



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, **June 21st, 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 May 17th, 2016.

Melissa Mullins Mischke made a motion to approve the meeting minutes of May 17th, 2016 as presented. Wally Pritz 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 a Variance of Use for Mary Hiteman (Seller) & Patrick Dolan (Buyer) to run a business in an existing commercial building in residential zoning. Business will be cutting and packaging a filtration material, as well as welding and fabrication. This property is located North of 2966 South US 35, La Porte, IN, Scipio Twp. (This was tabled from the May 17th, 2016 meeting as notice wasn't sufficient.)

Dwayne Hogan said that he needs a Motion to take this off the table.

Melissa Mullins Mischke made a Motion to remove it from the table. Wally Pritz seconded.

All approved. Motion carried 5-0.

Dwayne Hogan said while we're waiting for this, in case you're here for Petition No. 4 for a Petition for a Variance of Developmental Standards for James Lemmon and Laura Lemmon has been postponed until next month.

Attorney Biege said that it looks like one adjoining landowner wasn't notified for this hearing. Attorney Biege said that you're better off being overly inclusive in providing notice.

Melissa Mullins Mischke said that she will make a motion to table the petition for the hearing of use for Mary Hiteman and Patrick Dolan until the July 19th, 2016 meeting at 6:00 p.m. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions or concerns.

All approved. Motion carried 5-0.

2. The Petition for a Variance of Use for Bennett Storage, Inc., to allow an indoor storage facility, 650 units in fifteen buildings. This property is located at 2727 S. Highway 421 Westville, New Durham Twp., zoned B2 – General Business on ten (10) acres.

Dwayne Hogan asked for name and address for the record.

Todd Leeth said that he's an attorney with the law firm of Hoepfner, Wagner & Evans, 103 Lincolnway in Valparaiso. Attorney Leeth said that he's the attorney of record and filed the petition on behalf of the owner of the land, Bennett Storage and Bill Bennett joins him here as well. The property in question is approximately ten acres as you indicated on Highway 421, North of Highway 2 approximately one-thousand fourteen hundred feet north. Attorney Leeth said that he provided to you just as we started a series of slides. Attorney Leeth said that he noted a correction at the bottom that he has a development standards variance and this is a Special Exception petition and he thinks your agenda also calls it out as a Use variance. Attorney Leeth said that they're proceeding as a Special Exception under the ordinance and he will explain.

Attorney Leeth said again, 2727 Highway 421 is the address of the property on ten acres and he guesses that it's 1650 North of Highway 2 on the east side. Attorney Leeth said that the next page or slide shows kind of an Ariel of the property in question --- somewhat irregularly shaped, but generally three-hundred and twenty four feet of frontage along 421 and it extends back a significant distance as you can see. Attorney Leeth said that it's zoned B2 under your zoning ordinance General Business.

Attorney Leeth said that the next slide is an indoor self-storage facility --- mini warehouse some ordinances call it. This is anticipated by your zoning ordinance to be allowed in B2. Attorney Leeth said that he always refer to Special Exceptions as anticipated. We find it in your table of uses with that little "s" that indicates it's a Special Exception and we have to meet certain requirements; we have to come to you and get your approval, but your ordinance anticipates that it fits in the B2 and he thinks that it does here, particularly in this particular area and we have some photographs to explain.

Attorney Leeth said that your table of uses suggest that self-storage facilities (inaudible) indoor are Special Exceptions and we have to comply with use requirements that are also listed out in your ordinance and that is in Section 14.13 that references to subsection (b), but he thinks that it's actually supposed to be "c". Attorney Leeth said that is probably a typo in your ordinance. Attorney Leeth said that the next slide lists those six items. Attorney Leeth said that he has a little check mark, or a cross, because he thinks that we can comply with each and every one of

those. Attorney Leeth said that they're not asking for any Developmental Standards Variances for any of the requirements of the Special Exception – we can meet all of those. The forty foot setback from the right-of-way you will see from our site plan in a minute, we're three-hundred and forty five feet away from the right-of-way, so we're significantly setback. Attorney Leeth said that the detention anticipated lies in the front.

Attorney Leeth said that the site plan is the next slide and very difficult to read and he apologizes, but as he indicated 421 is on the left of this small drawing with a rather large area as he indicated is about three-hundred and forty five feet from the right-of-way, not just the pavement, but the right-of way for 421 all the way back to the first building. Those buildings are five feet wide and one of the things that he wants to point out to you is that the north building and the south building in those rows are half buildings if you will. They only have the overhead doors on the interior side and the buildings in the middle have overhead doors on both sides and what that does is create a wall on the exterior perimeter of the property so you don't see that row of overhead doors which he thinks is unsightly that some of the self-storage units have.

Attorney Leeth said that the next slide kind of tells you that we think that there will be six-hundred and fifty total units and we're going to have a small number of thirty-five of those will be climate controlled and that seems to be a growing part of the industry so we will have climate controlled storage for a small portion of those and those are usually in the front of the building in the two-story part of one of those front buildings that has that.

Attorney Leeth said that there will be no outside storage; all of the storage will be within unit themselves; no campers, no popup campers, no Rv's parked around the perimeter of the building, or outside.

Dwayne Hogan asked Attorney Leeth the size of the storage units.

Attorney Leeth said that they are various sizes.

Dwayne Hogan asked about the climate control.

Mr. Bennett said that it's generally 5x15.

Dwayne Hogan asked if it's going to be big enough like a garage for cars, or rv's.

Mr. Bennett stated no.

Attorney Leeth said that the next slide Mr. Bennett has done this project with the exterior walls in Porter County, so he's shown some photographs. Attorney Leeth said that you can see some climate control of two-story is kind of at the front and if you will, is the gateway to the project. Again, this project is very similar in that the detention and open space is in the front and the buildings are set significantly back.

Attorney Leeth said that the next few slides show the exterior of the building. These have masonry sides and the next slide is the interior where you can obviously see the overhead doors, but that is not available, or visible from the exterior of that project. If you make your way to the next slide, or a couple slides back, you will see where I have subject property at the top looking east --- to the rear we're looking from 421 out on to this property and the existing building which will be demo - removed - raised in the area that is set back probably three-hundred sixty feet. If you visited the property you notice that there is a dish about three-hundred and fifty feet back and it rises up to a higher spot --- that's the natural topography and obviously the place where the storm water ought to be managed and held and it's certainly large to do that.

Attorney Leeth said that the next one shows the rear of the subject property standing at the corner of that pole barn building and looking further back. As I indicated, the property is very long and deep so there is a significant part of the property that extends back, and as a matter of fact, we would be standing probably in the first half of the first set of buildings and there would be three sets, so most of the property is going to be further back in that area.

Attorney Leeth said that the next slide he has turned around and in the foreground you can see the stake, which is kind of the front building line and we're looking out to 421 and he waited for a semi to go by so we could see that a little clearer. Attorney Leeth said that you can see how far we are setback from the Highway.

Attorney Leeth said that the next slide shows 421 looking south in the entrance into the property. Today that entrance is a shared access with property to the south. Mr. Bennett is going to be paving that all the way back to the buildings so there will be hard asphalt concrete in the front to the entry gate and then inside the property it will be gravel.

Attorney Leeth said that the next slide is a photograph to our neighbor to the north and Nipsco has a large wide --- he doesn't want to say right-of-way, because it is actually owned. They own the strip of land and the overhead powerlines are on the north side. Attorney Leeth said that is their petition as he indicated a Special Exception anticipated by your ordinance and Mr. Bennett and I would be happy to answer any questions you might have, or those from the public.

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

Melissa Mullins Mischke said that she has a question about the egress and ingress for the property. Melissa asked if they're going to pave a separate drive. Melissa asked attorney Leeth if they've been in contact with INDOT to see what kind of length, width, and things like that for storage facility.

Attorney Leeth said that the drawing that you have is engineered by Duneland Group, a professional engineering company in Chesterton. Attorney Leeth said that he doesn't know if they've have been in touch with INDOT. Attorney Leeth said that what they would typically do would be to get your zoning approval before we would proceed with some of those administrative things and he's sure that we would be in touch with your staff in regard to storm water management and those kinds of things as well.

Melissa Mullins Mischke said that she knows that this is a really busy section of 421 and everyone who drives it wishes it was four lanes anyway, but some kind of concern about safety from people entering and existing the facility, especially if they have trailers.

Attorney Leeth said that we're going to have larger trucks and trailers and so forth, but the beauty of this with regard to traffic is, there is hardly any traffic associated with these types of facilities. Attorney Leeth said that they're going to have six-hundred and fifty units and we may have fifteen or twenty cars a day throughout the whole period of time. Attorney Leeth said that if you would have ten acres as this parcel is zoned B2, you would be hard pressed to find something that is allowable that would have less traffic.

Dwayne Hogan said that this is going to be a twenty-four seven operation.

Attorney Leeth said that he doesn't know whether it would be open twenty-four ---

Mr. Bennett said that it's gated and key code.

Attorney Leeth said that they can shut off access at particular hours of operation if that is a concern.

Dwayne Hogan said that it's really hard to do that when guys that are working three shifts -- swing.

Glen Minich said that his concern is the same as Melissa has. Glen said he would be hard pressed to okay this if he didn't know that there was going to be passing blister on the southerly traffic on 421.

Attorney Biege said that before there are any building permits issue they're going to require from INDOT if any blister is necessary or the traffic is sufficient before they will issue a building permit. Attorney Biege said that there are two stoppers to them before they can start building. INDOT will look at this before the county does for that matter.

Melissa Mullins Mischke said with twenty-four hour access, she didn't see anything in your presentation, or in your plans that were provided on lighting schemes and what type of lights would be used and how large of flood area they might have. Melissa said that she realizes that this is a fairly residential area, but there are still residents around there and she was wondering what the impact to them would be.

Attorney Leech said that all the lighting is building mounted; there are no pole lights, or anything that is thirty five feet in the air. Attorney Leech said that we have to have lighting for security issues, but its minimal lighting and its all building mounted.

Melissa Mullins Mischke asked if it is LED's.

Mr. Bennett said that they are LED's, but they are wraps and they don't shine up, they shine directly down.

Dwayne Hogan asked if there would be a sign on 421 advertising for the business.

Attorney Leech said absolutely.

Dwayne Hogan asked the size of the sign.

Attorney Leech said that they're not asking for a variance, so whatever is conforming; he doesn't know if we've gotten that far into the planning.

Dwayne Hogan asked about a light.

Mr. Bennett said that the one that they have at their other location are three and a half feet by eight and they're lighted. They are low profile and they are only four foot off the ground.

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

Remonstrator:

1. Ann H. Brown, 2727 S. US Highway 421. Ms. Brown said that she's the southern property and also the driveway. Ms. Brown said that the place has the same address for both sides with one driveway. Ms. Brown said that she just wants to make sure that she's not going to run into problems getting in and out of her driveway. Ms. Brown said that it's a common driveway. Ms. Brown said that she tried to find the original driveway permit when they got it from INDOT because she built the place originally and they told her that it has gotten lost when they went from hard copy in 76 to computers. Brown said that she has no problem with what they're going to do, she just wants to make sure since it's a common driveway with one address --- and we can't find the driveway permit that we are all on the same page here.

Melissa Mullins Mischke said that she thinks as our Attorney indicated, INDOT would have to work out the driveway permit issue ---

Ms. Brown said that is what she's saying, its one driveway.

Melissa Mullins Mischke said that the county is going to issue a second address for the new business.

Ms. Brown said that she doesn't have a problem with this, but she just wants to make sure that she will be able to get in and out on 421. Ms. Brown said that she doesn't live there, she lives in Westville. Ms. Brown said that she is basically around the whole thing with seventeen acres.

Dwayne Hogan thanked Ms. Brown.

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

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

Melissa Mullins Mischke said having heard the concern about the shared driveway, is there any thought on moving the driveway to the north side of the property. Melissa said that she doesn't work for INDOT, but she's going to speculate that one of the problems that you could potentially run into is that the driveways are too close together, which may have been the situation in the past.

Attorney Leech said that it's one driveway and quite frankly, he's not a traffic engineer, but his suspicion is representing many developers, INDOT likes limiting driveways, rather than splitting driveways and having multiple points of conflict. Even if we moved it, we could only move it three-hundred and ten feet, so he's thinking that INDOT probably wouldn't like that. If we also move it three hundred and ten feet, we're also pushing it up the hill towards the crust of that hill. Attorney Leech said that he thinks that the safest ingress and egress for both properties is a shared driveway as the easement is recorded now and we're going to pave that so it's going to eliminate some gravel and filtration out on to the highway too.

Melissa Mullins Mischke asked attorney Leech that he's going to pave his side of the driveway, or are you going to pave enough for -----

Mr. Bennett said that they're going to pave both sides.

Melissa Mullins Mischke said that her concern is that it's going to be enclosed with an iron fence.

Attorney Leech said that once you get back to our buildings ---

Melissa Mullins Mischke said so the front section would not?

Attorney Leech said exactly. Attorney Leech said that we're setback three-hundred and forty five feet to the buildings, that driveway is going to be paved and shared those three- hundred and forty feet and then once you get to the back you're going to take a turn to the north to the self-storage facility and Ms. Brown would then turn to the right for her horses, barns, and pasture.

Glen Minich said that the only thing he would like to address is how many feet of hard surface is going to be at 421.

Attorney Leech said that they're going all the way back to the buildings.

Glen Minich asked if that is three-hundred forty feet of hard surface black topped.

Attorney Leech said exactly for the whole width of the easement.

Glen Minich asked the width of that driveway. Glen said he wants to make sure that there is enough width at the front of the highway for one coming in and one coming out.

Mr. Bennett said that he's assuming all of their other projects they had to put in de-excel lanes and that is pretty much standard. Mr. Bennett said that is up to INDOT as to how long it's going to be, or how wide the entrance is. Mr. Bennett said generally its forty feet wide at the top and it narrows downs to a twenty foot or twenty-four foot wide drive.

Attorney Leech said that the mouth of that would have to be on their side of the property line frankly, because the easement he believes is only twenty feet wide. Attorney Leech said that it's a pretty substantial drive – he was out there earlier today and it's a pretty substantial width.

Ms. Brown said that its twenty-five feet on each side, total fifty foot wide driveway and then it bells out in the front. Ms. Brown said basically when they put it in the State would not give them a second driveway permit because of the hill. Ms. Brown said that's why she's been trying to find the driveway permit because she had some other problems involved for a long time. Ms. Brown said that she went down and talked to people in Indianapolis and that is what they all told her. Ms. Brown said that its twenty-five feet on each side – fifty foot total.

Melissa Mullins Mischke asked Attorney Leech if they're proposing that they would maintain the paved portion of the street.

Mr. Bennett said for his customers, sure.

Melissa Mullins Mischke said that she just wants to make a suggestion that you do get in touch with our county MS4 Coordinator with the amount impervious surfaces you're putting right there and drainage.

Melissa Mullins Mischke made a motion the petition for a Special Exception for Bennett Storage, Inc. to allow an indoor storage facility, six-hundred and fifty units in fifteen buildings on the property located at 2727 S. US Highway 421, Westville, New Durham Twp., zoned B-2 General Business on ten (10) acres be granted with the stipulations that there is no outside storage of stuff and leaving the shared driveway to fifty feet being the right-of way noted twenty-four feet paved.

Candice Nelson seconded.

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

Melissa Mullins Mischke said that she apologizes with her motion that she should have said twenty-four seven hours of operation and not to exceed a 4x8 lit sign.

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

All approved. Motion carried 5-0.

3. The Petition for a Variance of Use for Keith and Tara Walstra to have two (2) horses on two acres in Ag zoning for the purpose of real estate sale. This property is located at 5601 S. 500 W., La Porte, Scipio Twp., zoned Agricultural on two (2) acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for names and addresses for the record.

Tara Walstra, 5601 S. 500 W., La Porte, Indiana.

Keith Walstra, 5601 S. 500 W., La Porte, Indiana.

Dwayne Hogan asked what they would like to do this evening.

Ms. Walstra said basically what we're trying to get to happen is we listed our house for sale and we didn't find out until a couple weeks into the sale that the zoning laws had changed. Ms. Walstra said that they were grandfathered in and they had six horses at the time. Ms. Walstra said that they provided pictures of the stalls, fencing and everything.

Dwayne Hogan asked Ms. Walstra how long they have lived there.

Ms. Walstra said eight years.

Dwayne Hogan asked how long she has had horses.

Ms. Walstra said eight years. Ms. Walstra said that when they went to sell it their real estate agent was representing as a horse property and then all of a sudden a real estate agent from La Porte called and said something is wrong. Ms. Walstra said that she originally went to one of the original zoning meetings years ago when they started proposing that and they said it was mainly only going to affect like subdivisions and stuff like that.

Ms. Walstra said that once they took the horse part off of the advertisement we had one to two showings a day on the property and it was amazing and when we took it off as horse property, it just (inaudible). Ms. Walstra said granted they have a standing offer and they don't have horses, but it's still the fact that we set this home up as a horse property in general and we took a lot of pride in the way we set it up so that way people could enjoy it -- the La Porte County Fair, 4-H -- everything, it's huge and she personally knows showing horses that it's not exactly the amount of land, it's the care and how you provide and what you do -- it's the quality, not the quantity.

Dwayne Hogan asked if the whole property is two acres.

Ms. Walstra said two acres.

Dwayne Hogan asked Ms. Walstra how many horses she had on the two acres.

Ms. Walstra said she had six --- well she would say five and a quarter --- five horses and a little mini.

Ms. Walstra said basically what they're trying to do --- not just horses, it's set up beautiful and if somebody wanted an Alpaca, or a Lama --- she doesn't know what people like, but she liked horses, they may like something else. Just in general, it's set up beautiful with the pastures and it's a shame to sit there and think that all that could possibly be torn down with a future buyer because they can't have animals on that two acres because it doesn't meet that three acre standard. Ms. Walstra said if it wasn't set up the way it was, she wouldn't blame you guys, but it's set up with beautiful frontage, adequate pasture, great size stalls, and great ventilation -- it's done beautiful and we just ask that somebody gets to enjoy that the same way they did.

Attorney Biege told Ms. Walstra that the problem that she's asking for here is under the rules this is a Special Exception, but the exception depends upon the type of animal and the number of animals and the number of acres. Attorney Biege said for example, chickens, turkeys and rabbits, you can have a Special Exception for that, but you need point two acres per animal. Attorney Biege said that a Special Exception is specific as to what the individual wants to do. Attorney Biege said that the board just can't grant a blanket of Special Exception saying you can have animals. You have to come to the board and tell them what you want to do.

Ms. Walstra said that they figured the two horses would be their best bet and then that way people could at least say that when they got to that point they could come to you after that and say they don't have two horses, but they do have two Lamas.

Attorney Biege said let's keep it simple. Attorney Biege asked Ms. Walstra if she's asking for a Special Exception for your lot for two horses.

Ms. Walstra said yes sir.

Attorney Biege said and nothing else.

Ms. Walstra said no.

Attorney Biege said not at this time.

Ms. Walstra said not at this time. Ms. Walstra said for the next owners, not them.

Glen Minich said that he lives in that area and one of the reasons it's done this way is because we want the people to come in and we want the neighbors to know what's going on. Glen said that property is beautiful and he knows the previous owner, your lot to the south was dirt for quite a while and that's the reason for three acres. Glen said that we're trying to keep that fenced in tree area --

Mr. Walstra told Glen that they planted new grass.

Glen Minich said that the previous owner had over ran with something and the grass was all gone. That's the reason for three acres to try to get enough space to where the vegetation cover stays in place.

Melissa Mullins Mischke told Mr. & Mrs. Walstra that certainly not every animal owner maintains their property like you have. Melissa said that it kind of gives us an idea of how well waste materials are going to be handled and things like that.

Glen Minich said that every house is different, because some homes cover a half of acre to an acre just with their lawns and home. Glen said everybody is using it differently.

Ms. Walstra said that the one lot that she has set up was specifically for a riding area.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 3.

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

Glen Minich made a motion that the petition for a Special Exception for Use for Keith and Tara Walstra to have two (2) horses on two (2) acres for that property in Ag zoning for the purpose of maintaining a horse property. This property is located at 5601 S. 500 W., La Porte, Scipio Twp., zoned Agricultural.

Ms. Walstra said for that property, not for them.

Attorney Biege said to keep in mind that grant is not for gratuity. This is to show anybody coming forward that you can get the Special Exception, but the new owners will to ask for a Special Exception also.

Ms. Walstra said that's not what they were ---

Attorney Biege told Ms. Walstra that they can't have what you're asking for. Attorney Biege said that when you market the property you have a two horse property, there's nothing to say that the board won't grant a further request, but like Melissa was saying, a Special Exception is specific to the property and how it's used.

Dwayne Hogan said if a guy wants two Lamas he has to come in front of us and say that he needs to have two Lamas on this property.

Mr. Walstra was asking if they advertise like that to sell it. Mr. Walstra asked if they could have the two horses automatically.

Attorney Biege said that if you currently have the property and granted a Special Exception with two horses, you can advertise at (inaudible). If somebody buys it and they want to put two horses

there, they will have to ask for a Special Exception, but if it already exists that puts you in the ballgame.

Ms. Walstra said that they were grandfathered in at six horses.

Mr. Walstra asked why that doesn't follow them.

Glen Minich said because it was grandfathered in and that is what grandfathered means. Glen said most times when this occurs, what happens is, the new buyer is going to come in and ask for the Special Exception before he finalizes his purchase. Glen said that this gives you the opportunity to advertise this as a horse property and for them to have their insurance that they have the property, they will come in and ask for Special Exception before they close on the property.

Ms. Walstra said that they could have advertised it already being grandfathered without having to pay ---

Attorney Biege said that the new owners wouldn't be grandfathered in.

Ms. Walstra said that they were told that they were not allowed to advertise as a horse property because they had to come to you -

Attorney Biege said that a Special Exception is kind of a rubber stamp. Attorney Biege said that if it's already allowed, the only reason a Special Exception is required so the board can just review the requests. It's already presumed that you can do it because you're in Ag. Attorney Biege said that the point of the Special Exception is so the board can do a double check on what you're doing as an individual on the property and approve. Attorney Biege said a different set of owners may have a different set of standards. Attorney Biege said you can have two horses; you've lived on the property and there is no complaints, but somebody comes in with any other Lamas, chickens, ducks, or something like that, then the board wants to take a look at it.

Glen Minich said your question about whether you could, or could not advertise it as horse property is beyond what we --- you'd have to get with a real estate agent.

Ms. Walstra said that is why they sent us here.

Attorney Biege said he doesn't care what the realtor says, I'm the lawyer, and I'm telling you I know a little bit more than the realtors on this issue, but if the board grants a Special Exception and you have a Special Exception, you have it for a horse property and you're fine. The problem in zoning is there are different categories. You are in a Special Exception category. That gives you some insurance to an extent because you were grandfathered in, but the new people won't be. If you already have a Special Exception it's probably likely that the buyers will also get a Special Exception.

Candice Nelson seconded the motion.

Dwayne Hogan asked if there is any other discussion.

All approved. Motion carried 5-0.

4. The Petition for Variance of Developmental Standards for James Lemmon and Laura Lemmon to construct a second home on this parcel to take care of father. This property is located at 10414 W. 200 S., Westville, New Durham Twp., zoned R1A. (This matter is tabled to July 19th, 2016 at 6:00 p.m.)

5. The Petition for Variance of Developmental Standards and a Use Variance for Second Chance LLC and Joan Mrozet (Applicants) for placing a pole barn/workshop without a residence (Dev Standards and a Use Variance to operate Second Chance Equipment, an asphalt business out of pole barn/workshop with plumbing. This property is located at 11516 W. 250 N., Michigan City, Coolspring Twp., zoned Agricultural on 40 acres.

Attorney Biege said notice is adequate.

Attorney Biege said that this matter was before the Plan Commission and there were some remonstrance from neighbors showing concern about a permanent change in zoning and through the discussion I recommended the Plan Commission table this matter and go before the Board of Zoning Appeals because he thought that is what relates to what the petitioner seeks, would be cleaner if the board is so inclined to grant a zoning variance.

Dwayne Hogan asked for name and address for the record.

Sarah Harth, 4584 W. Small Road, La Porte, Indiana.

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

Ms. Harth said that they're wanting to purchase this forty (40) acres here and take five (5) acres of it to place a pole barn for storage for their equipment, as well as their office.

Dwayne Hogan asked Ms. Harth what that would be used for.

Ms. Harth stated her asphalt equipment.

Dwayne Hogan asked Ms. Harth what would be stored in this building.

Ms. Harth said his trucks, his paver, rolling machine; everything would be stored inside.

Dwayne Hogan asked all the tools that would be associated with paving.

Ms. Harth stated yes.

Dwayne Hogan asked what the hours of operation would be out of this building.

Ms. Harth said that they will just have are CDL drivers there to drive the equipment obviously for the trucks and they will be there anywhere between 5:00 a.m. and 7:00 a.m. and are there for about twenty minutes at most, and then they're out the door to their job. Depending on where and how long the job last, they could be back by 4:00, 5:00, or 7:00, it just depends on the job. Lately we've been out of town working, currently they were in Lafayette, Indiana and CJ is in South Bend today, but we're gone quite a bit.

Dwayne Hogan was asking about noise.

Ms. Harth said that as far as the noise goes, no one would hear a thing, other than hearing a truck start up if the wind is blowing the right way.

Dwayne Hogan asked what we could say for hours of operation.

Ms. Harth is usually it's a typical 7:00 to 4:00 or 5:00. Ms. Harth said that they're reasonable

Dwayne Hogan asked if there would be a sign in front of this anywhere.

Ms. Harth stated no.

Dwayne Hogan asked if it's six or seven days a week.

Ms. Harth said normally its five days and every now and then they do work Saturday.

Melissa Mullins Mischke asked Ms. Harth if they plan on aggravating any of the wetlands that are in the area.

Ms. Harth stated no. Ms. Harth said that they aren't selling any sort of goods, or anything like that out of there, it's just strictly to place their equipment. Ms. Harth said that right now where they have their things at mom and dad's home on Small road, they're selling their home and unfortunately when that comes we need a new place.

Melissa Mullins Mischke asked if she's intending on a fence at all.

Ms. Harth said that he's talked about it, but as far as that goes, she's not one-hundred percent sure.

Attorney Biege said that he wants to clarify something. Attorney Biege asked Ms. Harth when she filed the petition in front of the Plan Commission you were asking for five (5) acres. Attorney Biege said that the petition before the Board of Zoning Appeals is forty. Attorney Biege asked if it is forty acres, or is it five acres.

Ms. Harth said that they want to purchase the whole forty acres. Ms. Harth said what the attorney wanted them to do previously was to take that five acres and rezone it for whatever reason, but that is where their business would be even still on that five acre area.

Attorney Biege said what he's trying to clarify what you're asking for here.

Attorney Biege asked if they're asking for the variance on five acres, or forty acres. Attorney Biege told Ms. Harth that she attached a survey on the Plan Commission request.

Dwayne Hogan asked for name and address for the record.

Carl J. Rowe, 4584 W. Small Road.

Attorney Biege told Mr. Rowe that he asked for five acres at the Plan Commission requests and this petition says forty.

Mr. Rowe said that the variance isn't for the entire property, it's just for the building itself as far as usage for the building. Mr. Rowe said that the property is still Agricultural and they're not trying to change that.

Attorney Biege asked Mr. Rowe if he's going to split off that five.

Mr. Rowe stated no. Mr. Rowe said that was because of the request of the attorney and the advice and he's not here this evening. Mr. Rowe said he doesn't want to break that parcel up, he never did.

Attorney Biege told Mr. Rowe that he's asking for the variance on the entire forty.

Dwayne Hogan asked Mr. Rowe his intent for the forty-five acres.

Mr. Rowe said he's going to leave it farm land and the woods obviously can't be touched and he will hunt out of it. It's going to remain as it is. The other twelve acres on the other side maybe someday after they get pass this big loan, we can try to build something over there to live in.

Mr. Rowe apologized for being late because he worked sixteen hours and he tried.

Dwayne Hogan asked if there are any remonstrators here for, or against this petition.

Dwayne Hogan asked for name and address for the record.

Scott Baldwin, 11516 W. 300 N., La Porte, and he owns the property right north to this. Mr. Baldwin said at the board meeting they asked for those of us who were there for somebody to come for this because everyone out there was dead set against zoning away from agricultural.

After the meeting they were talking about that this was just going to be a variance. Mr. Baldwin said that everybody that showed up at this meeting was not against what he's doing now.

Mr. Baldwin said that he's here supporting Mr. Rowe to allow for him to build and store his asphalt equipment at this property.

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

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

Candice Nelson made a motion that we approve the petition for Variance of Developmental Standards and a Use Variance for Second Chance LLC and Joan Mrozet (Applicants) for placing a pole barn/workshop without a residence (Dev Standards) and a Use Variance to operate Second Chance Equipment, an asphalt business out of pole barn/workshop with plumbing on property located at 11516 W. 250 N., Michigan City, Coolspring Twp. with the hours of operation from 5:00 a.m. to 9:00 p.m., Monday through Saturday and the property cannot be further subdivided.

Wally Pritz seconded.

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

Attorney Biege said that he just wanted to make sure that he heard the property couldn't be further subdivided.

Candice Nelson said correct.

All approved. Motion carried 5-0.

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

There being no further business before the Board of Zoning this evening, meeting adjourned at 7:10 p.m.

Dwayne Hogan, President



Annemarie Polan, Recording Secretary