



LAPORTE COUNTY BOARD OF ZONING APPEALS

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ANNEMARIE POLAN
Building Commissioner

June 18, 2013

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, June 18, 2013, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: Dwayne Hogan Wally Pritz
 Glen Minich Melissa Mullins Mischke
 Candice Nelson

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

The Pledge of Allegiance.

Dwayne Hogan entertained a Motion for the approval of meeting minutes of May 21, 2013.

Melissa Mullins Mischke made a Motion to approve the meeting minutes as presented.
Candice Nelson seconded.

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

Melissa Mullins Mischke said that she just wants to say what a fabulous job our secretary did on preparing those minutes, she knows that they weren't easy last month.

Dwayne Hogan said that they were great and they really appreciate that.

Dar Pavey thanked the board.

All approved. Motion carried 5-0.

Dwayne Hogan asked if Petition No. 3 is going to be postponed until July 16, 2013.

Annemarie Polan, Building Commissioner stated yes.

6-18-2013 BZA Minutes

Dwayne Hogan said just in case you're here for remonstrance for Petition No. 3 for the Petition for Steve & Judy Parsons to run a babysitting business for children ages two through five, Monday through Friday with hours of operation being 6:00 a.m. to 5:00 p.m. This property is located at 3745 S. Holmesville Road, La Porte, New Durham Twp., zoned Agricultural has been tabled to July 16, 2013.

- 1. The Petition for Kenneth & Mary McAtee** for continued placement of a mobile home. This property is located at 7421 E. Point Road, New Carlisle, zoned R1B. Last variance was granted on April 20, 1010 for a period of three (3) years. (Tabled to **June 18, 2013 at 6:00 p.m.**)

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Debbie Jorkowski said that she is the daughter of Ken & Mary McAtee. Ms. Jorkowski said that her address is 7401 East Point Road, New Carlisle, 46552.

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

Ms. Jorkowski said that she came for the variance for Ken & Mary McAtee's trailer.

Dwayne Hogan asked Ms. Jorkowski the year of the trailer.

Ms. Jorkowski said that it is a "72".

Dwayne Hogan asked Ms. Jorkowski how long the trailer has been there.

Ms. Jorkowski said since "72".

Dwayne Hogan asked if it's fair to assume that there is no chance of them ever building something there on that lot.

Ms. Jorkowski said that there is nothing in the near future for them to do anything. Ms. Jorkowski said she wouldn't say never.

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

Candice Nelson asked Ms. Jorkowski if that is a garage on the property.

Ms. Jorkowski said that it is a basement. Ms. Jorkowski said that there is a basement on the front of it.

Candice Nelson said in other words like going to the lake.

Ms. Jorkowski stated yes.

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

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

Dwayne Hogan asked the pleasure of the board.

Wally Pritz made a motion that the Petition for Kenneth & Mary McAtee for continued placement of a mobile home be granted for a period of three (3) years renewable on property located at 7421 East Point Road, New Carlisle, Hudson Twp., zoned R1B. Candice Nelson seconded.

Dwayne Hogan asked if there were any comments or concerns.

All approved. Motion carried 5-0.

2. The Petition for Mark D. & Nancy S. Parkman (owners) and Lisa Bonin (owner) to build two residence; one residence on five (5) acres with 113' road frontage located at 10532 W. 200 S., Westville, Indiana, New Durham Twp., zoned R1A. (This Petition was tabled from May 21, 2013 meeting).

Attorney Biege said that this was tabled from last month and he would recommend a motion to take it off.

Melissa Mullins Mischke made a motion that we take Item No. 2 off the table. Candice Nelson seconded. All approved. Motion carried 5-0.

Dwayne Hogan asked for name and address for the record.

Douglas Bonin, 10532 W. 200 S., Westville. Mr. Bonin asked the board if they are sure they just don't want to go ahead and approve this.

Mr. Bonin said as he came in he heard some discussion with regards to certain issues relative to the grandfathered status of the railroad easement. Mr. Bonin is up at the board passing out information on what he wants to do with this property. Mr. Bonin said that there is one other grandfathered property on the far Westside. Mr. Bonin said that these are not consistent – they're different because he needs to get some input from you folks as to what you would like to see happen. Mr. Bonin said that it's basically an issue with road frontage.

Mr. Bonin is up at the bench going over the site plan with the board members.

Attorney Biege said that he took a look at the deed on the one-hundred (100') foot of road frontage and he agrees that is grandfathered in. Attorney Biege said he could do what he wishes and he doesn't need a variance for the one-hundred (100') feet, notwithstanding the deed restrictions on the deed itself. Attorney Biege said that he thinks that once that one-hundred (100') foot parcel is combined with another parcel in whatever way is no longer grandfathered in and would be subject to a joint zoning ordinance.

Mr. Bonin asked if the administrative subdivision is out as an argument.

Attorney Biege said that he thinks so. Attorney Biege said that essentially we're looking at a variance on the split with using the one-hundred (100') foot parcel as access. Attorney Biege said that you can use that one-hundred (100') foot parcel however you want too, notwithstanding the deed restrictions of course.

Mr. Bonin said that he worked real hard on that argument so he guesses it's down the toilet.

Attorney Biege told Mr. Bonin that he wants to make it for the record in the event of an appeal.

Mr. Bonin told attorney Biege as he's a lawyer and he's not, ---- he's representing himself here this evening.

Attorney Biege said just in all fairness he did discuss this with Mr. Hendricks and he reviewed his notes on it – we can agree to disagree on how the code is interrupted at least.

Mr. Bonin said for the record he likes his opinion better – but so be it.

Mr. Bonin said what he guesses what he could do right now is just leave the one-hundred (100') foot easement the way it is and he can use it that way as a grandfathered parcel if he was not going to attach another parcel to it. Mr. Bonin said that although there are residential restrictions regarding that deed, he had extensive dialogue with CSX this past week and they told him with regards to any kind of pole building structures or anything of that nature he's free to do whatever he wants. Mr. Bonin said that when they initially acquired the railroad it was for the purpose of having access to the back --- actually it was a road for a subdivision when they wanted to subdivide the property. Mr. Bonin said at the time there was money to be made and that was their line of work.

Mr. Bonin said that the problem in 2007-2008 is that everything they worked thirty-five (35) years for went down the pooper and they're basically starting over again.

Mr. Bonin said that so he doesn't forget anything he would like to read in his own words that he put together. Mr. Bonin said that as you look at those depictions there this makes reference to

those. Mr. Bonin said that the long term plan on 200 South is to have five tracks of executive residential uses for (inaudible) homesteads. Mr. Bonin said that having only five (5) large executive size parcels would keep the impact of county road 200 S. and the intersection at US 421 to a minimum. Mr. Bonin said approximately twenty (20) cars a day based on the premise that each house has two cars and they go at least two times in and out of the subdivision.

Mr. Bonin said that the entire seventy-six (76) acres has a total of approximately eight-hundred thirteen and one half (813 ½') feet frontage and no parcel would have less than one-hundred (100') feet of frontage – this would in fact be the railroad parcel which stands on its own as a lot of record and he thought could be used according to Section 29.03 of the Joint Zoning Ordinance. Mr. Bonin said in contrast several years ago we were zoned Ag. and we came and had a R1A zone change. Mr. Bonin said in contrast, the land is presently zoned R1A and is approved for up to one-hundred twenty (120) home sites based on the minimum lot requirements set forth in the subdivision ordinance on ninety (90') feet of frontage and fifteen-thousand (15,000) square feet of lot area. Mr. Bonin said that as the economy continues to improve, so do the possibilities concerning this subdivision.

Mr. Bonin said that such a development when fully occupied would have a huge and potentially negative impact on the surrounding community using an example of each owner having two cars going to and from the property only twice a day – the increase of traffic alone would nearly exceed one-thousand additional cars on a daily basis—seven-thousand (7000) per week, fifty-thousand (50,000) per month—it's simple math and anyone can do it. Mr. Bonin said that this would mandate improved infrastructure on 200 South and US Highway 421, which is already a very heavily use intersection and very congested during peak hours each and every day.

Mr. Bonin said that it may be next year or twenty (20) years down the road, but it's an approved use for this property that does presently exist. Mr. Bonin said that in addition, there is community sewer immediately available for a development of this size. Mr. Bonin said that only having five (5) large executive size parcels would help to minimize the present and the future issues of traffic, congestion and the addition of public services that would be required to meet the demand of a densely populated subdivision on county road 200 S. near US 421 and only one quarter mile from Purdue North Central University. Mr. Bonin said in addition, implementing the five large tract concept would preserve the aesthetic attributes of a seventy-six (76) acre parcel of land that is one of most west Indiana's most scenic croppies in his opinion.

Mr. Bonin said that presently he has an interested party – and these are hard to come by – the property has been for sale for six (6) or seven (7) years. Mr. Bonin said that presently there is an interested party that would immediately improve the proposed parcel --- the back forty-nine (49) acres and bring some development from Porter County to La Porte County. Mr. Bonin said that he's aware that he would be required to go before the Plan Commission at a future date in order to divide off another parcel regardless of the frontage and that would give the public an additional opportunity to have future input as well. Mr. Bonin said that if this board and this

counsel agree that provisions of the present joint zoning ordinance as earlier read allows additional acreage onto an existing grandfathered parcel (administrative subdivisions) and a motion or approval is not needed for a building permit to be issued then they can move forward, but we discussed it and we have to come to some other arrangement. Mr. Bonin said that he's here to gain some clarity on all of this and he's looking for a reasonable solve to this situation.

Mr. Bonin said that issues are eight-hundred thirteen and a half (813 ½) feet of frontage and he would like to make five (5) parcels out of this – it doesn't necessarily mean that he wants to sell five (5) parcels. Mr. Bonin said that there is one drawing up there that is divided into two parcels and that would be his preference if he's not forced to sell anymore. Mr. Bonin said since he's here and since you have the power to grant a variance, he'd like to go ahead and discuss the frontage and get the issued resolved so he doesn't have to come back here again for this purpose.

Wally Pritz asked Mr. Bonin if he has one-hundred thirteen point five (113.05') feet. Mr. Pritz asked Mr. Bonin if that is frontage to go to a lot.

Mr. Bonin said that is an eight (8) acre parcel that is very narrow and it runs the whole length – twenty-six hundred and fifty feet long. Mr. Bonin said that what he would like to do is to get a variance across the board for some kind of frontage calculation that we can reach and include that --- there's nothing he can do about the one-hundred thirty (inaudible) there is no land to get to the right side of it, so that would be one that can't change, because there's an incredible site that goes up a hill and looks over a big lake --- it's where he wants to put his own house to be honest with you.

Wally Pritz said why we couldn't have the problem with the one-hundred (100') foot on the east side.

Mr. Bonin said that the original homestead sits to the east of that --- a five (5) acre square there.

Mr. Bonin is up at the bench going over the site plan with the board members.

Board members and Mr. Bonin going over the site plan.

Attorney Biege said what he's thinking we can do if the board doesn't want to set a precedence where we're using railroad access to create a lot – if we exclude the railroad parcel completely from the variance and simply require the back forty-nine acres require an easement – when he says surveyed, that means one parcel requires an easement from another parcel and require that easement in the one-hundred (100') foot railroad parcel, but it's not a variance. Attorney Biege said that if the board goes that way he thinks we can do it. Attorney Biege said that he wants to review this more carefully, but just curser reading, it looks like the deed allows for access over the railroad parcel. Attorney Biege said that if you did that you would end up with one-hundred sixty six (166), but were not granting a variance based solely on the railroad access.

Board members speaking amongst themselves.

Dwayne Hogan asked if there were any remonstrators here this evening for this petition.

Mr. Bonin said that he doesn't know what's cooking up there.

Board members speaking amongst themselves.

Attorney Biege asked Annemarie Polan, Building Commissioner if she has the publication in the file from last month.

Annemarie Polan, Building Commissioner, stated no.

Board members speaking amongst themselves.

Glen Minich told Mr. Bonin that he thinks the board likes this concept – you limited the problem we have – we're going to have some one-hundred (100') foot railroad lots that are going to come available in this county in tax sales and we don't want to make a precedent that we're going to allow buildings on those. Mr. Minich said the problem is that this isn't really a part of your petition although we believe in the concept in it; he doesn't know how we can agree without -----

Dwayne Hogan asked if this was advertised.

Attorney Biege if he asks him a load of questions as what he attends to amend that complies with the rules. Attorney Biege said that he doesn't think that we're going to have requirement to re-advertise or renew this because his original petition is looking at one-hundred (100') feet and one-hundred thirteen (113') feet. Attorney Biege said that he's going to end up with more variance, but he just asked for variance on that parcel which was originally a larger parcel. Attorney Biege said that because this is a further breakup what previously existed, he thinks we're fine unless the board feels the need to re-notice.

Attorney Biege asked Mr. Bonin with his request he's going to mark this as Exhibit A.

Mr. Bonin said that they're all different though.

Attorney Biege said that is why he's marking the one in his hand as Exhibit A. Attorney Biege asked Mr. Bonin if he's amending his petition for a variance as set forth in Exhibit A with regards to creation of lots.

Mr. Bonin up at the bench going over Exhibit A.

Glen Minich said that we can't give a guarantee something that we can't look at. Glen said if we don't comply what we say will do right now, we're going to have to reissue the petition.

Attorney Biege said that we could approve the preliminary—the board could approve the preliminary subject to final approval when you get your configuration and that way you would know that you're good on the frontage division, but Anne would know that she couldn't issue a building permit until the board approves each lot as a final configuration.

Board members speaking amongst themselves.

Attorney Biege said that he would suggest that we table this and you come back with a clean clear drawing. Attorney Biege said that way it's crystal clear what the board granted and crystal clear on what you have.

Mr. Bonin said that the only thing with the buyer on the back what will be a total of fifty (50) acres, in changing the zoning to Ag he is able to have a small caretaker's house in addition to his large house.

Attorney Biege said that is something that this board doesn't have power to grant. Attorney Biege said that the Plan Commission has the authority to grant any zoning change

Mr. Bonin said that this guy wants to be able to have in-law quarters – actually it's not in-laws, it's his parents and he doesn't want to have to put them in a nursing home and he wants to take care of them until the day they die. Mr. Bonin said that he has fifty (50) acres back. Mr. Bonin said that he was talking about having a four (4) car garage and some portion of the up-stairs finished off with two bedrooms, a kitchen and decent living quarters.

Melissa Mullins Mischke said that once the sale takes place he'll probably need to come in front of this board and file a petition for a variance.

Mr. Bonin said that the problem he has is he doesn't want to buy it first and then find out that can't do that.

Melissa Mullins Mischke told Mr. Bonin that he should make the sale contingent upon approval of the board, or you should make the sale contingent upon approval of the board. Melissa said that you have to be specific to that owner.

Attorney Biege told Mr. Bonin that he would suggest that he seeks legal counsel in drafting the purchase agreement, as well as seeking the variance.

Glen Minich asked if that has to be switched to Ag.

Annemarie Polan, Building Commissioner, said that it is still one residence per parcel.

Dwayne Hogan asked what's our motion for the evening.

Melissa Mullins Mischke made a motion that we table the petition for Mark & Nancy Parkman (owners) and Lisa Bonin (owner) for to build a residence on forty-nine (49) acres with one-hundred (100') foot of road frontage, located at 10532 W. 200 S., Westville, New Durham Twp until July 16, 2013 meeting. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns on the motion.

All approved. Motion carried 5-0.

4. **The Petition for Rebeca Keller** for placement of an above ground pool (24') in front of home towards the side property. This property is located at 7817 N. Hudson Blvd., New Carlisle, Hudson Twp., zoned R1B See Section 16:04, par a.

Attorney Biege said that legal is adequate.

Dwayne Hogan asked for name and address for the record.

Rebeca Keller, 7817 N. Hudson Blvd, New Carlisle.

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

Ms. Keller said that she wants to get a variance to put above ground pool on her side yard. Ms. Keller said she guesses it's considered her front yard.

Dwayne Hogan asked Ms. Keller how far front in the front yard.

Ms. Keller said looking at her property it is the right of her garage. Ms. Keller said that it is not actually in the front of her house.

Ms. Keller up at the bench going over the site plan.

Ms. Keller said that she can't go in the back because that is where her well and septic is.

Dwayne Hogan asked Ms. Keller it is going to be twenty-four (24') foot.

Ms. Keller said that is the size she purchased.

Dwayne Hogan asked it it's all above.

Ms. Keller stated yes.

Dwayne Hogan asked Ms. Keller if she already purchased it.

Ms. Keller said yes, but she told them not to build it because she didn't realize she had to get a variance.

Melissa Mullins Mischke asked Ms. Keller if her fence is gated and locked.

Ms. Keller stated yes.

Candice Nelson told Ms. Keller that her fencing is two different heights and that was her concern.

Dwayne Hogan said that you can't go high in the front.

Attorney Biege said the fence is part of the building code. Attorney Biege said that is something the Building Commissioner would check and monitor. Attorney Biege said that there is a section in the zoning code which references 675 (a) see 20. Attorney Biege said that there is a disparity in a fence size whether it's covered or not covered.

Glen Minich asked if we have to have a fence around an above ground pool.

Ms. Keller said that she did it for her own safety.

Annemarie Polan, Building Commissioner, stated yes. Annemarie said that the rules have changed. Annemarie said that everything has changed on pools.

Dwayne Hogan asked will this fence have to be changed to be higher or not.

Attorney Biege said that the code reads the wall of pool and any fence surrounding the plat form around the pool must be at least four (4') feet in height.

Ms. Keller said that the side that reaches her driveway is four (4') feet and the rest of it is six (6') feet.

Board members speaking amongst themselves.

Dwayne Hogan asked if there were any remonstrators here this evening for Petition No. 4.

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

Candice Nelson made a Motion the Petition for Rebeca Keller for placement of an above ground pool (24') feet in front of home towards the side of the property be granted at property located at 7817 "N. Hudson Blvd., New Carlisle, Hudson Twp., zoned R1B. Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

- 5. The Petitioner Rick St. Germain (buyer) and William Dean Gillespie (owner), by attorney Bradley Adamsky to split a 19.46 acre parcel into two parcels, one 5 acres with fifty (50') feet of frontage which Mr. St. Germain will purchase to build a residence and one 14.46 acres with (150') feet of frontage which will remain with Mr. Gillespie. This property is located at 7364 S. 700 West, Union Mills, Clinton Twp., zoned "A" under the zoning code.**

Attorney Biege said that notice is adequate.

Attorney Brad Adamsky said that he's here on behalf of the petitioner's, Rick St. Germain and William Dean Gillespie. Attorney Adamsky said that this is property located at 7365 S. 700 West, Union Mills, Clinton Twp. Attorney Adamsky said that it currently sits on slightly just under a twenty (20) acre parcel. Attorney Adamsky said that Mr. St. Germain is buying a five (5) acre parcel from Mr. Gillespie with the idea of building a residence on there. Attorney Adamsky said that the existing parcel has exactly two-hundred (200') feet of road frontage.

Attorney Adamsky said that what they're seeking is some sort of split of the parcels with the result of less than two-hundred (200') feet of frontage for each remaining parcel. Attorney Adamsky said that he will point out to the board that certainly at the begging of this they understand that there were some complications with this and the board probably wasn't aware of this petition until today. Attorney Adamsky said realizing that it has been a hardship not being able to visit the property in person, they ask that they still be able to go forward with this petition as they had timely filed – they did publish – they did send notice out and just given the timely nous of a petition like this with this being in the summer months and mortgage rates increasing they would like a decision this evening if the board would be so inclined. Attorney Adamsky said that they certainly understand the board's desire to visit the properties.

Attorney Adamsky said maybe some of you were able to visit it today, to the southern edge of the nineteen (19) acre parcel is a ditch.

Melissa Mullins Mischke asked if that was a regulated drain.

Attorney Adamsky said yes, which is what creates the unique characteristic of this property and complicates the matter as far as where any sort of road would be.

Attorney Adamsky is up at the bench going over pictures.

Attorney Adamsky said that the parcel under petition is in the middle of the picture is labeled one. Attorney Adamsky said picture two is a closer view of that showing that there is an existing drive that is coming in off the parcel. Attorney Adamsky said that the distance south of that is the ditch. Attorney Adamsky said that picture three is just kind of a zoomed out photo showing the different drives along 700 West. Attorney Adamsky said that this isn't a heavily traffic area. Attorney Adamsky said that they're looking at adding a significant increase, but certainly their looking at adding two more residences.

Attorney Biege told Attorney Adamsky that he said it's the Webster drain and he's looking at the drawings (Bengel Engineering Survey) and he sees a dotted line that runs on either side of the straight line, which he assumes is the ditch. Attorney Biege asked Attorney Adamsky what that dotted line is?

Attorney Adamsky said that Mr. Bengel is actually here this evening and he could probably answer that question.

Dwayne Hogan asked for name and address for the record.

Don Bengel, 73 E. Division Road, Valparaiso. Mr. Bengel said since it's a regulated drain, there is a seventy-five (75') foot easement either side of the ditch measured for the ditch bank.

Attorney Biege said that's what he thought. Attorney Biege asked Mr. Bengel the easement on parcel A – we have county road access to 700 West. Attorney Biege said that if he's reading this correctly, does that easement almost take up all of the road frontage on parcel A.

Mr. Bengel said yes it does. Mr. Bengel said that he can still use part of the easement to access. Mr. Bengel said that he thinks he's going to go to the drainage board on that.

Attorney Biege said that he just wanted to make sure he was reading the drawing correctly.

Board members speaking amongst themselves.

Glen Minich said he's confused. He asked if he said additional residences that were proposed in the future.

Attorney Adamsky no, just the split – the two parcels. Attorney Adamsky said one five (5) acre and one approximately fourteen and half (14 ½) parcel. Attorney Adamsky said on the apparent parcel the residence will be built on the back edge of the property. Attorney Adamsky said one thing they have discussed in giving the board's conversation earlier on the earlier petition is the likely hood using some sort of easement agreement or shared drive for these two parcels is based on basically the ditch and what is has caused for giving the feasibility having a driveway – certainly two driveways.

Dwayne Hogan said that it's too bad that we can't do something with the one side having fifty (50') feet.

Board members speaking amongst themselves.

Attorney Adamsky said what they're proposing here in this drawing is keeping the two-hundred (200') feet of frontage and actually creating the ingress egress easement for both parcels to be used.

Dwayne Hogan asked if that would be for shared.

Attorney Adamsky said that would be for a shared drive. Attorney Adamsky said that they would first have that reduced to legal writing and they would actually be moving that drive north of the existing drive.

Board members speaking amongst themselves.

Melissa Mullins Mischke said that she's definitely against that fifty (50') foot.

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

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

Melissa Mullins Mischke said that she hates the word easement, but she finds that this shared drive proposal is much more desirable than the fifty (50') foot access on one property.

Glen Minich said that he's not comfortable making -- we are making another precedence. Glen said there is really only one lot and we're making it two again. Glen said that if we have to do this for everybody in the county ---

Annemarie Polan, Building Commissioner, said that you guys have to make up your mind on what you want to do, but this isn't going to stop. Annemarie said people are still going to file variances.

Dwayne Hogan said for ever and a day. Dwayne said that this will never stop.

Annemarie Polan, Building Commissioner said that's right.

Attorney Adamsky said that as long as people own property ---

Dwayne Hogan said they're going to want the flexibility to split their property and do what they want to do with it. Dwayne said that is the creation of this board.

Dwayne Hogan asked the pleasure of the board.

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

Attorney Adamsky said that he thinks what might separate this parcel to help you with hopefully a favorable decision is that there is not a lot of residence on 700 West already and they're not adding to a heavily congested area. Attorney Adamsky said that this is it for this parcel and there isn't going to be five (5) or six (6) houses down the road.

Attorney Adamsky said just north of this property on 725 west you do have a strip of houses with less than two-hundred (200') feet of road frontage. Attorney Adamsky said that there also a couple of flat lots on 700 south – so there is precedence for this existing area.

Melissa Mullins Mischke said that she travels 700 west quite extensively and she agrees with Brad that it is not heavily populated in the area and there are smaller lots further over. Melissa said that she too is hesitant to say that this is a precedence that we're setting, but she thinks that the length of parcel and the ditch on the side making it a unique situation.

Melissa Mullins Mischke made a motion that the petition for Rick St. Germain (buyer) and William Dean Gillespie (owner) for a 19.46 acre parcel split into two parcels with a shared access be granted for the property at 7364 S. 700 West, Union Mills, Clinton Twp., zoned "A".

Candice Nelson and Wally Pritz seconded.

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

Wally Pritz asked that in the motion should we insert thirty-foot egress.

Attorney Biege said that he was assuming that we would do this just as the drawing indicates, which is thirty (30') feet.

Wally Pritz said that he just feels that should be in there.

Attorney Biege said absolutely.

Dwayne Hogan said Exhibit "A".

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

All approved. Motion carried 5-0.

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

Annemarie Polan, Building Commissioner, said that there is one thing and she almost hesitates to bring it up – it's going to sound kind of confusing. Annemarie said she had gentleman come in and see her this week and he said it was an ongoing matter—he got a building permit back in 1997 to rebuild a cabin that burnt down. Annemarie said that after he got the permit he got sick and he didn't do the addition – he didn't do the building. Sometime after that, the previous administrator said well you didn't do it on time, so now you have to get a variance. Annemarie said that he came before the board in 1999 and they denied it and he had already spent twenty-four thousand (24,000.00) dollars on the foundation and it's still there.

Annemarie Polan said that there are concrete walls and it's on 600 east and the structure is there.

Dwayne Hogan asked Annemarie the address.

Annemarie Polan said it is 7802 North 600 East, Saugnany Lake.

Annemarie said that there is a guardrail there – there are cement walls. Annemarie said what he would like to do and she doesn't have a problem with it – she talked to the county engineer because it would be safety issue as far as where his driveway is, there is a curve there. Annemarie said that she's been talking to Mike and just let him put a roof on it and a door and let him use it for storage for is lawnmowers and his other equipment. Annemarie said right now he has to bring that stuff from where he lives on 150 over there because he owns property across the street and he has a lot of acreage.

Dwayne Hogan asked Annemarie if his original intent was to build.

Annemarie Polan said a house, because there was a cabin in there along time ago and it burnt down. Annemarie said that in our book if something burns down you can rebuild on it using the same footprint.

Dwayne Hogan asked Annemarie if he has a desire to rebuild on that same footprint.

Annemarie Polan said that the concrete walls are there. Annemarie said that he wants to put a roof on it and some doors; not for a house, just for storage.

Dwayne Hogan asked Annemarie if there is any reason he doesn't want to finish it for a house.

Annemarie Polan said he might, but she doesn't think he thinks he can because he was turned down in 1999.

Dwayne Hogan said lets check legally on that.

Annemarie said it was a safety issue --

Dwayne Hogan asked Annemarie how much property.

Annemarie Polan said that he owns fifty (50) or sixty (60) acre.

Annemarie Polan up at the bench going over the site plan with the board members.

Attorney Biege said that there is a twelve (12) month limitation on a restoration.

Melissa Mullins Mischke said potentially you could have repetition.

Attorney Biege said that the BZA could choose to waive its own rules. Attorney Biege said that Article 29.02 (b) says that it may be restored within twelve (12) months provided the original "use" was not changed.

Annemarie Polan said that he spent twenty-four (24,000.00) thousand dollars on it and that concrete structure is there. Annemarie said if they were to take those concrete walls down she doesn't know what would happen to 600 east. Annemarie said quite frankly she has been told there goes the road.

Glen Minich asked if it's that close to the road.

Annemarie Polan stated yes.

Board members speaking amongst themselves.

Wally Pritz said he thinks he should resubmit.

Annemarie Polan said that she thinks he would only need to resubmit if he wanted to build it as a living dwelling.

Glen Minich asked why he wouldn't want it to be living quarters.

Annemarie Polan said that as far as she is concerned the safety issues lies with La Porte County Highway Engineer. Annemarie said he's the one to make the call on this. Annemarie said that also there was a question with the driveway where it was at. Annemarie said that there was a driveway there for fifty (50) years and he is saying that he does have ownership of it. Annemarie said that he had Bob Palm survey it.

Attorney Biege said that construction has to be initiated in one (1) year of the issuance of a building permit. Attorney Biege asked Annemarie if a building permit was issued?

Annemarie Polan stated yes.

Attorney Biege said that under Section 29.04 (e), extensions may be granted on issuances of building permits. Attorney Biege said that there is no time limitation on that.

Melissa Mullins Mischke asked what is the convening board that would make that extension.

Attorney Biege said that BZA could do that. Attorney Biege said if the board chooses to do so he thinks the rules would allow the extension of the building permit.

Dwayne Hogan said that he highly recommends for him to reapply and re-appeal.

Annemarie Polan asked for a home.

Dwayne Hogan said his desires.

Annemarie said what if it is just for storage. Annemarie said the structure is there and it's not going away.

Dwayne Hogan said if he knows it would pass for a home that is something he might want to then.

Annemarie Polan said she agrees.

Dwayne Hogan said that with the nice notes they get with the meeting minutes they can go look at it.

Glen Minich asked Annemarie if he asked to build it as storage because then it would eliminate that safety issue and we wouldn't have to deal with that if it's going to be a shed.

Dwayne Hogan said he doesn't want to handcuff him. Dwayne said let him make that decision.

Annemarie said they put up a guardrail.

Dwayne asked if there is any other business this evening.

Attorney Biege said that this month we're going to be discussing the flood ordinance and he's going to recommend that we remove the flood plain section of the JZO and recommend that the County Commissioners adopt the new flood plain ordinance. Attorney Biege said that they have already had approval down State.

Attorney Biege said secondly he received an inquiry – you know we have that law suit pending with Phoenix Ventures in Federal Court and there has been an inquiry as to a procedural question

on refilling or current status of the petition before the BZA. Attorney Biege said it's really a legal opinion on procedural. Attorney Biege said if it is a discretionary issue he may ask the President to set a special meeting as he thinks the Judge would want an answer on that in a relatively short order.

Dwayne Hogan said he's sure he will.

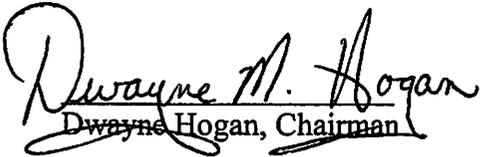
Melissa Mullins Mischke said with respect to the flood plain ordinance is that final as submitted to the county on flood plain in our ---

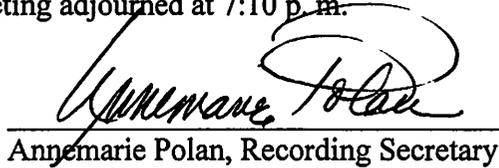
Attorney Biege said that he believes so. Attorney Biege said that he's only handling the texting section of the ordinance and there are some recommended text changes from DNR. Attorney Biege said that he thinks that maps are taken care of and squared away.

Melissa said if there is no other business she would like to make a motion to adjourn. Candice Nelson and Wally Pritz seconded.

All approved. Motion carried 5-0.

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


Dwayne Hogan, Chairman


Annemarie Polan, Recording Secretary