

Paul Zona said that this mobile home has been added onto already.

Ms. Morton said before she ever got there.

Paul Zona asked how much road frontage.

Ms. Morton said there is none. Ms. Morton said that there is an easement in place and her in-laws live right in front of them. Ms. Morton said that there is an easement and there is a sign up at Danny Turners, the guy who lives in front. Ms. Morton said that the sign says that her in-laws and her property are in the back.

Paul Zona asked if there were two properties with no road frontage.

Dwayne Hogan asked whose house is in the front.

Ms. Morton said that her in-laws live there.

Dwayne Hogan asked if they had any road frontage.

Ms. Morton stated no.

Dwayne Hogan asked Ms. Morton who is living in the mobile home now.

Ms. Morton said that Rebekah is residing in that mobile home.

Dwayne Hogan asked Ms. Morton if she wanted to buy this on a land contract if she can get a variance to have it there.

Ms. Morgan stated yes.

Dwayne Hogan asked Ms. Morton how long she wants to leave that mobile home there.

Ms. Morgan said that she would love to build a house whenever they can afford it, but she can't tell you when that will be.

Paul Zona said that it could be there another sixteen years.

Ms. Morton said that it could.

Melissa Mullins Mischke asked Ms. Morton how much acreage they have.

Ms. Morton said that the tax papers said three point six. Ms. Morton said that she has never walked it because there is a lot of poison ivy.

Paul Zona said that there was a variance issued in 1994.

Ms. Morton said that there has always been a variance and in fact Rebekah and Wayne got one a couple of years ago for the same property. Ms. Morton said that they have a current variance on file.

Paul Zona asked if they do.

Ms. Morton stated yes.

Paul Zona asked how they got the variance.

Ms. Morton said the same way they are. They went through and got all the signatures and got it through this board.

Paul Zona asked Annemarie Polan, Building Commissioner, if she has that on file.

Annemarie Polan stated that she didn't know.

Dar Pavey said that if we granted this it would be on file.

Paul Zona said that he has been on this board for sixteen years and he said that he hasn't issued any variances to his knowledge with no road frontage.

Dwayne Hogan said if we did, we did. Dwayne said that he wants to make sure we have our ducks in a row.

Dwayne Hogan asked if there were any remonstrators here for Petition No. 6.

Paul Zona made a motion for the Petition for Shane & Allison Morton (Buyer) and Wayne & Rebekah Sears (Seller) for continued placement of a mobile home be continued to the June 19, 2012 meeting.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 4-0.

Ms. Morton asked if there was anything she needed to do.

Dar Pavey told Ms. Morton that she needs to come back on June 19th.

Glen Minich told Ms. Morton that the only thing that she could do is if she could find a way to connect to the road.

Ms. Morton said that the way they're laid out, she doesn't know if that is feasible.

Ms. Morton said that they use the easement that her in-laws use.

Paul Zona said that if we state that you can have it, he wants a 4x8 sheet lit, with an address on it and an arrow.

7. The Petition for Obed Kalwitz, III and Lorene Mohlke & Jeanine Skirpan for continued placement of a mobile home. This property is located at 3978 W. 1550 S., Wanatah, IN, Cass Twp., zoned Ag.

Legal work complete. No remonstrators present.

Paul Zona asked Rolene where her son is at.

Rolene Kalwitz said making hay.

Dwayne Hogan asked for name and address for the record.

Rolene Kalwitz, 9165 W. 1550 S., Wanatah, IN. Rolene said that the address that he wants this trailer is 9243.

Paul Zona said that he thought we made it three years ago very clear that I wanted to see your son up here when he has a variance come up.

Rolene Kalwitz said she's sorry.

Paul Zona said would he like another variance, or not.

Rolene Kalwitz said yes he would.

Paul Zona said he isn't going to get any as far as he's concerned. Paul said that we're going to postpone this until next month. Paul told Rolene that he can come up here himself. Paul also said that he wants to talk to the daughters that own that property. Paul told Rolene that she doesn't own that property and she fibbed to him before.

Rolene Kalwitz said she did not.

Paul Zona said that you did and he did. Paul said you were sitting right there with your husband and I gave a one year variance on that trailer. Paul said that he made the motion that the Petition for Obed Kalwitz, III, Lorene Mohlke and Jeanine Skirpan be granted for a period of one year. Ed Kogut seconded and all approved. Paul said that the minutes stated that Rolene said her son was going to build on his two acre property, which was landlocked. She said that her son lost his loan to build. Paul told Rolene that she said within a year your son was going to build.

Rolene Kalwitz said no she didn't.

Melissa Mullins Mischke said that we granted the variance for one year in 2009.

Paul Zona said that this is three years later. Paul told Rolene that her son doesn't have the decency to come up in front of this board. Paul said that he's sorry and he knows that he's a big time farmer down there; he's got to do his part.

Rolene Kalwitz said that her son is not a farmer.

Paul Zona said that the Kalwitz's have been farmers all their life. Paul told Rolene to go home and tell her son if he wants to remain in the trailer he better get his butt up here next month as far as he's concerned. Paul said that he doesn't care what the board does, but it bothers him when you can't even show respect to this board and you show up two years late for a variance. Paul said that if he can't show up next month, he doesn't have any idea what he will do if you can't show the board respect.

Rolene Kalwitz said that he's not being disrespectful.

Paul Zona told Rolene that she's been coming up here for her son until about three to six years ago when I forced you into having him come up here once.

Rolene Kalwitz asked Paul how he forced her.

Paul Zona said because he wouldn't grant the variance. Paul said that your son has to come up in front of the board for the variance. Paul said that he has a good memory. Paul said that is where it's at.

Paul Zona said that his motion to the board is that we postpone this until next month so Mr. Kalwitz can approach this board.

Dwayne Hogan said that there is a motion on the floor. Dwayne Hogan asked for a second.

Melissa Mullins Mischke asked if the motion is to postpone this until Obed the III can show up.

Paul Zona said that he would like to see him next month.

Melissa Mullins Mischke asked Rolene if she thought Obed could come next month to the meeting.

Rolene Kalwitz said that she has always represented her son here.

Paul Zona told Rolene that she doesn't live there. Paul told Rolene that he is your son; you don't own the property; you don't live there and it's not your trailer. Paul said that he thinks that it is about time he shows up here more than just once.

Rolene Kalwitz asked Paul if he has ever been down there to talk to him.

Paul Zona said that he hasn't talked to him.

Rolene Kalwitz told Paul he should.

Paul Zona asked why? Paul said that if he comes up in front of the board, he would be able to talk to him.

Rolene Kalwitz told Paul that she doesn't know what to tell him.

Dwayne Hogan said that he has a motion. Dwayne asked for a second.

Dwayne Hogan said that motion dies for lack of second. Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke asked who currently owns the property that the mobile home is sitting on.

Rolene Kalwitz said the girls own that.

Melissa Mullins Mischke told Rolene that they have been in front of us before trying to get access to Obed, III's landlocked parcel and it was the intent at that time in 2009 to try to put the mobile home on that property.

Rolene Kalwitz stated no. Rolene said that he was going to build a house and it was the stalling of this board that made him lose the house, because you said that (inaudible) was not a road. Rolene said that they researched that and that took them three months. Rolene said that in the mean time it caused terrible trouble for her and he lost the house; he almost lost his son and he lost his girlfriend.

Rolene Kalwitz said that her husband is in the hospital and this is too much. Rolene said that maybe we should postpone this.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion that the Petition for Obed Kalwitz, III, Lorene Mohlke and Jeanine Skirpan be postponed until the petitioner contacts the Building Commissioner's Office and asks to be put back on the agenda.

Rolene Kalwitz asked if that meant that they have to have another one-hundred dollars.

Paul Zona stated no.

Rolene Kalwitz said that she had to pay that and she works in a prison to keep the family together.

Melissa Mullins Mischke asked if she could say to amend the motion to say by the end of the calendar year.

Attorney Biege said that we should put some limit on it.

Board members speaking amongst themselves.

Melissa Mullins Mischke said to amend this to be postponed to the November 20, 2012 meeting.

Dwayne Hogan asked Mr. Zona if that was okay with him.

Paul Zona stated whatever.

Dwayne Hogan said that he has a motion. Dwayne asked for a second.

Glen Minich seconded. All approved. Motion carried 4-0.

Dwayne Hogan asked for Petition No. 8.

Dar Pavey said that it is postponed until the June 19, 2012 meeting.

Dwayne Hogan asked if there was any other business before the BZA this evening.

Attorney Biege asked the disposition on Petition No. 4, Richard Parratt. Attorney Biege said that he knows we skipped this.

Dar Pavey told the board members that Mr. Parratt didn't need a variance.

Dwayne Hogan asked if there was any other business before the BZA.

Attorney Biege said that just prior to this meeting he received a Motion to Amend Complaint for the litigation concerning Phoenix Ventures and John Burys and he has not had an opportunity to review this. Attorney Biege said that he really can't comment on what they are requesting to change.

Attorney Biege said so that the BZA knows, at last month's Plan Commission Meeting, the Plan Commission voted to appoint a committee to examine the liability of the licensing or the conduct statute in connection with sexually orientated businesses. Attorney Biege said that the committee is not yet formed and he expects it to be complete next week at the Plan Commission meeting and then discussions will commence with regard to future possible ordinances. Attorney Biege said that we're also in process of suggesting some amendments to the current zoning ordinance between the city of LaPorte, Michigan City and the county and that is progressing.

Dwayne Hogan asked if the Gentlemen's club is due in July.

Attorney Biege said that is correct.

Melissa Mullis Mischke said that she knows we postponed it for ninety days. Melissa asked if we have had any further discussion on the studies that need to be done. Melissa also asked if that July time frame is still enough time.

Attorney Biege said that the studies would have a bearing on passing the new statute. Attorney Biege said if remonstrators wish to present more studies or more information, they're entitled to do so.

Paul Zona said that he hopes that they get it to us in time so we have the time to study this.

Attorney Biege said that he hasn't received any information as of this date.

Dwayne Hogan asked attorney Biege if his office has received anything.

Paul Laberge, 620 Esther Street, Michigan City, Indiana. Mr. Laberge asked the board why the Gentlemen's Club has been postponed so much.

Attorney Biege said that there has been more than one petition. Attorney Biege said that the first petition was heard and the board made a decision. Attorney Biege said that there was a second petition with a different location. Attorney Biege told Mr. Laberge that we're working under a new zoning ordinance and that zoning ordinance has some requirements that they may not have been aware of, nor the remonstrators for that matter.

Attorney Biege said that it would be fair for both sides that the board continues the matter to allow both sides to assemble information regarding traffic studies and those types of things.

Dwayne Hogan told Mr. Laberge that this is going to be heard in July, which it is currently set for.

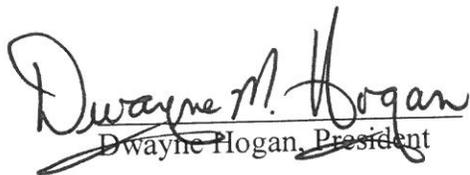
Alco tv told the board that this is the only place that they can go live.

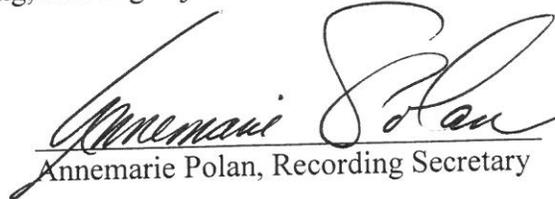
Dwayne Hogan asked if there was any other business before the board this evening.

Dwayne Hogan said that he would entertain a motion to adjourn.

Paul Zona made a Motion to adjourn. Melissa Mullins Mischke seconded. All approved. Motion carried 4-0.

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


Dwayne M. Hogan, President


Annemarie Polan, Recording Secretary