



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

Dear Members:

Regular Meeting of the La Porte County Board of Zoning Appeals was held Tuesday,
May 17th, 2016 at 6:00 p.m. in the Assembly Room of the County Complex.

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

Dwayne Hogan asked for a motion for the minutes of April 19th, 2016.

Candice Nelson made a motion to approve the meeting minutes of April 19th, 2016 as presented.
Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

1. The Petition for Variance of Developmental Standards for Tamara Eaton to construct a two car garage to the front and right side of house. This property is located at 4718 N. Maplewood Drive, La Porte, Center, Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Tamara Eaton, 4718 N. Maplewood Drive, La Porte.

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

Ms. Eaton said that she would like to construct a two car garage on her property.

Glen Minich asked Ms. Eaton to approach the bench to go over the site plan on where she wants to construct this two car garage.

Ms. Eaton is up at the bench going over the site plan with the board members.

Glen Minich asked Ms. Eaton what kind of finish would be on the two car garage.

Ms. Eaton said stucco to match the home.

Dwayne Hogan asked the size of the garage.

Ms. Eaton said it will be (22'x24').

Dwayne Hogan asked Ms. Eaton if she is going to have electric and water.

Ms. Eaton stated no.

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

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

Glen Minich made a motion to grant the Variance of Developmental Standards for Tamara Eaton to construct a two car detached garage (22'x24') on property located at 4718 N. Maplewood Drive, La Porte, Center, Twp., zoned R1B.

Candice Nelson seconded.

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

All approved. Motion carried 5-0.

2. The Petition for Variance of Developmental Standards for Vernon Ringler and Jennifer Mireles to construct an addition on house that is twelve (12') feet from rear property line instead of the required twenty-five (25') feet. This property is located at 7557 E. Tulip Lane, New Carlisle, Hudson Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Jennifer Mireles said that the property address is 7557 E. Tulip Lane, New Carlisle, Indiana 46552.

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

Ms. Mireles said to add an addition on the left side of the house approximately (16'x20'); just a living room because her brother can't make it down the stairs.

Dwayne Hogan asked Ms. Mireles if she has started construction.

Melissa Mullins Mischke told Ms. Mireles that the drawing she submitted with her application, Melissa asked Ms. Mireles to come forward and identify a couple of the structures on the drawing.

Ms. Mireles is up at the bench going over the site plan with the board members.

Dwayne Hogan asked if there are any further questions of the board.

Melissa Mullins Mischke asked Ms. Mireles if they're going to remove the existing stairs and decking.

Ms. Mireles said the front four (4') foot of the deck will be removed and the back part will stay; the stairs will be moved and put down the side of the new addition so he can still use his deck on the top; a little loft area.

Melissa Mullins Mischke asked Ms. Mireles if he will be the only resident.

Ms. Mireles said he is.

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

Candice Nelson made a motion that we approve the petition for Variance of Developmental Standards for Vernon Ringler and Jennifer Mireles to construct an addition on the house that is twelve (12') feet from the rear property line instead of the required twenty-five (25') feet on the property located at 7557 E. Tulip Lane, New Carlisle, Hudson Twp., zoned R1B.

Wally Pritz seconded.

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

All approved. Motion carried 5-0.

3. The Petition for Variance of Developmental Standards for Ronald C. Planky & Catherine Planky to construct a second home on his property with attached garage to care for his mother. This property is located at 6505 N. 400 W., Michigan City, Springfield Twp., zoned Agricultural on ten (10) acres.

Dwayne Hogan said while we're waiting for Mr. Planky to turn his legal work in, if you're here for Petition No. 7, it has been postponed until June 21, 2016. Dwayne said Petition No. 7 was for a Variance Use for Mary Hiteman (Seller) and Patrick Dolan (Buyer).

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Ronald Planky, 6505 N. 400 W., Michigan City, Indiana.

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

Mr. Planky said that he would like to build another house on his property for his mom to live there.

Dwayne Hogan asked Mr. Planky what size house he wants to build there.

Mr. Planky said that the house itself will be (36'x32') and the entire building will be (32'x60').

Dwayne Hogan asked Mr. Planky if he has started construction.

Mr. Planky stated no. Mr. Planky said that he did get the soil report and he also had a septic system.

Glen Minich told Mr. Planky that this isn't going to be attached to the masonry garage, this is actually going to be a third accessory building on the property. Glen asked if we're going to make an exception for a third accessory.

Annemarie Polan, Building Commissioner, said that it isn't an accessory, it's a home.

Dwayne Hogan said it's not a home, it's almost like a minor subdivision.

Attorney Biege said that it will not be considered a minor subdivision due to the same lot.

Attorney Biege told Mr. Planky that he has ten acres. Attorney Biege told Mr. Planky with the drawing that you gave us, it looks like you have two-hundred twenty six (226') feet of road frontage where your existing is, but then there is another hundred and seventy (170') feet of road frontage and it says twenty (20') foot wide asphalt. Attorney Biege said he doesn't understand what that means. Attorney Biege asked if that is the same lot, or a different lot.

Glen Minich is showing Attorney Biege the site plan.

Melissa Mullins Mischke asked Mr. Planky where the current septic and well is on the original home of this property.

Mr. Planky said on the other side of the home.

Melissa Mullins Mischke said on the north side of the property.

Mr. Planky said that the septic is in the back yard and the well is up front.

Melissa Mullins Mischke asked Mr. Planky if he had to make a guess, how far would you say the two systems are apart from each other, the proposed and the existing.

Mr. Planky said about two-hundred (200') feet.

Dwayne Hogan asked if there are any other questions from the board.

Wally Pritz asked Mr. Planky his time table to put up the new home.

Mr. Planky said he needs to have it done by April.

Glen Minich said that if we allow the variance for the second home, you understand that it's going to remain intact with that track. Glen said it can't be separated off and create a second home parcel.

Dwayne Hogan asked Mr. Planky if it's going to have a garage attached to it as well.

Mr. Planky stated yes.

Dwayne Hogan asked if that is a two car garage.

Mr. Planky stated yes. Mr. Planky said one car and her (inaudible) stuff.

Dwayne Hogan asked if there is anything else from the board.

Candice Nelson made a motion to approve the petition for a Variance of Developmental Standards for Ronald C. Planky & Catherine Planky to construct a second home (32'x60') on his property with an attached two car garage on the property located at 6505 N. 400 W., Michigan City, Springfield Twp., zoned Agricultural on ten (10) acres.

Wally Pritz and Glen Minich seconded.

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

Melissa Mullins Mischke said that she would like to clarify in the motion we're indicating no further subdivision of the lot.

Dwayne Hogan said duly noted.

All approved. Motion carried 5-0.

5. The Petition for Variance of Developmental Standards for Guy & Patricia Lain to construct a utility storage building with electric and concrete floor. There is no residence on this property. This property is located at 400 West between Highway 35 North and US Highway 20, Center Twp., zoned R1A on 5.51 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Guy Lain, 1390 Lakeside Street, La Porte, Indiana.

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

Mr. Lain said that he wants to construct a pole barn on the property he has on 400 West.

Dwayne Hogan asked Mr. Lain if the storage building would be a pole barn.

Mr. Lain stated yes.

Dwayne Hogan asked the size of the pole barn.

Mr. Lain said it came out to (36'x56') feet.

Dwayne Hogan asked for what reason.

Mr. Lain said he would use it for storage. Mr. Lain said half of the year he can't put anything in his garage because of trailers and jetskis. Mr. Lain said that he has a pontoon boat that he stores at Hubers and it gets more expensive every year. Mr. Lain said that they have had the property, but they never did anything with it. Mr. Lain said the property has been in his family for a long time.

Dwayne Hogan asked Mr. Lain if he has any aspirations of building another home, or anything else on this property, do you?

Mr. Lain said that he doesn't and he doesn't plan on leaving the property they have. Mr. Lain said that he doesn't know if his children at any point, or whatever, but there is almost six (6) acres so there is enough land if you wanted to build, they could.

Wally Pritz asked Mr. Lain where he plans on locating this pole barn in respect to the frontage.

Mr. Lain said that it would be on the north side towards Tim – he doesn't remember his last time, but by his property. Mr. Lain said that there is a gate and a small drive right there.

Dwayne Hogan asked if he only wanted electric in it and no water.

Mr. Lain said no water. Mr. Lain said that he just needs to be able to turn some lights on in there. Mr. Lain said he believes it's I & M.

Melissa Mullins Mischke said that she is kind of confused looking at the parcel that we have because it is kind of an odd triangular piece.

Mr. Lain said it is a very strange shape.

Melissa Mullins Mischke asked Mr. Lain if he owns the property south of there at 4924 N. 400 West.

Mr. Lain said he used to, but they sold that piece of property.

Melissa Mullins Mischke said that this strange triangular is about the fifteen (15) acres.

Mr. Lain said it's about 5.5. Mr. Lain said it always has been a strange shape; all of them are strange over there.

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

Dwayne Hogan asked if there are any further questions of the board.

Glen Minich asked if the building is put up, there is a structure and some debris that is kind of stored in the middle of the property right now.

Mr. Lain stated yes. Mr. Lain said that when they sold the property there is a pole barn on that property. There were some items that were his fathers and things he wanted to keep, so they brought a trailer and stuck it on high ground there to keep it out of the elements until we get something built.

Melissa Mullins Mischke asked if we approve this structure, would all of those items go into this structure.

Mr. Lain stated yes.

Glen Minich said that we would be given a variance because it's not normal to put up a building before a home. Glen told Mr. Lain that he hopes he would consider putting in a site that would allow for somebody in the future to be able to build a home.

Mr. Lain said that where the storage trailer is, that's really good ground for a house.

Dwayne Hogan asked if there are any other questions.

Melissa Mullins Mischke told Mr. Lain that she knows he said he's not going to put any water in the building. Melissa asked Mr. Lain if he would need to use the restroom, that's not a concern?

Mr. Lain said that he's five (5) minutes away from his other house.

Melissa Mullins Mischke said so it's just storage and you're not going to garden out there.

Mr. Lain said he has a garden out there. Mr. Lain said that right now he has drums that he fills and takes out there. Mr. Lain said that he will probably have bottled water out there and a refrigerator with something else in there too.

Dwayne Hogan asked the pleasure of the board.

Glen Minich made a motion that the petition for Variance of Developmental Standards for Guy & Patricia Lain to construct a utility storage building (36'x56') with electric and concrete floor with no residence on this property. Property is located at 400 West between 35 North and US 20, Center Twp. be granted.

Candice Nelson seconded.

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

Melissa Mullins Mischke said that she would like to amend the motion if the board agrees, again, no further subdivision of this property.

Dwayne Hogan said duly noted.

All approved. Motion carried 5-0.

5. The Petition for Variance of Developmental Standards for Tim D. & Teresa G. Ammons to construct a third accessory building (30'x54') for storage. This property is located at 8154 W. 350 S. La Porte, Indiana, New Durham Twp., zoned B-2.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Tim Ammons, 8154 W. 350 S., La Porte, Indiana.

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

Mr. Ammons said that he wants to put up a storage building/pole barn on the backside of their barn.

Dwayne Hogan asked if that is (30'x54') in size?

Mr. Ammons stated yes.

Dwayne Hogan asked Mr. Ammons if he's going to put water and electric in it?

Mr. Ammons said for start no. Mr. Ammons said that it's going to be used for storage. Mr. Ammons said that there were already two garages on the property when they bought it. Mr.

Ammons said that his father-in-law and brother-in-law moved in with us and we just need more space to be able to put things.

Melissa Mullins Mischke asked Mr. Ammons if he has the building situated and down in the southeast corner.

Mr. Ammons stated yes.

Melissa Mullins Mischke asked Mr. Ammons if there is a reason why he has it so tucked into the corner.

Mr. Ammons said that he thinks they told me I had to be ten (10') feet from the property line. Mr. Ammons said that the garage in front of it was twenty (20') feet so he just put it in that corner. Mr. Ammons said twenty (20') feet from the back and twenty (20') feet from the side.

Glen Minich asked Annemarie if this is Ag. zoning? The side setback line is actually thirty (30') feet.

Annemarie Polan, Building Commissioner, said that it's thirty (30') feet, but he's using the pole barn for a residential use.

Attorney Biege said that he still thinks that we need to stick at the thirty (30') feet. We can look at the residential use when we're looking at how many buildings are allowed without a variance, but if you're going to go less than thirty (30') feet, we have to grant the variance for the setbacks also.

Melissa Mullins Mischke asked Mr. Ammons if he would be agreeable to moving the building thirty (30') feet from both property lines.

Mr. Ammons said yes.

Glen Minich said that the rear property line is fifty (50') feet.

Annemarie Polan, Building Commissioner, said that the rear is fifty (50') feet and the side is thirty (30') feet.

Melissa Mullins Mischke said fifty (50') feet from the south side and thirty (30') feet from the east side. Melissa said move it up and to the west.

Glen Minich said that it may seem silly, but there is actually ground around you and it will actually shade the farmer's field.

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

Dwayne Hogan asked if there is anything else from the board.

Glen Minich said that he thinks that it's consistent with Agricultural zoning.

Glen Minich made a motion that the petition for Variance of Developmental Standards for Tim D. & Teresa G. Ammons to construct a third accessory building (30'x54') for storage be granted. This property is located at 8154 W. 350 S., La Porte, Indiana, New Durham Twp., zoned Agricultural.

Melissa Mullins Mischke and Candice Nelson seconded.

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

Melissa Mullins Mischke said that she just wants to make sure that we're clear on the motion that there is no electric or water in this structure.

Dwayne Hogan said noted.

Attorney Biege told Melissa that he doesn't think you can restrict if electric is in the structure. Attorney Biege said he can put electric in the pole barn if he wants, but he would have to get a permit.

Dwayne Hogan said with that all duly noted.

All approve. Motion carried 5-0.

6. The Petition for Variance of Use and Developmental Standards for La Porte County Habitat for Humanity, Inc., by Outdoor One, Inc., to relocate an existing billboard (off premise sign) from a site east of subject site along U.S. 20 and approximately two-hundred (200') feet from an apartment building also located on the opposite side of U.S. 20. This property is located on U.S. 20 East of Woodland Ave., South Side, Coolspring Twp., zoned B-2.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Anthony Novak said that he's an attorney with Newby, Lewis, Kaminski and Jones, located at 916 Lincolnway here in La Porte. Attorney Novak said he's here today on behalf of the joint petition for Developmental Standards Variances filed by Habitat for Humanity of La Porte County and Outdoor One, by President Lou O'Donnell. Specifically he's here on behalf of Outdoor One.

Anthony Novak said that petitioner Outdoor One is a Michigan City based business that is a business billboard advertising. Attorney Novak said that they have been in business for

approximately seventeen (17) or eighteen (18) years and they have fifteen (15) billboards in the La Porte County area that often advertises La Porte County Businesses.

Attorney Novak said that the existing billboard in question is currently located on the south side of U.S. 20 between Woodland and Johnson Road, specifically it is in front of Sharp's Discount Center. Attorney Novak said that it has been in that location for approximately seventeen years. That current location is zoned B-2.

Petitioner, Outdoor One is here today and they would like to relocate its billboard from its existing location to a new location that is a half mile down US 20, still on the south side, a little bit west of its current location. That location is currently owned by Habitat for Humanity; it's vacant land, zoned B-2 and because it's vacant land, there is no address, but the parcel ID for the record is 46-05-03300-002.000-046.

Attorney Novak said that he would like to indicate the petition that was filed states that it was a petition for Developmental Standards Variances and Use Variance. Attorney Novak said that the current zoning here is B-2 and that allows for billboards, so we're only here on Developmental Standards Variance request.

Attorney Novak said that this need for relocation is a result of intimate domain by the State of Indiana as they're widening U.S. 20 between Woodland Avenue and Johnson Road. As a result of the widening, the State has given his client two options:

- 1) Will buy your billboard for its market use.
- 2) Or, will pay for its relocation.

Attorney Novak said that his client has choose to go the latter route, which is going to actually save the tax payers significances amount of money and in essence, it's a "win win win". It's a win for the State of Indiana and in turn the tax payers that are in this room, because less tax dollars will go to his client. It's a win to Habitat for Humanity as the value of their property increases as a result of having income coming in on this property and further, it's kind of swampy land that prohibits construction. Finally, Outdoor wins because they get to keep their sign and they get to go to a new location.

Attorney Novak said as a result of the intimate domain proceedings, petitioners here today hoping that you can facilitate that relocation by granting the variances that are needed. Attorney Novak said that in order to relocate to this new location four Developmental Standards Variances are required:

1. The joint zoning ordinance doesn't permit stacked signs. This is a stacked sign, but two points on that: the joint zoning ordinance does permit a sign to have a maximum sign service of six-hundred and seventy two (672') square feet, and these two signs combined will only be six-hundred (600') square feet; although they are stacked, they're going to be less than the

maximum square footage allowed. There are other stacked signs nearby, specifically there is one at U.S. 20 and Cleveland, Steak-and-Shake, Panera Bread, MC Sports and B-Dubs.

2. The second variance that we're requesting is the height of the sign. The height of this sign is forty-five (45') feet and the zoning ordinance permits thirty (30') feet high. Despite this additional height, the adjoining landowners that likely would object because they don't have a proper view of any surrounding area. The adjoining landowners that do have structures on their properties have all consented to this petition. I provided attorney Biege with those consents approving these variances request. The only adjoining landowner that hasn't consented to this petition is Marathon Petroleum, and they just simply stated they didn't want to give a position one way or the other, if we're in favor, or against. The four adjoining landowners, nobody is remonstrating.

3. Third Developmental Standards Variance we're requesting is distance from a residential district. The joint zoning ordinance requires billboards to be a minimum of five-hundred (500') feet away from a residential district. Right across the street on the north side of U.S. 20 is Woodland Crossing Apartments. The owner of Woodland Crossing was in contact with his client and attorney Biege has another consent from that owner consenting to that location of this billboard.

4. The last request we have is the Developmental Standards Variance request is the minimum distance from another billboard. The joint zoning ordinance requires a minimum of one-thousand three hundred and twenty (1320') feet. There two existing billboards across the street that are probably within a couple of hundred feet; those signs are going to be taken down within the next couple months so those will no longer exist. Finally, there is one other sign on the other side of U.S. 20 nine-hundred and seventy five (975') feet down the road. That is the only sign that would be within that one-thousand three hundred and twenty (1320') feet.

Attorney Novak said in conclusion, petitioner here is seeking the board's approval to help facilitate the relocation by approving the four (4) Developmental Standards Variances.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 6.

Dwayne Hogan asked if there are any questions of the board.

Melissa Mullins Mischke said that she does have one clarification on the map that you provided us. Melissa asked if the subject location is the new location for the sign?

Attorney Novak said subject location is the new location.

Melissa Mullins Mischke said the existing location is the sign down the street?

Attorney Novak said that the new sign is going to be bottom of your page where it says subject location. The existing sign is on the top of your page where it's circled saying existing location. Melissa Mullins Mischke asked if the next nearest sign that's the nine-hundred seventy five feet or so on this map.

Attorney Novak stated not. Attorney Novak is going over the site plan. Attorney Novak said that he does know the other way if you continue to go further west, from his review of the area today, the nearest sign is at the intersection of U.S. 20 and Cleveland Road. Attorney Novak said that he feels that is a mile away.

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

Candice Nelson made a motion to approve the Petition for Developmental Standards Variances for La Porte Habitat for Humanity, by Outdoor One to relocate an existing billboard from a site east of subject site along U.S. 20 in La Porte County to allow a (45') foot tall stacked sign structure to be relocated to a vacant site approximately nine-hundred and seventy five (975') feet from an existing billboard on the opposite side of U.S. 20 and approximately two-hundred (200') feet from an apartment building also located on the opposite side of U.S. 20 on the property located on U.S. 20 East of Woodland Ave., South Side, Coolspring Twp., zoned B-2.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

Dwayne Hogan said Petition No. 7 is postponed until next month.

8. The Petition for Variance of Use for Mike Olling (Owner) and Mark Bush (Lessee) to run a landscaping and construction business in an existing building. Use the office and building for storage. This property is located at 5734 W. Schultz Road, Lot 1, La Porte, Center Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Tom Harvel said that he is representing North Woods Construction and not the owner of the company, 5734 W. Schultz Road, La Porte, Indiana.

Mike Olling said he is the owner of the building.

Dwayne Hogan asked for address.

2023 Meadow Lark Drive, Michigan City, Indiana.

Dwayne Hogan asked Mr. Harvel and Mr. Olling what they would like to do this evening.

Mr. Harvel said that they own a landscaping and construction business and they would like to run their office out of there.

Dwayne Hogan asked Mr. Harvel how long they have been located there.

Mr. Harvel said about eleven (11) months.

Dwayne Hogan asked Mr. Harvel if they have a permit to operate out of there right now.
Dwayne Hogan asked Mr. Harvel if they are zoned for that.

Mr. Olling said that he would like to say due to his ignorance how this works, no. Mr. Olling said he had a variance for his business when he was working in there,

Dwayne Hogan told Mr. Olling that's not carried over to anyone else.

Mr. Olling said that he understands that now.

Dwayne Hogan asked for a show of hands who will be remonstrating against Petition No. 8.

Dwayne Hogan asked if there are questions from the board.

Melissa Mullins Mischke said that we did receive a letter of remonstrance and we're trying to circulate that around so we can look at the letters.

Glen Minich said that all he wants to say is that when he went out and looked at the property it didn't feel like it was consistent with the neighborhood at all. Glen said he really didn't see any other businesses out there. Glen said he doesn't know what business was being run out there previously, but it looks like it's a much bigger business than what was allowed last time.

Dwayne Hogan said it might be a nice business, but wrong location.

Melissa Mullins Mischke asked Mr. Harvey if he has been at this location running a business for about eleven months.

Mr. Harvey stated that's correct.

Melissa Mullins Mischke asked if it is construction, landscaping ---- a combination of both.

Mr. Harvey stated yes. Mr. Harvey said that they plow snow in the winter.

Melissa Mullins Mischke asked Mr. Harvey how many people do they employee.

Mr. Harvey stated twelve.

Melissa Mullins Mischke said that at any given time you probably have twelve personal vehicles plus mower and other equipment. Melissa said that she sees some big storage containers on the property.

Melissa Mullins Mischke asked Mr. Harvey the business hours of operation.

Mr. Harvey said that they're primarily Monday through Friday 7:00 a.m. to 3:30 p.m. In the winter it is whenever it snows.

Melissa Mullins Mischke told Mr. Harvey that he does have some large equipment out there for construction.

Mr. Harvey said that they did have loaders and things like that. Mr. Harvey said it was brought to their attention and they did move those. We have containers, lawnmowers and a truck or two.

Mr. Olling said that as far as the pay loaders. He was notified that they were out front and part of that agreement that he had when he purchased the building was there would be no overnight parking and he doesn't think that they were aware of that, or had forgotten. Once he was notified that they were out there we had a conversation and they had them moved the very same day. Mr. Olling said those pay loaders are not there.

Glen Minich said that even storage containers are not allowed in R1B. That's not consistent with a residential neighborhood. It looks like an industrial neighborhood. Everyone is trying to keep their lawns and homes up and it looks like an industrial warehouse.

Melissa Mullins Mischke asked Mr. Olling how long he has owned the property.

Mr. Olling stated roughly twenty-two years.

Melissa Mullins Mischke asked Mr. Olling in the twenty-two years, how long have you been leasing the property.

Mr. Olling said that he moved his business from there in 2008. Mr. Olling said that he has a Safety Supply Company of which we had semi's coming in there quite often and he had six employees working out of there.

Attorney Biege said that when the variance was granted you represented to the board it was just going to be you and your wife, one or two UPS deliveries a day, no employees and maybe one semi a week.

Mr. Olling said that they did grow.

Attorney Biege said I applaud you for that, but I want to make sure the board's clear when you started in that residential area that is what you represented and you grew out of it and that's

fantastic, but you grew on to something more than what you represented. Attorney Biege said that spirit of the board's grant then is not the same as your operation now.

Glen Minich said that he thinks that Doug is very clear on that and he I think he's right. Glen said that we applaud you for growing a business like that and when we make an exception, or when I make an exception to let a business go into a neighborhood like that we expect it to be the start up and then if you grow you're going to have to grow with your facility and move your facility.

Dwayne Hogan asked if there is a spoke person for the remonstrators by chance.

Remonstrators:

Dwayne Hogan asked for name and address for the record.

1. Harold Rogers, 5724 W. Schultz Road, La Porte, Indiana. Mr. Rogers said that he is adjacent to that property.

Mr. Rogers said that in the period that Mr. Olling vacated that property, he didn't think it was 2008, he thought it was after that, but since 2011 to his recollection, there has been three other renters who were operating businesses in that building before the current renter. Mr. Rogers said that there was a mechanical shop; after that there was a spinoff of Leslie Roofing, running a roofing company and buying estates out and selling state properties, furniture, and those kinds of things. Mr. Rogers said after that a couple other guys (inaudible) were doing pallet reconstruction, two-hundred seventy five gallon solvent containers they were storing and they wound up selling the estate product out of that building as well. Mr. Rogers said it was vacant for a while and the current renters are in there now.

Mr. Rogers said that they dealt with it prior and then when all of the equipment and everything started coming ---- they do operate to 9:00 to 9:30 at night during the summer months because air compressors run and he can hear them in his living room. Mr. Rogers said that he was talking to one of the neighbors that is adjacent to the property as well, Tom Bassett, which his family is the original owners of the property that were broke up as Bassett Orchard Acres Subdivision, which he has the original Bassett homestead. Mr. Rogers said that he was talking about there should have been a variance applied for and he didn't have no idea and nobody ever talked about it, but now since this current company came in, Schultz between 600 and 525 is a very busy road. Mr. Rogers said that he thinks that the motorcycles see how fast they can go from stop sign to stop sign and he's right on the curve.

Mr. Rogers said that pulling out of his driveway with all that equipment sitting there and the trucks is very tuff to see from the west. Mr. Rogers said that there is an apartment that sits in the back of that property that Tom Brown owns and his people have to come and go out of there as well. Mr. Rogers said it's dangerous and it's an eye soar for the neighborhood and it drags their property values down. Mr. Rogers said that everybody's names that are on the petition are all in a agreeance. Mr. Rogers said that he hopes the board takes all of this into consideration.

Dwayne Hogan said that they have that and it's a part of the record. Dwayne said that there are twenty-seven names on that petition.

Mr. Rogers said that is everybody from stop sign to stop sign.

Dwayne Hogan asked if anyone else can add to that.

2. Patrick Meaney, 4078 W Schultz Road, La Porte, Indiana. Mr. Meaney said that he didn't know about this petition, so make it twenty-eight.

Mr. Meaney said that the only thing that he wants to say is that when you look at that property that is there and it's been kind of subdivided, or split off, there is a house in the back and a house on the side and a six foot fence. Mr. Meaney said that none of the landscaping requirements for a business are met. Mr. Meaney said that there is no straining, there is a fence that is on the property to the east and he has a little driveway down there for the folks that are in the back. Mr. Meaney said that there should be screening there, screening around the back, screening in the front because it's a residential street. Mr. Meaney said that he doesn't meet any of those things.

Mr. Meaney said that this type of business he could put in about three different places in La Porte in a B2 business district 1 and 2. There are plenty of spaces that are looking for renters. The equipment that he does have is rather large and it does sit out there. Mr. Meaney said that the loaders are gone. Mr. Meaney said that he has nine employees. Mr. Meaney said that it's a four-thousand five hundred square foot building and he needs to have a parking spot for every two-hundred and fifty square feet of that. Mr. Meaney said that would be eighteen parking places. Mr. Meaney said that you can't put eighteen on this piece of property.

Dwayne Hogan told Mr. Meaney that he has twelve employees right now.

Mr. Meaney said that this type of building would be better off being a warehouse.

Mr. Meaney said that Schultz road has over two-hundred and twenty trucks running up and down it, which is going to add more. Mr. Meaney said that when the gentleman said from 600 to 525, or whatever, it's a sling shot and they run up and down it, Mr. Meaney said that from Highway 35 to 525 is even worse. Mr. Meaney said that he has seen his trucks going past his house with a mix of many others.

Attorney Biege said that he checked the petition and there are four required notices to adjoining landowners and all four signed the petition against it.

Dwayne Hogan asked if there is anything else that anybody can add to this.

3. Miranda Brown, 5734 W. Schultz Road, the house behind this business. Ms. Brown said that her father, Tom Brown owns the apartment building. It's three separate apartments that we all

live in. Ms. Brown said that she has friends that come over and visit and according to the plot, we only have about twenty-five feet from the fence as their driveway, and a lot of the times they will be parking there and she has had to ask them to move. Ms. Brown said that because of this issue, her father has tried to make a deal with them to put up a fence so that they have their own designated driveway and they refused to do that.

Dwayne Hogan asked if there are further questions, or comments from the board.

Melissa Mullins Mischke said that she notes that through some of the photographs that we've seen, you guys have some containers of liquid of some sort. Melissa said that she doesn't know if they're fuel.

Mr. Harvey said that they're empty containers.

Melissa Mullins Mischke asked no liquids at all?

Mr. Harvey said no. Mr. Harvey said he has an empty agricultural tank behind the building.

Melissa Mullins Mischke said that one of her concerns is she doesn't work for EPA, or anything State wide, her concern is the environmental impacts to this residential neighborhood. Melissa said she doesn't see where you guys are washing down equipment and runoff. Melissa said that she sees some wet spots on the gravel that looks like it may or may not be water, fuel, antifreeze ----- she has no idea of knowing what those things are. Melissa said that she doesn't see any secondary containment on any of these containers whether they are full or empty, they should have secondary containment. Melissa said that she's certainly concerned in a residential area like this, this type of business has a potential to impact the environment and these people's wells in the area.

Dwayne Hogan asked if there is anything else.

Dwayne Hogan said if there is nothing else, he will entertain a motion.

Melissa Mullins Mischke made a motion that the petition for a Variance Use for Mike Olling (Owner) and Mark Bush (Lessee) to run a landscaping and construction business in an existing building located at 5734 W. Schultz Road, Lot 1, La Porte, Center Twp., zoned R1B be denied.

Candice Nelson seconded.

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

Attorney Biege said that he would prefer the board to vote on this first before he makes any comment. He doesn't want to influence the vote inadvertently.

Dwayne Hogan said all those in favor of denying Petition No 8 signifying by saying Aye.

All approved. Motion carried 5-0, petition denied.

Attorney Biege told Mr. Olling that one of the petitioner's testified that you have had several other businesses in that building over the years. Attorney Biege asked Mr. Olling if that is correct?

Mr. Olling stated yes.

Attorney Biege told Mr. Olling that the variance was only for you and your wife to run your business. Attorney Biege said that if there is any further violation, the Building Commissioner would task and he would be tasked in shutting down the operation. Attorney Biege said that he thinks that the board would have discretion to rescind that initial variance. Attorney Biege told Mr. Olling that doesn't mean that you can't use that building, but it means you have to come back here and ask for permission if you're going to have any other business running in there.

Mr. Olling said as he stated earlier, it was his ignorance. Mr. Olling said obviously it will never happen again.

Attorney Biege said that he just wants to make sure, because your business has obviously grown what you started anyway, so it's really no harm to you, but that way from an enforcement stand point, we can make sure that we have a clean slate and if you come back here and you have a new tenant, the board has an opportunity to review it before it occurs. Attorney Biege said that he would recommend some type of motion to that effect to make sure we're clear what we're doing with this property.

Melissa Mullins Mischke said she would say so moved, but in addition to that, can we set a time limit on how long before they have to vacate the premises strictly for enforcement purposes.

Dwayne Hogan asked Mr. Harvey how long he thinks he would need.

Mr. Harvey said that they have to find a new location. Mr. Harvey said he's thinking sixty to ninety days.

Attorney Biege said he thinks that is an appropriate time period for them to find a new space. Attorney Biege said ninety days.

Mr. Harvey said ninety days would be great.

Dwayne Hogan said not to exceed.

Mr. Harvey said correct.

Attorney Biege asked if we can take a vote on rescinding the original variance.

Melissa Mullins Mischke asked if she can amend the original motion, or do you want to do it separate.

Attorney Biege said that he doesn't think we need a motion, he's on the record and he agreed to be out in ninety days.

Melissa Mullins Mischke said that she would like to make a motion that we rescind the variance that was granted to Mr. Olling in 1996.

Glen Minich seconded.

Dwayne Hogan asked if there are any other questions on that.

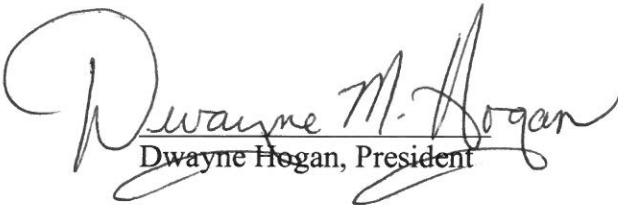
All approved. Motion carried 5-0.

Attorney Biege told Mr. Olling that this doesn't preclude him from renting the building in the future, it just requires you to get the BZA's blessing.

Mr. Olling said that he understands perfectly. Mr. Olling apologized to the board and the remonstrators.

Attorney Biege said that next week is the public hearing on the modifications to the zoning code, as well as the zoning maps. Attorney Biege said that there will be a second opportunity for public comment at that time. Attorney Biege said that all the changes are on line.

There being no further business before the Board of Zoning this evening, meeting adjourned at 7:20 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary