



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

July 21, 2015

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **July 21, 2015, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mullins Mischke Candice Nelson
Wally Pritz

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

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Melissa Mullins Mischke asked for approval of the meeting minutes of June 16th, 2015.

Melissa Mullins Mischke said that she would like to mention to everyone in the audience that Petition No. 4 for Larry & Victoria Parmley has been removed from the agenda this evening.

Melissa Mullins Mischke said that she would like to entertain a Motion for the approval of the meeting minutes from June 16th.

Candice Nelson made a Motion to approve the meeting minutes of June 16th, 2015 as presented. Wally Pritz seconded.

All approved. Motion carried 3-0.

1. The Petition for a Variance of development Standards for Frank Lazaro for an elevated deck in front of the house (14 x 32') with front setback of (13') and (7') instead of the (15') foot requirement. This property is located at 15067 Shore Drive, Walkerton, IN, Lincoln Twp., zoned R1B

Attorney Biege said that notice is adequate.

Melissa Mullins Mischke asked for name and address for the record.

Frank Lazzaro, 1506 Shore Drive, Walkerton, Indiana.

Ms. Mischke asked Mr. Lazzaro what he would like to do this evening.

Mr. Lazzaro said that he wants to get a variance to build a deck.

Ms. Mischke asked Mr. Lazzaro if that deck is going to be at ground level.

Mr. Lazzaro stated no.

Ms. Mischke asked Mr. Lazzaro how high he's talking.

Mr. Lazzaro said roughly ten (10') feet from the ground and even with the house.

Ms. Mischke if there are any questions from the board.

Wally Pritz told Mr. Lazzaro that being ten (10') foot up, he would have to have proper guard rails on the deck.

Mr. Lazzaro stated yes.

Melissa Mullins Mischke asked if we have any remonstrators here this evening for Petition No.1, for or against.

Melissa Mullins Mischke said that she will entertain a Motion from the board.

Wally Pritz made a Motion to approve the Petition for a Variance of Developmental Standards for Frank Lazzaro for an elevated deck in front of his home, (14' x 32') with a front setback of thirteen (13') feet and seven (7') feet instated of the fifteen (15') foot requirement. This property is located at 1506 Shore Drive, Walkerton, Indiana, Lincolnway Twp., zoned

Candice Nelson seconded.

All approved. Motion carried 3-0.

2. The Petition for a Use Variance for Ralph and Judie Rankin for placement of a mobile home on the property for their elderly parents to reside. Property is located at 2214 E. 950 S., Hamlet, IN., Union Twp., zoned R1B on 9.99 acres of land.

Attorney Biege said that notice is adequate.

Melissa Mullins Mischke asked for names and address for the record.

Ralph Rankin, 2214 E. 950 S., Hamlet, Indiana 46522.

Judie Rankin, 2214 E. 950 S., Hamlet, Indiana 46522.

Melissa Mullins Mischke asked the Rankins what they would like to do this evening.

Ms. Rankin said that they would like to get a variance to put a trailer on their property for her parents.

Ms. Mischke asked if they own the property to the west.

Mr. Rankin stated yes.

Ms. Mischke asked the Rankins if they have looked at mobile homes already.

Mr. Rankin said that they wanted to get through this first.

Ms. Mischke asked Mr. Rankin if his parents are getting up in age.

Mr. Rankin said that his mother is eighty (83) and his father is eighty-seven (87).

Ms. Mischke asked Mr. Rankin if he plans on keeping the property west of him.

Ms. Mischke said that she's questioning how close it's to the existing parcel line.

Mr. Rankin said that they touch each other.

Ms. Mischke asked Mr. Rankin if he was to sell the property to the west, how close would that mobile home be to the property line.

Mr. Rankin said that he's not really sure. Mr. Rankin said that he has no intentions on selling that property. Mr. Rankin said that he bought it so he wouldn't have neighbors.

Melissa Mullins Mischke asked if there are any questions from the board.

Candice Nelson asked Mr. Rankin if they have an RV on the property right now.

Mr. Rankin said that is their sons and there is no one living in that. Mr. Rankin said that he is just storing it there.

Ms. Mischke told Mr. Rankin that if the board would approve this variance, it would be his responsibility to come back in front of the board to get approval for the next variance. Ms. Mischke told Mr. Rankin that he's not going to get any kind of notification from the board.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for Petition No. 2, for or against.

Melissa Mullins Mischke said that she will entertain a Motion from the board.

Candice Nelson made a Motion to approve the Petition for Ralph & Judie Rankin for placement of a mobile home on the property located at 2214 E. 950 S., Hamlet, Indiana, Union Twp., zoned R1B on 9.99 acres of land for three (3) years renewable.

Wally Pritz seconded.

All approved. Motion carried 3-0.

3. The Petition for a Use Variance for Janette & Jason Turley for continued placement of a mobile home. Last variance was granted on March 20, 2012 for three years, the minutes of which are attached. This property is located at 9901 N. Old Buffalo Road, La Porte, IN., Springfield Twp., zoned Agricultural on 4.734 acres of land.

Attorney Biege said that notice is adequate.

Melissa Mullins Mischke asked for name and address for the record.

Janette Turley, 9901 N. Old Buffalo Road, La Porte, Indiana 46350.

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

Ms. Turley said that she would like to get a continuation for placement of the mobile home.

Ms. Mischke asked Ms. Turley the year of the mobile home.

Ms. Turley said that she believes that it's a 1987.

Ms. Mischke asked Ms. Turley how long it has been there.

Ms. Turley said she believes that it has been there since 2005.

Ms. Mischke asked Ms. Turley if we gave her a three (3) year variance in 2012.

Ms. Turley stated correct.

Ms. Mischke told Ms. Turley that she knows that this board talked to her in 2012 about whether or not there was intent to build a home at that location. Ms. Mischke told Ms. Turley that she thinks that they were told that you wanted too, but you weren't able. Ms. Mischke asked Ms. Turley to explain a little bit about the situation now.

Ms. Turley said that they still plan to build; it just seems like every time they get ahead, something happens. Ms. Turley said that when they did get this mobile home they actually had a building permit to put it on a foundation; they got this mobile home from her grandmother when she passed away and when they settled the estate, they were told that they couldn't do that.

Melissa Mullins Mischke asked if there are any questions from the board.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for Petition No. 3, for or against.

Melissa Mullins Mischke said that she will entertain a Motion from the board.

Candice Nelson made a Motion that we grant the Petition for Janette & Jason Turley for continued placement of their mobile home, located 9901 N. Old Buffalo Road, La Porte, Indiana, zoned Agricultural on 4.734 acres of land for a period of three (3) years renewable.

Wally Pritz seconded.

All approved. Motion carried 3-0.

5. The Petition for a Variance of Developmental Standards for Janet Fitzpatrick (seller) and Michael and Sherry Foster (buyers) for placement of a 6' foot privacy fence across the front and side instead of the required 3 ½' feet. This property is located at 3634 S. US 35, La Porte, IN., Scipio Twp., zoned R1A.

Attorney Biege said legal work is adequate.

Melissa Mullins Mischke asked for name and address for the record.

Michael Foster, 3634 S. US Highway 35, La Porte, Indiana 46350

Sherry Foster, 3634 S. US Highway 35, La Porte, Indiana.

Melissa Mullins Mischke asked Mr. & Mrs. Foster what they would like to do this evening.

Mr. Foster said that they're asking for a variance to keep the fence six (6') foot in front of their home.

Ms. Mischke asked Mr. Foster if that fence is already up.

Mr. Foster stated yes.

Attorney Biege asked Mr. Foster how long the fence has been up.

Mr. Foster said three or four months he would guess.

Ms. Mischke asked Mr. Foster if the six (6') foot fence goes the entire property.

Mr. Foster said that most of the fence is across the front. Mr. Foster said that the main purpose is to block the noise from the Highway so he can sleep at night. Mr. Foster said that there are some on the sides, but not solid and they don't have any intentions on making it solid.

Melissa Mullins Mischke asked if there are any questions from the board.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for Petition No. 5.

Melissa Mullins Mischke said that she will entertain a Motion.

Wally Pritz made a Motion that the Petition for placement of a six (6') foot privacy fence across the front and side instead of the required three (3 ½') foot be granted. This property is located at 3634 S. US Highway 35, La Porte, Indiana, Scipio Twp., zoned R1A.

Candice Nelson seconded.

Melissa Mullins Mischke asked if there are any questions, or comments.

Candice Nelson asked Melissa now that we've allowed them to put up this six (6') foot fence, in the future is that what we're allowing.

Attorney Biege stated no. Attorney Biege said that in the Findings of Fact and Conclusion of Law, there are reasons why we do it for specific properties. Attorney Biege said that this is on a busy highway there is utility to it and he thinks that it would block noise. Attorney Biege said that any decision we make here wouldn't be binding on future applications.

All approved. Motion carried 3-0.

Melissa Mullins Mischke said that this concludes are new business for the evening.

Melissa Mullins Mischke said that number 6 was a variance that was granted on 12-17-2013 for an auto repair business, with the stipulation that the maximum number of cars being repaired were four (4) to five (5) cars. Melissa Mullins Mischke said that she believes that we've had a single complaint.

Melissa Mullins Mischke asked for name and address for the record.

Donald Blint., Jr., 6226 E. Bootjack Road, Rolling Prairie, Indiana. 46371.

Ms. Mischke asked Mr. Blint how the repair business is going.

Mr. Blint said that he has been busy; it was busy this spring and he is below the allotment that he needs now. Mr. Blint said that he has two that he's waiting to be picked up and he has two that he's waiting on the money to put a motor in one and the other one.

Melissa Mullins Mischke asked Mr. Blint how many cars he has total as of right now.

Mr. Blint said that he has four total, two are done and he's waiting on two outside waiting service.

Melissa Mullins Mischke asked if those are the only two.

Mr. Blint said that he has personal vehicles and they don't count; that is what he was told.

Melissa Mullins Mischke asked Mr. Blint how many personal vehicles he has.

Mr. Blint said that he has some vintage cars and he has three daughters who drive and his wife has a car and he has a truck in the summer. Mr. Blint said that they have a family vehicle – conversion if they go on a family trips.

Melissa Mullins Mischke said is it eight or ten vehicles in addition.

Mr. Blint stated yes.

Attorney Biege asked Mr. Blint if his personal vehicles are parked away from the shop.

Mr. Blint stated yes. Mr. Blint said that some of his vintage cars are off to the side, but all the other ones are up by the garage.

Mr. Blint said that he works by himself and he tries to do the best he can. Mr. Blint said in the summer time it kind of slacks off because of people going on vacation, but in October and November it kind of picks up a little bit.

Melissa Mullins Mischke was asking where the building is that he services vehicles.

Mr. Blint said that it is off to the side.

Melissa Mullins Mischke said that she sees in a photo that there are a few older pickup trucks and a tractor. Melissa Mullins Mischke asked if that is the building that he services vehicles at.

Mr. Blint said that he doesn't know what photo she has.

Mr. Blint is up at the bench going over the site plan with the board members. Melissa Mullins Mischke told Mr. Blint that she knows that initially when he came in front of the board there was a lot of other stuff out there and she told him that she thinks that he has done a moderate job of trying to clean up some of it. Melissa asked Mr. Blint if there is any way some of these other vehicles --- the vintage and the truck could be stored inside the building.

Mr. Blint said that after he finds out what goes on tonight, he's going to build onto the back into the pole barn, but he's not going to invest his money yet. He wants to know what is going to happen first.

Mr. Blint said that his zoning was changed in 2012 to B1 and all the other property clear down to the point is all owned by the same guy -- they have eight properties that are still zoned Industrial and he would like to know why.

Melissa Mullins Mischke told Mr. Blint that the actual zoning designations are not determined by this board.

Attorney Biege told Mr. Blint that is a planning issue.

Melissa Mullins Mischke told Mr. Blint to address the Plan Commission.

Wally Pritz asked if the vehicles on the grass could be moved.

Mr. Blint stated yes.

Mr. Blint said that one of those vehicles on the grass is his dad's truck and he's in a nursing home and the other two cars he's going to sell.

Melissa Mullins Mischke asked Mr. Blint what his time frame is on those cars.

Mr. Blint said that it depends on his schedule. Mr. Blint said that he works long hours to keep the cars down to a minimum

Candice Nelson asked Mr. Blint if he works alone.

Mr. Blint said that he had a helper, but he got a job at the railroad.

Candice Nelson said that she saw two cars.

Mr. Blint said that he has a guy that helps, sweeps and does odd jobs.

Attorney Biege told Mr. Blint that there has been on going complaints legitimate, or not, to the Building Commissioner's Office and she has an obligation to investigate. Attorney Biege told Mr. Blint that when a complaint comes in it's difficult for the Building Commissioner to figure out which cars are yours, and which are your customers' vehicles.

Mr. Blint said that he tries to keep his customers out by the building,

Attorney Biege asked Mr. Blint if he could give the Building Commissioner, or the board a number that they can accept. Attorney Biege told Mr. Blint that she's not going to know and she has other things to do rather than to figure out which are your cars. Attorney Biege said that if you can say at any given time a total of twelve vehicles, or whatever that number is, the board could then decide, if they think that is acceptable, or not. Attorney Biege said that he thinks that trying to determine the mix of customers' cars and your personal vehicles, ---- Attorney Biege asked if he has a number.

Mr. Blint said that when he came back in October when Mr. Zona was here, he had five waiting for customers to pick up. Mr. Blint said that they didn't come for a month because they probably didn't have any money and he's not a bank. Mr. Blint said that he's not going to let them have their car and chase for their money. Mr. Blint said that Mr. Zona said that he doesn't care about the ones that are done, they cared about the ones that were being serviced. Mr. Blint said that he's thinking five.

Attorney Biege told Mr. Blint that is five for your operation. Attorney Biege told Mr. Blint to add to the total number of cars that he has --- how many does that total.

Mr. Blint said that if he has five customers' cars sitting out and he has ten, that's like fifteen.

Attorney Biege told the board that they're going to have to decide if that is acceptable.

Mr. Blint said that it's not like he doesn't mow his grass. Mr. Blint said first of all, you can hardly see it from Highway 20 or Bootjack; if you're driving by and not paying attention, you aren't ever going to know that he's even there. Mr. Blint said that the guy that is complaining doesn't even live by him. Mr. Blint said that he's on Highway 20 down the road. Mr. Blint said that he could show the board members on the map where he lives at. Mr. Blint said he gets up and goes out and does his job and he doesn't bother anybody

Mr. Blint said that when he has to get thirteen signatures, people tell him that he doesn't bother anybody back there.

Attorney Biege asked Annemarie Polan when she has driven by there if she has seen fifteen cars.

Annemarie Polan, Building Commissioner, said that each time she has gone out there has been maybe a few more, and other times less than what the complaint was. Annemarie said she might get a complaint that there are many cars, and there is, and then the next time there's not. Annemarie said that they're moving. Annemarie Polan, Building Commissioner, said that she just wants this to stop.

Mr. Blint said that he does to and he's just tired of the harassment.

Attorney Biege asked Annemarie Polan, Building Commissioner, if this has been primarily one person complaining.

Annemarie Polan, Building Commissioner, stated yes.

Attorney Biege said that has it sees it, if he may, the boards either going to say they're going to revoke the variance or not. Attorney Biege said that you can make an affirmative vote to revoke if you think the evidence is sufficient to show an ongoing violation. If not, he thinks that everything stays "as is" and perhaps giving the Building Commissioner your blessing to no longer investigate these complaints from the same person.

Candice Nelson said that if we leave it "as is", he would just have to maintain the three or four cars.

Attorney Biege said that he believes it was five.

Mr. Blint said that it was a maximum of five.

Candice Nelson asked Mr. Blint if he could make that happen.

Mr. Blint said that he does the best he can. Mr. Blint said that the problem is you could have a shop full, and you might have a customer that has two or three other cars, and you could have one or two dropped off and he doesn't even know they're coming. Mr. Blint said that he tries to do the best he can.

Candice Nelson told Mr. Blint that she heard him say something about building on.

Mr. Blint said that he wants to add on so he can get rid of his vintage stuff --- it will be out of sight. Mr. Blint said he's just waiting to see what is going on ---

Annemarie Polan, Building Commissioner, said that would be helpful.

Mr. Blint said that he talked to a guy this week and he's just waiting to see what is going on.

Melissa Mullins Mischke said that way there wouldn't be so much question about which vehicles are which.

Mr. Blint said that he understands.

Wally Pritz said that he personally thinks that he's doing the best he can under the circumstances. Mr. Pritz said that he doesn't think that we should penalize him because he's trying to make a living.

Board members speaking amongst themselves.

Wally Pritz said that he thinks that we should leave it "as is". That is his opinion

Melissa Mullins Mischke asked if she could get than in form of a Motion.

Candice Nelson said that she would agree listening to the type of business he operates. Candice said that she could see where it kind of gets a little complicated, but we just want to encourage you because the Building Commissioner has a lot of things to do.

Mr. Blint said that he knows she does. Mr. Blint said that she has to do her job too.

Candice Nelson told Mr. Blint that if he's going to add on, that will probably stop a lot of this.

Melissa Mullins Mischke said that if she could to that in form of a Motion she would really like that.

Wally Pritz made a Motion that Mr. Don Blint have his variance for his automobile repair business "as is" and with the Building Commissioner to just maintain the status quo of the property.

Wally Pritz said that he doesn't think that one complaint is not sufficient to create a problem for this gentleman.

Candice Nelson seconded.

All approved. Motion carried 3-0.

Melissa Mullins Mischke asked if there is anyone from the public that would like to speak this evening.

Melissa asked the gentleman to step up to the microphone and state his name and address.

Patrick Meaney, 4078 W. Schultz Road, La Porte, Indiana.

Melissa Mullins Mischke asked Mr. Meaney what is on his mind tonight.

Mr. Meaney said that he would imagine that most of you sit on the Plan Commission. Mr. Meaney said that he's ahead of himself.

Attorney Biege told Mr. Meaney that if he has a Petition before the BZA, which he does not, the other side of this is, if you're going to discuss any specific issue, the owner of the property should have notice and an opportunity to be heard.

Mr. Meaney said he thought this was a public meeting.

Attorney Biege said that it's a public meeting, but it also has to be fair.

Attorney Biege told Mr. Meaney that he's still submitting information to the board without the property owner having an opportunity to defend himself. Attorney Biege said that there isn't an issue before the Plan Commission.

Mr. Meaney said that isn't an issue with the Plan Commission, but he's afraid that it's going to be.

Attorney Biege told Mr. Meaney that he has the right to do that, but right now the BZA doesn't have jurisdiction to take any action on this.

Mr. Meaney said that apparently he made a mistake approaching the board this evening without notifying the property owner. Mr. Meaney said that he sent an e-mail to the County Commissioners and Annemarie Polan. Mr. Meaney thanked the board for their time.

Mr. Meaney asked the board members if anyone of them are members of the Plan Commission Board.

The board stated no.

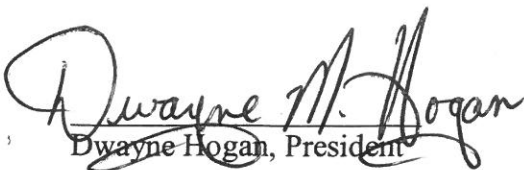
Attorney Biege told Mr. Meaney that Glen Minich is not here this evening and he is on both boards.

Melissa Mullins Mischke said that she will entertain a Motion to Adjourn.

Candice Nelson made a Motion to adjourn. Wally Pritz seconded.

All approved. Motion carried 3-0.

There being no further business before the Board of Zoning this evening, meeting adjourned at 6:45 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary