



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, **November 15th, 2016 at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Dwayne Hogan, Glen Minich, Melissa Mullins Mischke and Candice Nelson.

ALSO PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege, Darlene Forker, Secretary.

Dwayne Hogan asked for a motion for the minutes of September 20th, 2016.

Melissa Mullins Mischke made a motion to approve the meeting minutes of September 20th as presented. Candice Nelson and Glen Minich seconded.

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

All approved. Motion carried 4-0.

Dwayne Hogan apologized for the mix up last month. Dwayne said he had some unexpected surgery come up and we had some people that had unexpected things that just happened. Dwayne said that this is going to be the same agenda as we had from the month prior.

Dwayne Hogan said Petition No. 1 for this evening is already being postponed.

1. The Petition for Variance of Developmental Standards for Anthony J. Rutzen Jr., and Deborah J. Rutzen to construct a two story addition (20'x 20') to an existing pole barn for living quarters for themselves, which will later be used as a guest house while building a new home. This property is located at 7685 W. 350 N., Michigan City, Coolspring Twp., zoned R1B on 4.50 acres.

Dwayne Hogan said this was already tabled from August to October. Dwayne said that he will entertain a motion.

Melissa Mullins Mischke made a motion to dismiss the petition for a Variance of Developmental Standards for Anthony J. Rutzen Jr., and Deborah J. Rutzen. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions or concerns.

All approved. Motion carried 4-0.

Dwayne Hogan asked attorney Biege if he's going to follow up legally.

Attorney Biege stated yes.

2. The Petition for Use Variance for Russell & Maryann Oake (Sellers) and Ben Henrich and Amy Jaye (Buyers) requesting to keep living quarters as a guest house. Seller of this property was to remove living quarters in pole barn after completion of the house. This property is located at 283 N. 875 E., Mill Creek, Indiana, Wills Twp., zoned Agricultural on 5.0296 acres.

Attorney Biege asked if they have their proof of publication.

Annemarie Polan, Building Commissioner told attorney Biege that we have the publication. Annemarie said that we take them out of the paper too if we see them. Annemarie said we don't have the affidavit, but we have the publication.

Attorney Biege said we have notice of the adjoining landowners. The petitioners do not have an affidavit with them, but the Building Commissioner's Office in their diligence has the newspaper clipping showing that it was published.

Dwayne Hogan asked for name and address for the record.

Ben Henrich said his current address is 8687 E. 850 N., New Carlisle.

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

Mr. Henrich said his father built the barn and was living in it while they built the house.

Dwayne Hogan asked Mr. Henrich how long ago was that.

Mr. Henrich said 2006.

Melissa Mullins Mischke asked if the stipulation would be that the living quarters would be removed when the residence was completed.

Mr. Henrich said that he did go up to the Building Commission and he believes it was Ray Hamilton who he spoke with and he told them to go ahead and leave it there.

Glen Minich told Mr. Henrich that he gave them pictures of the interior of the barn and the living quarters. Glen asked if the picture shows the access? Glen said for a safety stand point if there was a fire or something like that ---

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

Attorney Biege asked Mr. Henrich if this access leads into the barn, or into the living quarters.

Mr. Henrich said on the side it leads into the barn and there is another access ---

Attorney Biege asked if there is any access directly from the living quarters to outside.

Mr. Henrich stated yes.

Glen Minich asked Mr. Henrich to come up to the bench and show them where it is on the site plan.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition #2.

Dwayne Hogan asked for further questions, or concerns of the board.

Melissa Mullins Mischke said assuming this variance is granted, you will have to contact the Building Department and get a separate address for that residence and make sure you work with Wills Twp. Fire Department and there is signage there so they're aware there is a second residence there.

Glen Minich asked if the septic is done there.

Mr. Henrich said there is one septic and well.

Glen Minich asked if it is for the proper number of bedrooms.

Mr. Henrich stated yes. Mr. Henrich said that there was an inspector out there.

Dwayne Hogan said when he went out there he noticed there were a lot of cars.

Mr. Henrich said two of the cars are his and one is his brothers. Mr. Henrich said he was helping his brother fix his car.

Melissa Mullins Mischke asked if all those vehicles will be removed upon approval of closing of the sale of the home.

Mr. Henrich stated yes.

Dwayne Hogan asked the pleasure of the board.

Candice Nelson made a motion to grant the Petition of Use Variance for Russell & Maryann Oake (Sellers) and Ben Henrich and Amy Jay (Buyers) to keep the living quarters as a guest house on the property located at 283 N. 875 E., Mill Creek, Indiana, Wills Twp, zoned Agricultural with the stipulation that they have to contact the Building Commission Office for a separate address and the address posted as such. Glen Minich seconded.

Dwayne Hogan asked for any other questions, or concerns.

Melisa Mullins Mischke said she just wants to add to the motion that this variance stands with this petition and if the home is ever sold they would have to come back in front of this board.

Dwayne Hogan asked if there is anything else.

All approved. Motion carried 4-0.

3. The Petition for Variance of Developmental Standards for Andrew and Cynthia Karagias to construct a one car story and a half attached garage (16'x 21') with ten (10') foot side setback instead of the required thirty (30') feet. This property is located at 3767 S. County Line Road, Westville, New Durham Twp., zoned Agricultural on two acres.

Attorney Biege said notice is sufficient.

Dwayne Hogan asked for name and address for the record.

Andrew & Cynthia Karagias, 3767 S. County Line Road, Westville, Indiana.

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

Mr. Karagias said he wants to get a variance to build a structure without the side setback on the property. Mr. Karagias said they're asking for a variance to add onto the side of their garage.

Dwayne Hogan asked if work has started yet.

Mr. Karagias stated no.

Dwayne Hogan asked Mr. Karagias if that's going to leave him ten (10') feet.

Mr. Karagias said it will actually be more than that. Mr. Karagias said he's asking for a variance for that amount. Mr. Karagias said he's looking for the sixteen (16') feet and they're thirty eight (38') feet off. Mr. Karagias said that it is going to be actually less than that.

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

Melissa Mullins Mischke asked Mr. Karagias how close the nearest neighbor's house is to the side.

Mr. Karagias said their nearest neighbor is to the north and he's about thirty eight (38') feet from the property line.

Melissa Mullins Mischke asked how close their structure would be to the neighbor's structure.

Mr. Karagias said that they don't have a home yet.

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

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

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion to approve the petition for Variance of Developmental Standards for Andrew and Cynthia Karagias to construct a one car story and a half attached garage (16' x 21') no less than a ten (10') foot side setback instead of the required thirty (30') feet on the property located at 3767 S. County Line Road, Westville, New Durham Twp., zoned Agricultural on two acres. Candice Nelson seconded.

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

All approved. Motion carried 4-0.

4. The Petition for Variance of Developmental Standards for Rodney H. & Carol J. Dillon to construct a pole barn (36' x 40') with the height being twenty three (23') feet instead of the required eighteen (18') feet. This property is located at 2744 S. 350 W., La Porte, Scipio Twp., zoned Residential (R1B) on two acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Rodney & Carol Dillon, 2744 S. 350 W., La Porte.

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

Ms. Dillon said her husband couldn't be here tonight and his brother will speak.

Dwayne Hogan asked for name and address for the record.

Nicholas Dillon, 7505 W. 450 S., La Porte,

Mr. Dillon said they want the bridge height to be twenty three (23') feet instead of the required eighteen (18') feet to closely match the house and make the lines match.

Glen Minich asked what they were doing with the siding on the barn.

Mr. Dillon said it will be steel.

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.

Board members speaking amongst themselves.

Glen Minich said that it's consistent with the neighborhood.

Dwayne Hogan asked the pleasure of the board.

Candice Nelson made a motion that we approve the Petition for Rodney H. & Carol J. Dillon to construct a pole barn thirty six (36' x 40') with the height being twenty three (23') feet instead of the required eighteen (18') feet on property located at 2744 S. 350 W., La Porte, Scipio Twp., zoned Residential (R1B) on two acres. Glen Minich seconded.

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

All approved. Motion carried 4-0.

5. The Petition of Use Variance for James Audrian and Majushree Foundation to construct a second floor parsonage in an above existing mediation room for monk to reside in. This property is located at 10303 E. US Highway 12, Michigan City, Springfield Twp., zoned B2 on 1.836 acres.

Attorney Biege said that he assumes you did not receive a card back from Consolidated Rail.

Mr. Corlett said correct.

Attorney Biege said that he needs proof of mailing. This doesn't tell me where it's going.

Attorney Biege asked Mr. Corlett if he has access to a computer nearby.

Attorney Biege told Mr. Corlett that he can actually run a number on the website and it will show if this was delivered, or signed for. Attorney Biege said he needs something to show that it was mailed. Attorney Biege said he would suggest that we set them back to give them an opportunity to find it on line.

Dwayne Hogan said we will skip No 5 for a little bit and come back.

6. The Petition for Use Variance for William Lemons to run an antique shop selling misc., antiques, vehicles and parts. Keep four semi-trailers for storage and a 3' x 5' lit sign. Hours of operation 9:00 a.m. to 3:00 p.m. Friday, Saturday and Sunday. This property is located at 9006 N. SR 39. La Porte, Springfield Twp., zoned Agricultural on one acre.

Attorney Biege said notice is sufficient.

Dwayne Hogan asked for name and address for the record.

William Lemons, 2011 N. 50 W., La Porte.

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

Mr. Lemons said that he wants to put in antique shop selling antique vehicles and parts.

Dwayne Hogan asked if he's doing this at this address.

Mr. Lemons said he has been there for thirteen years.

Dwayne Hogan asked Mr. Lemons how long he has been doing this.

Mr. Lemons said that he does trade shows and he wants to have a shop.

Melissa Mullins Mischke asked if the storage semi-trailers are used for storing.

Mr. Lemons stated yes and they have been there.

Melissa Mullins Mischke said that in your petition you say antique parts and cars.

Mr. Lemons stated yes.

Melissa Mullins Mischke asked if any of the vehicles run.

Mr. Lemons said that they're just antique cars and used for parts.

Dwayne Hogan asked if it is scrapping.

Mr. Lemons said not really. Mr. Lemons said he only keeps about five or six cars there at a time. He rotates quite a bit because he does a lot of shows.

Mr. Lemons said his goal is to make it into an antique shop and a service station.

Dwayne Hogan asked Mr. Lemons if he's going to be open Friday, Saturday and Sunday only.

Mr. Lemons stated yes.

Dwayne Hogan asked if that is 9:00 a.m. to 3:00 p.m.

Mr. Lemons stated yes.

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

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

Dwayne Hogan asked Mr. Lemons how long he's been working out of there.

Mr. Lemons said thirteen years. Mr. Lemons said he just kind of uses it as a storage yard.

Glen Minich said that it is purely agricultural and a couple concerns are those four semi-trailers. Glen said that it's consistent in Ag., but it's not consistent with what you want to do actually.

Attorney Biege said his concern is what you really are doing, and what you're calling it. Attorney Biege said it's a salvage yard.

Mr. Lemons said that it is not a salvage yard.

Attorney Biege said it falls within the definition of a salvage yard under the code.

Mr. Lemons said it is not a salvage yard --- he keeps a really nice place and he has four or five cars sitting there.

Attorney Biege said that he thinks under the definition it is defined as a salvage yard. Attorney Biege said told Mr. Lemons that he's essentially --- you have vehicles involved and they're being disassembled and resold in one form or another.

Glen Minich told Mr. Lemons that he's selling them intact.

Mr. Lemons said he does a lot of trade shows and he does a lot of antiquing. Mr. Lemons said that he's not just specializing in selling antique cars.

Attorney Biege said that if the board so chooses to grant this he wants to grant this in a broader term --- let's call it something broad so later on down the line, wait a minute, you're not selling antiques, and you're selling cars and disassembling cars. Attorney Biege said it's really just for your protection whatever they grant, he wants to make sure that you don't have a problem down the line.

Melissa Mullins Mischke said if she might just reference to your property assessment card that you provided us. This is actually a commercial use for the property, not the zoning of the property, it's Ag and the property is being used in a commercial manner and it doesn't mean the property is zoned for commercial.

Mr. Lemons said that the last two people that were there were commercial retail. Mike's Smoke Shop was there for thirty years and a (unintelligible) restoration shop.

Melissa Mullins Mischke said that the property is being used as a commercial property, but it's zoned as Agricultural.

Melissa Mullins Mischke asked Mr. Lemons how he would feel about putting up a fence that would kind of make a barrier between those big storage units. Melissa asked Mr. Lemons if he would be open to that at all.

Mr. Lemons said the whole theme that he has going there is a 1940 service station and that's why he's making it an antique shop and the cars kind of go along with that. Mr. Lemons said he really doesn't want it fenced.

Melissa Mullins Mischke said she is just kind of trying to find a way to make it a little more appealing in the neighborhood.

Mr. Lemons said that his neighbors all love what he's doing there.

Board members speaking amongst themselves.

Attorney Biege said if you want to restrict the permitted use to antique vehicles so we have this broad definition, but we restrict the broad definition down to what we're doing. Attorney Biege said he doesn't want to call it an antique shop, that's not what it is.

Melissa Mullins Mischke asked Mr. Lemons if he does any mechanic work.

Mr. Lemons stated no.

Glen Minich said he wonders if we should consider limiting the number of cars.

Dwayne Hogan asked Mr. Lemons how many cars he has.

Mr. Lemons said he has less than ten (10) at all times. Mr. Lemons said he thinks that he has five of them right now.

Dwayne Hogan asked Mr. Lemons how often he runs his trade shows.

Mr. Lemons said probably four times a year.

Dwayne Hogan asked if it is pretty silent in the winter months.

Mr. Lemons stated yes.

Board members speaking amongst themselves.

Glen Minich told Mr. Lemons that he thinks he should stay ten (10') feet away from the property line. Glen said that the combines are big when they turn them around.

Attorney Biege told the board that they're the appointed officials, but he sees this has a salvage yard. That's what it's called in the code and definitions. Attorney Biege said that he can draft findings that he thinks would sufficiently limit what he's doing. Attorney Biege said it is something that he would have to sit down and draft and your motion probably won't cut it, other than approval.

Attorney Biege said that if you choose to pass it and instruct me to draft findings to the limit and use to his activity, he will come up with something.

Melissa Mullins Mischke said that she just wants to make sure that everybody understands, the request of his petition is not just for salvage antique cars, he also wants to run an antique business.

BEFORE THE BOARD OF ZONING APPEALS
OF LAPORTE COUNTY

IN RE THE PETITION OF:

WILLIAM LEMONS

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR VARIANCE OF USE

This matter came before the LaPorte County Board of Zoning Appeals for hearing on the 15th day of November, 2016. The Petitioner presented proof of paid publication to the Board, together with proof of notice to all persons entitled to notice of such petition according to the records of the LaPorte County Auditor. There were no remonstrators present.

After hearing all of the evidence to be presented, the Board of Zoning Appeals made the following Findings of Fact and Conclusions of Law:

1. The Board has jurisdiction of the parties and subject matter.
2. That the Petitioner owns property specified in such petition located 9006 North State Road 39, LaPorte, Indiana, Springfield Township. The subject property is currently zoned Agricultural on one (1) acre.
3. That the Petitioner seeks a Variance of Use to operate an antique shop selling miscellaneous antiques, vehicles and parts. In addition, Petitioner seeks to keep four (4) semi-trailers for storage and a 3' x 5' lighted sign. Hours of operation would be 9:00 a.m. to 3:00 p.m. Friday, Saturday, and Sunday.
4. Such Petition is GRANTED. The LaPorte County Board of Zoning Appeals, further finds as follows:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - b. The use and value of the area adjacent to the property included in the variance shall not be affected in a substantially adverse manner in that the appearance of the property will not substantially change.
 - c. The need for the variance arises from some condition peculiar to the property involved in that the proposed business is a unique blend of products.

- d. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the Variance of Use is sought.
 - e. The approval does not interfere substantially with the Comprehensive Land Development Plan.
5. That the granting of this Variance of Use is made subject to the following conditions:
- a. There will be no more than ten (10) cars.
 - b. Requirements of 14.17 (c) "Salvage yard" are waived.
 - c. No parking of vehicles less than ten (10) feet from the property lines.

DATED this 15th day of November, 2016.

/s/ Dwayne M. Hogan
DWAYNE M. HOGAN, PRESIDENT
LaPorte County Board of Zoning Appeals

Distribution:
Annemarie Polan
William Lemons

Attorney Biege said that he understands that, that's the easy part. Attorney Biege said that you're also waiving the requirements for salvage yards in Section 14.17 © because they require ten acres and fences.

Board members speaking amongst themselves.

Attorney Biege said that you can make a motion to approve the variance and instruct the attorney to draft findings of fact to conform to the request of the petition, or you could simply say, so moved.

Melissa Mullins Mischke said she will say so moved with the hours of operation from 9:00 a.m. to 3:00 p.m. Friday through Sunday and (3 x 5) lighted sign.

Glen Minich seconded. Glen said that we should limit the cars to no more than ten (10).

Dwayne Hogan asked if he has a second.

Candice Nelson seconded.

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

All approved. Motion carried 4-0.

Darlene Forker attached and incorporated herein the Findings of Fact and Conclusion of Law into these minutes for Petition #6, William Lemons, 9006 N. SR 39, La Porte, Indiana, Springfield Twp., zoned Agricultural on one acre.

5. The Petition for Use Variance for James and Audrian and Majushree Foundation to construct a second floor parsonage above the existing mediation room for monk to reside in. This property is located at 10303 E. US Highway 12, Michigan City, Springfield Twp., zoned B2 on 1.836 acres.

Attorney Biege said notice is sufficient.

Dwayne Hogan asked for name and address for the record.

Walter Corlett, 0787 S. Village Road, Otis, Indiana.

James Audrian, 5488 Shady Oak Lane, Michigan City, Indiana.

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

Walter Corlett said that they want to use the existing barn and turn the upstairs into an apartment for the parsonage.

Dwayne Hogan asked if that would be on a full time basis.

Mr. Corlett stated no, just when he visits.

Dwayne Hogan asked how often that would be.

Mr. Corlett said currently it's once a year for about a month and then in the future it might extend (unintelligible).

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

Melissa Mullins Mischke asked if this barn is free standing from the rest of the structure.

Mr. Corlett stated correct.

Melissa Mullins Mischke asked if there is water and sewer in the barn already.

Mr. Corlett said that the previous owner already put that in.

Melissa Mullins Mischke asked if that is tied into the existing structure that is there.

Mr. Corlett stated no.

Melissa Mullins Mischke asked if it has its own septic.

Mr. Corlett stated yes.

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

Board members speaking amongst themselves.

Dwayne Hogan asked the pleasure of the board.

Candice Nelson made a motion that we approve the Petition for James Audrian and Majushree Foundation to construct a second floor parsonage above the existing mediation room for monk to reside in. This property is located at 10303 E. US Highway 12, Michigan City, Springfield Twp., zoned B2 on 1.836 acres, with the stipulation of no renting.

Glen Minich seconded.

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

All approved. Motion carried 4-0.

7. The Petition of Use Variance of Developmental Standards for Jongkind Property Management to construct a pole barn (50' x 100') with water, for residential purposes, without a home on this property located at 2500 W. 800 N., across the street from 2633 W. 800 N., Michigan City, Springfield Twp., zoned Agricultural on 9.9235 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Justin Jongkind, 126 Maple Drive, La Porte, Indiana.

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

Mr. Jongkind said to get a variance to build a pole barn on the property.

Dwayne Hogan asked for what purposes.

Mr. Jongkind said for storage.

Dwayne Hogan asked Mr. Jongkind what he was going to have inside the pole barn.

Mr. Jongkind said storage.

Dwayne Hogan asked if it's going to have water and electric.

Mr. Jongkind said the plan was to put it all in there so we could have a bathroom for a shop to work on stuff.

Dwayne Hogan asked if it's going to have a kitchen.

Mr. Jongkind stated yes.

Dwayne Hogan asked if it's going to have a shower.

Mr. Jongkind stated yes.

Dwayne Hogan asked if that is (50' x 100').

Mr. Jongkind stated yes.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 7.

Dwayne Hogan asked if the (50' x 100') is going to be big enough.

Mr. Jongkind said that they went back and forth on that one.

Melissa Mullins Mischke asked Mr. Jongkind what kind of soil is out there.

Mr. Jongkind said that it used to be a corn field. Mr. Jongkind said that they actually own twenty (20) acres there. Mr. Jongkind said that there is nine on one side and nine on the other.

Melissa Mullins Mischke asked Mr. Jongkind what they use the property for. Melissa said she knows that you said fishing, hunting and riding around.

Glen Minich said he doesn't have a problem with the barn and all that, but what he saw it was wet.

Mr. Jongkind said that it's not wet all the time. Mr. Jongkind said when it's turning fall and spring it's a little soggy there, but it dries up.

Melissa Mullins Mischke said that he should check into flood insurance to make sure that you're not trying to build in a flood zone.

Glen Minich said he saw a lot of mud pushed away for fill in.

Mr. Jongkind said that the purpose of that was to get it above the road grade.

Dwayne Hogan asked Mr. Jongkind if he's building it.

Mr. Jongkind said if they have time.

Melissa Mullins Mischke asked Mr. Jongkind how long he anticipates the building to take.

Mr. Jongkind's answer is (unintelligible).

Dwayne Hogan asked if there are any concerns.

Melissa Mullins Mischke said that she's again just going to stipulate that we don't have any rentals.

Mr. Jongkind said it's for personal use.

Glen Minich made a motion to that the Petition for Variance of Developmental Standards for Jongkind Property Management to construct a pole barn (50' x 100'), with water and not to be used as rental be granted at 2500 W. 800 N., across the street from 2633 W. 800 N., Michigan City, Springfield Twp., zoned Agricultural.

Candice Nelson seconded.

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

Melissa Mullins Mischke said that one of her concerns about approving a petition like this where there is a large area where this is four-wheeling. Melissa told Mr. Jongkind to make sure he has an address so emergency services can find you.

Voting Aye: Candice Nelson, Glen Minich and Dwayne Hogan.

Voting Nay: Melissa Mullins Mischke.

Motion carried 3-1.

8. The Petition for Variance of Developmental Standards for William and Loretta Kaliski, by attorney, Anthony Novak for real estate being purchased having fifteen (15') feet of road frontage on Edith Drive, which amount is less than the minimum lot width requirement of sixty (60') feet. Second, the proposed Driveway is approximately ninety (90') feet from the center line of the adjacent driveway. This property is located 105 Edith Drive, Walkerton, Indiana, Lincoln Twp., zoned R1B.

Attorney Biege said notice is adequate.

Jim Kaminski said Anthony Novak is here also and he has helped out on the Petition. Mr. Kaminski said he's an attorney with Newby, Lewis, Kaminski and Jones in La Porte.

Attorney Kaminski said that he's happy to help out Loretta & Bill Kaliski with this petition. Attorney Kaminski said also present is their daughter, Ali, as well as the proposed purchaser of the Kaliski's property, James Jesinowski, who could be important to answering some of the questions from neighbors that have come up to their office.

Attorney Kaminski said that he thinks it bares importance for the board to hear a little of the history that lead us to this difficult petition. Attorney Kaminski said first of all, the petition now is really only just for a variance to allow for a lot that has frontage of fifteen (15') feet, the

proposed driveway actually on the same side of the street, there isn't another one within one-hundred and thirty (130') feet. Attorney Kaminski said that they originally thought that when the petition was filed and he doesn't believe there is a need for that variance. Attorney Kaminski said it's really to create a lot so that there is a driveway with fifteen (15') foot of road frontage.

Attorney Kaminski said when Mrs. Kaliski was a young girl, her father and her mother's cousin, the Blackmores purchased this land that was (unintelligible) and you know Fish Lake from past experience has a lot of little lots.

Attorney Kaminski said that the Blackmores and the Kaliskis bought multiple lots and they between themselves, mini decades ago, divided the lots and they each built a cottage on the lots that they had acquired. Attorney Kaminski said since then the Blackmore family has purchased a number of lots just west of this property, that was jointly purchased, and the common practice of the families of these for many years has been for the Kaliski's to access the cottage by simply parking on the Blackmore property. Mr. & Mrs. Kaliski now desire to sell their cottage for a variety of reasons, including health and that's when the realization that their property is landlocked technically by the Blackmore property. Attorney Kaminski said really now the family members all involved are distance relatives because there have been so many conveyances over the years between them with this situation.

Attorney Kaminski said the Kaliski's after getting an offer to buy their property have had discussions with the Blackmore family and that's what lead to this petition. Attorney Kaminski said the Blackmore's have agreed to sell outright --- he means to an outright sale to the Kaliski of a proposed access to their lot that really follows the Blackmore boundary lot. Attorney Kaminski said that they prefer that because if the weather is bad and the grass or whatever, they don't have to worry about their septic. Attorney Kaminski said that was agreeable to the Kaliski's and he talked to the buyer, Mr. Jesinowski tonight and he is also agreeable to this setup for the purchase.

Attorney Kaminski said questions addressed asked both of the Kaliski's and our office are, does the buyer intend to put up a fence; what materials do you use, if any, for the driveway itself. Attorney Kaminski said that he didn't want to speak for the buyer because in the contract the Kaliski's had already executed and they didn't have any stipulations about those sorts of matters, but he thinks Mr. Jesinowski can confirm that he has no intent to build a fence, and actually would prefer that the grass remain for the time being on access to the property. Attorney Kaminski said that he will confer to Mr. Biege about the driveway standards on the materials and we think that is acceptable, so for now that would be the plan for this fifteen (15') foot.

Melissa Mullins Mischke said on the platted survey, or the one piece territorially engineering, it shows the various proposed ingress egress utility easement. Melissa asked if that is the area that you're proposing purchasing and using.

Attorney Kaminski is up at the bench going over the site plan with the board members.

Dwayne Hogan asked for name and address for the record.

James Jesinowski, 16939 89th Ave, Orland Hills, Illinois 60487.

Melissa Mullins Mischke asked Mr. Jesinowski with respect to the proposed driveway, are you intending on putting up fencing.

Mr. Jesinowski said that his intentions are to leave it as is. Mr. Jesinowski said everyone has used that area to drive in and access to the cottage. Mr. Jesinowski said that he doesn't have any problem, just so he can have access to his cottage.

Melissa Mullins Mischke asked who is going to be responsible for putting in the material for the driveway.

Attorney Kaminski said that it would ultimately be the buyer, but right now they intend to use it as grass.

Mr. Jesinowski said he has no intention of spending extra money to put down asphalt, or any crazy thing like that. Mr. Jesinowski said that everybody has used it and rolled over the grass in the years past. Mr. Jesinowski said that should be fine for him.

Melissa Mullins Mischke asked if the driveway is precluded from an actual driveway permit.

Attorney Biege said that he doesn't think the use is changing.

Melissa Mullins Mischke said that she wants to applaud your efforts to kind of (unintelligible) easement. Melissa said that she is so happy to see the real live real estate being used as opposed to an easement.

Attorney Kaminski said that it creates an unfortunate situation if you can't get the variance, a court would have to establish where that driveways going. Attorney Kaminski said that they tried to do their best to accommodate the situation.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 8.

Remonstrators:

1. Gerald Franklin 7532 Foxwood Drive, Schererville, Indiana. Mr. Franklin asked if they approve the variance would there be some restriction that says that it remains as grass for the simple fact that it has been an open area. Mr. Franklin said his backdoor is approximately three (3') feet from where they say their driveway would have been. Mr. Franklin said that it's an

empty lot behind him now and he'd hate to go ahead and see something going in there. Mr. Franklin said that when he called the Plan Commission they said it should be ten (10') feet from his building anyway. Mr. Franklin said he doesn't want to see anything changed drastically.

Melissa Mullins Mischke asked Mr. Franklin if he wants to leave it as grass.

Mr. Franklin stated yes.

2. John Conners, 1159 N Longshore Drive, Walkerton. Mr. Conners said that the lot that we're talking about is about three (3') feet from his drive. Mr. Conners said that he has been there since 1978 and he built his deck, porch and stairs right even with his garage. Mr. Conners said he's very concerned about the kind of driveway.

Melissa Mullins Mischke asked Mr. Conners if his preference is to leave it as grass as well.

Mr. Conners stated yes, plus he has a water problem and the water will start coming his way.

3. Fred Conners, same address. Mr. Conners said also there is a post and it runs at an angle in the middle. Mr. Conners said that they weren't home at the time, but someone told them they were surveying it at a straight line.

Melissa Mullins Mischke said that she would say looking at the Plat of the surveyor it appears to not be a direct north line. Melissa said that this is an actual survey.

Dwayne Hogan asked if there are any other remonstrators here this evening for Petition No. 8.

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

Melissa Mullins Mischke said that it sounds like the buyer is on the right track leaving it grass.

Melissa Mullins Mischke asked for name.

Joe Franklin said his other concern is that if he would sell it, the same stipulation would remain in place for the variance, because the driveway will then become property of somebody else.

Melissa Mullins Mischke said that the way this is presented to us is that it would actually be real estate that he would own along with the cottage parcel as well. Melissa said it wouldn't just be a driveway, it would be in his real estate and if he sold his cottage this would go with it.

Joe Franklin said the buyer could do anything they wanted.

Glen Minich said unless we put a restriction on this.

Joe said that is what he's asking.

Glen Minich said the two concerns that he's hearing is the flow of water -- they couldn't raise that driveway and keep the flow of water; it would be an illegal situation, so that's not an issue. Glen said that he would suggest with the grass he would suggest we maybe consider calling it a impervious surface because the main thing we're worried about is runoff, but you could see the need for another owner to want to do some sort of improvement. Glen said that he doesn't know if the purchasers today are looking at this for a year round property, or just a summer property. Glen said if somebody in the future would decide they wanted it for year around property, they might want to have a hard surface and that's why he would suggest today we talk about restricting it to impervious surface which would absorb the water.

Joe Franklin said that if you look at the way the property sits, the fifteen (15') feet going past John and his house and the twenty (20') feet is his house; that means that it's a lot of surface.

Glen Minich said that is true, but if it's going to be used year around in our climate, you don't want a mud ring through there either. Glen said that heavy traffic is going to tear that grass down. Glen said that he thinks that we should simply say an impervious surface must remain on that.

Joe Franklin asked what an impervious surface would be.

Glen Minich said that it could be pavers to allow the water to go through; it could be gravel to let the water drain.

Joe Franklin said that he doesn't want it to affect the value of their property.

Comments were being made out in the audience (unintelligible).

Melissa Mullins Mischke asked Mr. Franklin if he would like someone restricting what he could do on his property.

Melissa Mullins Mischke told Mr. Franklin that she definitely hears what he's saying, and they're taking that into consideration.

Glen Minich said that there is a septic system in that open lot and they're trying to protect it. Glen said that if their septic system failed, they need room to construct and repair.

Attorney Biege asked Annemarie Polan, Building Commissioner how wide a typical driveway is in residential.

Annemarie Polan said ten (10') -- fifteen (15') feet.

Attorney Biege said if a driveway is typically ten (10') feet, and we're buying fifteen (15') feet in width, so let's restrict construction to five (5') feet closer to those property owners and the ten (10') foot driveway would remain. Attorney Biege said just an idea.

Attorney Biege said that he doesn't mean to advocate either side, but it seems to him that it's a possible solution. Attorney Biege said he doesn't know how the buyer feels about that.

James Jesinowski said if that is the solution that has to be agreed to tonight to get the variance, they're willing to agree to that.

Glen Minich made a motion that the Petition for Variance of Developmental Standards for William and Loretta Kaliski, by attorney, Anthony Novak and Jim Kaminski for real estate being purchased having fifteen (15') feet of road frontage on Edith Drive be granted with the stipulation that the fifteen (15') foot needs a five (5') foot side setback leaving ten (10') feet for impervious surface if future improvement is done, located at 105 Edith Drive, Walkerton, Indiana, Lincoln Twp., zoned R1B.

Melissa Mullins Mischke seconded.

Melissa said she wants to clarify that the impervious surface we're talking about is going to allow water to drain.

Attorney Biege said it's permeable.

Melissa Mullins Mischke seconded.

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

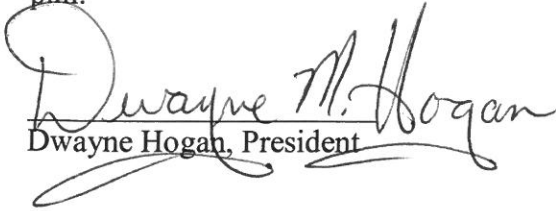
All approved. Motion carried 4-0.

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

Melissa Mullins Mischke made a motion to adjourn. Glen Minich seconded and Candice Nelson said third.

All approved. Motion carried 4-0.

There being no further business before the Board of Zoning Appeals, meeting adjourned at 7:21 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary
