



## LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level  
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ANNEMARIE POLAN  
Building Commissioner

December 18, 2012

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, December 18, 2012, at 6:00 p.m. in the Assembly Room of the County Complex.

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

OTHERS PRESENT:      Annemarie Polan, Recoding Secretary, Attorney Doug Biege;  
                                 Darlene Pavey, Secretary

The Pledge of Allegiance.

Dwayne Hogan entertained a Motion for the approval of meeting minutes from November 20, 2012.

Melissa Mullins Mischke made a Motion to approve the meeting minutes as presented. William Eaton seconded.

All approved. Motion carried 5-0.

1. **The Petition for Laura & Rich Ostergren** to move his existing garage that will encroach upon front setback by 15' feet and side setback by 5' feet. This property is located at 13-15 Elm Drive, La Porte, Center Twp., zoned R1B. **(This Petition was tabled from the November 20, 2012 meeting to December 18, 2012 at 6:00 p.m.)**  
**(This Petition was tabled from the December 18, 2012 meeting to January 15, 2012 at 6:00 p.m.)**

**Legal work complete. No remonstrators present.**

Rich Ostergren, 15 Elm Drive.

Dwayne Hogan asked what the board would like to do.

Paul Zona said as far as he sees moving the garage he doesn't see a problem. Paul said that the side setback is going to be encroachment where it's at the present time, or down the road. Paul said down the road a little bit will give a better view for everybody what he can see. Paul said that he doesn't see a problem.

Glen Minich said that he had a chance to go out and look at this site again and from what we saw on the pictures to what we originally thought, he does – you're right, it's not actually going to encroach on the road perhaps any more than it did, but it's actually encroaching on the neighbor more because of its size. Glen said that this is not just a garage, it should be looked at more like a house because it would have the ability to have a future use as a house because it's two story, second floor and he's afraid if it's moved then it's going to breaking another rule because it is filling the whole lot; it's not just a garage. Glen said that in the back it's kind of hard to see where that seawall's at. Glen said that it's still being worked on and there is still fill that's going into that wetland and he doesn't feel good about that because there is not a hard line between the actual dry land property and the water. Glen said that those two or three things really bother him.

Glen Minich said that where it's at now, the day he was there the sun was shining and it was throwing all the shade into your lawn, which is fine either way, and he doesn't think we can deny this for that reason, but if it is moved to the new site it's actually going to shade the whole neighbor's driveway up to his house. Glen said that this is a massive size.

Paul Zona said that the biggest thing that you have to remember it is a garage period. Paul said that you can't call it a house; you can't put it into a home or an apartment until he comes back for our verification or this board. Paul said that his neighbor was issued a letter of intent.

Rich Ostergren said that if this board wanted to restrict it from being a residence for some future owner that would have to come before this board, he doesn't have a problem with that. Rich said he has no desire of making that a residence. Rich said that could be a restriction and he wouldn't have a problem with that.

Paul Zona said that he himself in particular, if the board decides to pass this that is one thing that he would suggest.

Rich Ostergren said that the space that we mentioned about the seawall, that's been approved. Rich said that he agrees that it's tight, but the space is there.

Glen Minich said that the massive size of this thing; if there was a fire there it is right next to this neighbor's home.

Rich Ostergren said that there's no one else on that side of the street.

Glen Minich said that the garage is big and it shades up to the neighbors house. Glen asked if it falls, how far is it going to fall.

Melissa Mullins Mischke said that the roof line is larger than the foot print of the building itself.

Glen Minich said that if it was on a big residential lot, he said it's a garage, but this isn't a typical garage.

Melissa Mullins Mischke said that she has to agree with Glen. Melissa said that she thinks that it is much too tight and she's not comfortable with the fill either. Melissa said that she was out there today and took a look at it and she's not at all comfortable with the size of the land and the space for the building. Melissa said that she agrees it's already tight where it's at, and she would like to leave it where it's at and not continue to the problem further down.

Rich Ostergren said that from the road aspect and from the other neighbor's house, it would be an exact same setup. Rich said that there is no other neighbor on that side of the street and the neighbor that it would be, would only be in front of his garage, not in front of his home. Rich said that where he's going to be building the newer home, it would open up the area and benefit everybody.

Glen Minich said that it benefits everybody except for the neighbor that would be blocking them in closer proximity to them across the road.

Rich Ostergren said that he doesn't know which home he's referring to, but the one home that will be in front of his garage will have much more open view all the way across the pond instead of looking out on an angle where the home is. Rich said that where the other home is, his view of the swamp area is all covered with trees. Rich said that basically it would benefit everyone there.

Paul Zona asked Mr. Ostergren if he sent that neighbor a certified letter?

Mr. Ostergren stated yes. Mr. Ostergren said that everyone got the letter.

Paul Zona said no one showed up; they don't care.

Mr. Ostergren said that everybody knows exactly what he's doing. Mr. Ostergren said that there are only six houses that are past him until you reach a dead end.

Glen Minich said that we have to look at today and we've to look at tomorrow. Mr. Minich said that this isn't a whole lot different than the problem we've just had out Hudson Lake, which is an ongoing problem. Mr. Minich said that we need to mitigate now.

Paul Zona said that out on the lake it's a different issue.

Glen Minich said that he wouldn't want to do that for everyone out on that island. Mr. Minich said that he isn't comfortable doing this.

Rich Ostergren said that the island is a totally different situation. Mr. Ostergren said that there is no other neighbor on that side of the road; it's not really close to anyone else's residence.

Glen Minich said that if it was his house being moved in front of, he wouldn't want it.

Rich Ostergren said that it's only in front of his garage part, not in front of his residence. Rich said that he's looking at more of it now than he would be where the new location would be.

Dwayne Hogan asked if there were any remonstrators here this evening for Petition No. 1.

Annemarie Polan, Building Commissioner told the board members that there was somebody this morning that did have something to say about it and he wasn't in favor of this.

Paul Zona asked Annemarie if he left a letter or anything.

Annemarie Polan stated no.

Dwayne Hogan asked Annemarie if it was a neighbor.

Annemarie Polan said that he lives in the vicinity.

Dwayne Hogan asked Annemarie if he gave a reason.

Annemarie Polan said that he said it was too big – too monstrous and he didn't like where it sits. Annemarie said he thought it would be a mistake.

Dwayne Hogan asked if he left a name or a number.

Annemarie Polan stated no.

Attorney Doug Biege said that we have a nonconforming structure so he thinks that it is grandfathered in. Attorney Biege said that the code doesn't tackle moving on the same lot, so the structure as it sits is grandfathered in. Attorney Biege said that his conclusion would be if it moves to another nonconforming area on the same lot, it's not a rebuild; it's not a modification or alteration and those are the restrictions under the grandfather clause.

Paul Zona said that truthfully his understanding what he's seen, it is a grey area and he didn't even need to come and approach the board on this because it's on the same lot.

Glen Minich said that he doesn't have a variance now.

Paul Zona said that it's grandfathered in.

Attorney Biege said that he doesn't know how long the structure has been there.

Paul Zona said unfortunately now we're getting in a grey area. Paul asked how many barns have been moved on a farm.

Glen Minich said that this isn't infringing on any ...

Paul Zona said that it's the same lot. Paul said that it's a grey area.

Glen Minich said actually it's a different lot.

Glen Minich said that the legal actually says that there are three lots there.

Rich Ostergren said that all of the lots on the island are small.

Dwayne Hogan asked if it was lots 13, 14 and 15.

Board members talking at the same time.

Melissa Mullins Mischke said that it is a different parcel.

Rich Ostergren said that it's another ID number.

Dwayne Hogan asked Mr. Ostergren if he pays separate taxes on those lots.

Rich Ostergren stated yes. Rich said that he's combined everything.

Attorney Biege asked Mr. Ostergren when he combined the parcels.

Rich Ostergren said possibly two or three weeks ago.

Board members speaking amongst themselves.

Melissa Mullins Mischke said that if we're going to postpone this, one thing that would make her comfortable voting is to have proof from IDEM that you're in fact allowed to fill in and all of that stuff is clear. Melissa said that she hasn't seen any of that paper work. Melissa said that's the only thing that will give a yes vote out of her.

Rich Ostergren asked if we could make that subject to that.

Glen Minich said that he's not even comfortable with that. Glen said that he doesn't know where you guys all set, but again we can't start this because that's what happened in Hudson Lake. Glen said that we need to keep consistency here. Glen said that he knows that there are not people in here remonstrating on this thing, but he feels to be consistent we have to deny this.

Melissa Mullins Mischke said that she agrees even in all the lake areas, she understands that they're small lots, but if we want to stop the encroaching on property lines we have to stop approving for people to build there. Melissa said that this is not a practice that she wants to continue. Melissa told Mr. Ostergren that he knew the size of the lots when he purchased them and again, you want to put a giant four million dollar house, but work within the zoning.

Rich Ostergren asked if it's the measurement that you have a concern with, because he doesn't have a problem moving it to the other direction.

Melissa Mullins Mischke said that she's concerned with the proximity to the road. Melissa said that she already thinks that it is much too close to the road for safety issues. Melissa said continuing that even further down, she still has concerns about how close it is to the road. Melissa said that she doesn't feel comfortable about moving a building which is already in her opinion a bad location, moving it down and continuing that bad location. Melissa said that if it was improving it further off the right-of-way then she might have a different opinion on it. Melissa said that it doesn't appear that way to her.

Dwayne Hogan asked Annemarie Polan, Building Commissioner if she has any concerns, questions or comments.

Annemarie Polan stated no.

Dwayne Hogan said that he would likewise be curious about what IDEM would say.

Rich Ostergren said that he did have an engineer at the last meeting and he did mention that he verified that they have accepted. Mr. Ostergren said that the only thing with IDEM -- the DNR was that they were concerned with the slide fill that was there for ten years, which has all been removed and since it's been removed, the sand has not been put back there only because an anticipation that he would be putting in a foundation. Mr. Ostergren said that it has been removed to their satisfaction.

Paul Zona asked Mr. Ostergren if he could produce a letter possibly for the next meeting from DNR.

Rich Ostergren said that he was hoping that at the last meeting. Rich said that the DNR was there and he had the engineer firm here at the last meeting to verify that everything he did was to their satisfaction.

Melissa Mullins Mischke asked if that was John Eagan that he's working with at IDEM.

Mr. Ostergren said that he believes it is.

Paul Zona made a Motion to postpone to the January 15, 2013 meeting. William Eaton seconded.

All approved. Motion carried. 5-0.

**2. The Petition for James & Shirley North and Lillie North for continued placement of a mobile home. This property is located at 13624 S. 600 W., Hanna, Cass Twp, zoned Agricultural. (This Petition was tabled from the November 20, 2012 meeting to December 18, 2012 at 6:00 p.m.)**

Attorney Biege said that he doesn't have an affidavit for publication, but he has the proof of payment indicating that this was published on November 6, 2012 and there appears to be a print out from a website showing the advertisement. No remonstrators present.

James North, 1364 S. 600 W., Hanna, Indiana.

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

Mr. North said to get permission to leave his mom's trailer sitting where it's at for the next three years.

Dwayne Hogan asked Mr. North if he had a variance before.

Mr. North stated yes.

Dwayne Hogan asked how many.

Mr. North said that this will be his third.

Dwayne Hogan asked Mr. North the year of the trailer.

Mr. North said that it's a 1998.

Dwayne Hogan asked Mr. North if his mother is still living in the trailer.

Mr. North stated yes. Mr. North said that his mother is eighty eight (88) years old.

Paul Zona told Mr. North for his sake he hopes he has to come back ten (10) more times.

Melissa Mullins Mischke said that she lives in the neighborhood and this is well maintained. Melissa said that it is all ways in perfect shape.

Dwayne Hogan asked if there were any remonstrators here this evening for Petition No. 2,

William Eaton made a motion for the Petition for James & Shirley North and Shirley North for continued placement of a mobile home be granted for a period of three (3) years. This property is located at 13624 S. 600 W., Hanna, Cass Twp., zoned Agricultural.

Melissa Mullins Mischke seconded.

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

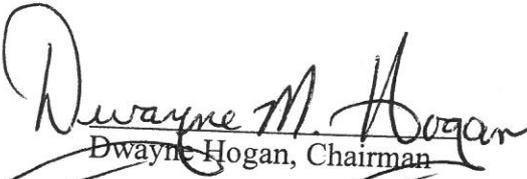
All approved. Motion carried 5-0.

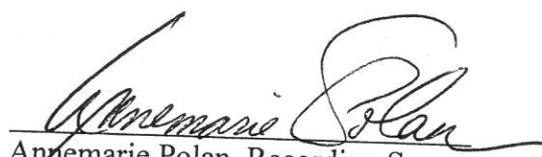
- 3. The Petition for Communications Properties, LLC**, by counsel, Ralph F. Howes for a Special Exception to erect a wireless communication tower. The proposed tower would be self supporting and would be 350 feet in height. This property is situated at the intersection of Johnson Road, County Road 500 West and County Road 250 North, zoned B-2. **(This matter is tabled to December 18, 2012 meeting at 6:00 p.m.) (This matter was tabled from the December 18, 2012 meeting to January 15, 2013 at 6:00 p.m.)**

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

Paul Zona made a motion that this meeting be adjourned. All approved.

There being no further business, meeting adjourned at 7:27 p.m.

  
Dwayne Hogan, Chairman

  
Annemarie Polan, Recording Secretary