



**LAPORTE COUNTY  
BOARD OF ZONING APPEALS**

Government Complex 5th Level  
809 State Street, Suite 503 A  
LaPorte, Indiana 46350-3391  
(219) 326-6808 Ext. 2591, 2563 & 2221  
Fax: (219) 362-5561

**ANNEMARIE POLAN**  
Building Commissioner

Dear Members:

Regular Meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **December 20<sup>th</sup>, 2016 at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Dwayne Hogan, Glen Minich, Melissa Mullins Mischke, Wally Pritz 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 November 15<sup>th</sup>, 2016.

Melissa Mullins Mischke made a motion to approve the meeting minutes of November 15<sup>th</sup> 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 5-0.

**1. The Petition for Variance of Use for Joshua Towle (lessee) and Prestige General Contracting, Inc. Bob Taylor (owner)** to operate an auto sales and service shop with a maximum of fifty (50) cars at any given time. Building has always been used for commercial businesses. This property is located at 628 Longwood Drive, Michigan City, Indiana, Coolspring Twp., zoned R1C.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Joshua Towle, 409 Firefly Drive, Trail Creek, Indiana.

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

Mr. Towle said that he's trying to get a zoning affidavit for a variance to operate an auto sales and service shop at 628 Longwood Drive.

---

Dwayne Hogan asked Mr. Towle if he has an auto sales service now.

Mr. Towle said no. Mr. Towle said that he has to get a license.

Dwayne Hogan asked if he's applied for the paper work.

Mr. Towle said that he has to get an affidavit for zoning before he can apply.

Dwayne Hogan asked Mr. Towle if he's asking for a maximum of fifty (50) cars.

Mr. Towle stated yes.

Dwayne Hogan asked Mr. Towle what would be a realistic number of cars that he thinks he would have there.

Mr. Towle said probably around fifty (50).

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

Glen Minich told Mr. Towle that he thinks that we're all questioning that number. Glen asked Mr. Towle how he's going to place that many cars.

Mr. Towle said that is inside and outside.

Dwayne Hogan asked Mr. Towle how many the inside holds.

Mr. Towle said that he probably has about twenty-four (24) in there now; that's outside and inside.

Dwayne Hogan asked if it is at that location.

Mr. Towle stated yes.

Dwayne Hogan asked Mr. Towle what he does with the twenty-four (24) that are there now.

Mr. Towle said that some of them are for sale, but most of them are repairs.

Dwayne Hogan asked Mr. Towle if he's actually selling them now.

Mr. Towle said he's doing repair work now. Mr. Towle said that he repairs for car dealers. Mr. Towle said those cars aren't his.

---

Dwayne Hogan asked Mr. Towle if he wants to open his own business there.

Melissa Mullins Mischke asked Mr. Towle how many employees he would have at this location.

Mr. Towle said right now there is only two.

Dwayne Hogan asked Mr. Towle how many he plans on having there.

Mr. Towle said maybe like three or four, counting himself.

Dwayne Hogan asked Mr. Towle the hours of operation.

Mr. Towle said it would be 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday.

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

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

Glen Minich said that he definitely has a problem with fifty (50) cars on that property. Glen said that he thinks the board is going to have to come up with a number inside and outside. Glen said he just doesn't think that it's realistic.

Dwayne Hogan asked Mr. Towle if he's going to have customers.

Mr. Towle stated yes.

Dwayne Hogan told Mr. Towle that he would have to have customer parking.

Mr. Towle said that he figured fifty (50) max.

Board members speaking amongst themselves.

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

Melissa Mullins Mischke made a motion that the Petition for Variance of Use for Joshua Towle (lessee) and Prestige General Contracting, Inc. (Bob Taylor) (owner) to operate an auto sales and service shop with a maximum of twenty cars (20) outside at any given time be granted at the location at 628 Longwood Drive, Michigan City, Indiana with the hours of operation of Monday through Friday 8:00 a.m. to 5:00 p.m. and 8:00 a.m. to noon on Saturday.

Candice Nelson seconded.

---

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

All approved. Motion carried 5-0.

**2. The Petition for Variance of Use for Richard & Denise Taylor** for continued placement of their mobile home. Last variance was granted on March 19<sup>th</sup>, 2014 for three years renewable. This property is located at 2804 N. 925 E., Mill Creek, Indiana, Wills Twp., zoned Agricultural on two acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Richard & Denise Taylor, 2804 N. 925 E., Mill Creek, Indiana.

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

Mr. Taylor said that they want to apply for a license to continue placement of their mobile home.

Melissa Mullins Mischke told Mr. Taylor that last time they were in front of the board, it was just you and your wife living in the mobile home. Melissa asked Mr. Taylor if that is still true.

Mr. Taylor said that off and on their granddaughter stays with them; Mr. Taylor said he would say ninety (90%) percent of the time. Mr. Taylor said that their daughter did stay with them for a few months after she got a divorce.

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

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

Glen Minich asked Mr. Taylor if there are any plans on building on this lot.

Mr. Taylor said that this past summer, they did some research and investigating on what their options are. Mr. Taylor said that they had a little scare and a little concern about this because their main income is coming from La Porte Hospital and things are kind of iffy at this point and time.

Dwayne Hogan asked Mr. Taylor if he's asking for another three year variance.

Mr. Taylor said yes, please.

---

Melissa Mullins Mischke said that the last time they were in front of us, she thinks that it is certainly well-maintained, off the road and it's not an eye soar out in the neighborhood.

Attorney Biege told Mr. Taylor that he filed a Petition for Variance of Use, but you really meant to ask for was a Variance of Developmental Standards. Attorney Biege told Mr. Taylor to say yes.

Mr. Taylor stated yes.

Dwayne Hogan asked the pleasure of the board.

Wally Pritz made a motion to approve the Petition for Variance for Richard & Denise Taylor to continue placement of their mobile home for three (3) years renewable. This property is located at 2804 N. 925 E., Mill Creek, Indiana, Wills Twp., zoned Agricultural on two acres.

Candice Nelson 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 Use for David & Ivy Perry to keep a five (5') foot fence in front of their property, which has already been constructed, instead of the required three and a half (3 ½') feet, which is required in the Joint Zoning Ordinance in Section 16.05, Paragraph b1, which is attached. This property is located at 238 W. Johnson Road, La Porte, Center Twp., zoned R1B.**

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Mike & Ivy Perry, 238 W. Johnson Road.

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

Mr. Perry said that they would like to request for a variance to keep the fence on their property at Johnson Road and 35.

Dwayne Hogan asked Mr. Perry the measurement and height of that fence.

Mr. Perry said that the post are five (5') feet and the scalloped post are four (4') feet.

---

Dwayne Hogan asked Mr. Perry when he had the fence installed.

Mr. Perry said about two (2) months ago.

Mr. Perry said that he was told that they didn't have to have a permit to put up a fence in the county, but the height he wasn't aware of.

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

Melissa Mullins Mischke told Mr. Perry that they were all just discussing when they stopped by to look at the fence, a number of them parked across the street at the gas station and with all this bad weather we've had, she thought she was going to get killed out there. Melissa said that it's a very busy intersection.

Dwayne Hogan asked if there are any further questions.

Dwayne Hogan asked the pleasure of the board.

Wally Pritz said that his concern is that if we allow this fence to go up, are we opening up a door for the rest of the area to be (unintelligible).

Attorney Biege told Wally that is the point of a variance. Attorney Biege said that it's on a case by case basis and it's unique to the property. Attorney Biege said each property is unique.

Wally Pritz said he wanted that legal opinion.

Annemarie Polan, Building Commissioner, said that it's not a complete privacy fence either as you guys can see.

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

Candice Nelson made a motion for Petition for Variance of Use for David & Ivy Perry to keep a five (5') foot fence on the property that has already been constructed instead of the required three and a half (3 ½') feet, on property located at 238 W. Johnson Road, La Porte, Center Twp., zoned R1B.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

---

**4. The Petition for Variance of Developmental Standards for Jeremy Polsgrove** to build an open porch in the back yard, with a setback of two point five (2.5') feet instead of the required fifteen (15') feet and the side setback on (Dorothy Drive) eight (8') feet instead of the required fifteen (15') feet. This property is located at 1103 N. Longshore Drive, Walkerton, Lincoln Twp., zoned R1B.

Attorney Biege said that we have all the signatures of the adjoining property owners, but one property, Alexander, there was no proof of attempted mailing. Attorney Biege said that publication is in order.

Mr. Polsgrove said that he mailed it and he doesn't know what he did with the receipt for the certified mail.

Attorney Biege told Mr. Polsgrove that he should be able to get on line.

Attorney Biege said that if the board decides to go forward, you could give that proof of notice to the Building Commissioner so that she can verify that you sent it.

Attorney Biege said other than that, publication is adequate.

Melissa Mullins Mischke said any decision that we make tonight would be contingent upon the certified mail.

Dwayne Hogan asked for name and address for the record.

Jeremy Polsgrove, 1103 N. Longshore Drive, Walkerton, Indiana.

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

Mr. Polsgrove said that he's here to get a variance for a porch off the side of his house.

Dwayne Hogan asked Mr. Polsgrove if construction has already been started.

Mr. Polsgrove stated no.

Melissa Mullins Mischke asked Mr. Polsgrove if there is a specific reason he wants to go off the east side of the house as opposed to other portions of the house that you wouldn't have a setback issue.

Mr. Polsgrove said that one sits towards the lake and that is where his living room and dining room is and he thinks that it would sit out there.

---

Melissa Mullins Mischke asked Mr. Polsgrove if he's looking at a wood deck.

Mr. Polsgrove said just a wood deck with post.

Melissa Mullins Mischke asked if it would have a roof.

Mr. Polsgrove stated correct.

Melissa Mullins Mischke asked if it would be asphalt.

Mr. Polsgrove said he will probably go tin because he's looking at doing the whole roof at the same time.

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

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

Melissa Mullins Mischke said that one thing that she's kind of concerned about is it drops off pretty steeply where you're proposing to put this back porch.

Mr. Polsgrove said that his property and his neighbor's property there might be a two (2') foot difference. Mr. Polsgrove said that there will be some hand rails, flower boxes, or something on that side.

Glen Minich said it looks like it's going to be a long, and in line with the length of the house

Mr. Polsgrove said it's going to be twenty-eight (28') feet by twelve (12') feet is what he was looking for. Mr. Polsgrove said its twelve (12') feet to the east and then it would run north and south.

Glen Minich asked Mr. Polsgrove if he's sure that he needs only two and a half (2 ½) feet. Glen said when he was at the home it looked like from the home to the property line is well beyond fourteen (14") feet.

Mr. Polsgrove said from the back of his house to his neighbors it's like fourteen and a half (14 ½') feet, that would be lakeside.

Board members speaking amongst themselves.

Dwayne Hogan asked Mr. Polsgrove how far from the end of your deck to your neighbor's house.

---



Mr. Polsgrove said he believes it would be about two and half (2 ½') feet.

Dwayne Hogan asked Mr. Polsgrove how far from that two and a half (2 ½') feet to his house.

Mr. Polsgrove said there's got to be twenty-five (25') feet.

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

Board members speaking amongst themselves.

Glen Minich said that two and half (2 ½) feet is not very much.

Melissa Mullins said she agrees.

Glen Minich told Mr. Polsgrove said that some of these homes are built in close proximity to each other.

Glen said he's not comfortable with the two and a half (2 ½') feet. Glen said he would like to see at least a couple more feet there.

Melissa Mullins Mischke said that she's kind of concerned about that drop off. Melissa said just because it's a practice we've had in the past, doesn't mean it's something that the board wants to continue. Melissa said if we don't get a handle on it now, we're never going to get a handle on it.

Glen Minich asked Mr. Polsgrove what he would be comfortable with narrowing it up.

Mr. Polsgrove said ten (10') foot.

Glen Minich made a motion that the Variance of Developmental Standards for Jeremy Polsgrove to build an open porch in the back yard with a setback of four point five (4.5') feet instead of the required fifteen (15') feet and a side setback on "(Dorothy Drive) eight (8') feet instead of the required fifteen (15') feet be granted. This property is located at 1103 N., Longshore Drive, Walkerton, Lincoln Twp., zoned R1B.

Wally Pritz seconded.

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

All approved. Motion carried 5-0.

---

**5. The Petition for Variance of Use for Jason & Jenny Kazen** to run a mobile food trailer with deck from 11:00 a.m. to 7:00 p.m. seven days a week, with a port-a-potty having water and also renting out land for boat trailer parking daily only. This property is located at 8310 E. 700 N., New Carlisle, Hudson Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Jason & Jenny Kazen, 7849 E. South Hudson Avenue, New Carlisle, Indiana.

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

Mr. Kazen said that they want to petition for a variance for his business Bigzy Dogz & Grill, LLC; it's a Chicago style hotdog stand. Mr. Kazen said that there is a bigger menu than that.

Dwayne Hogan asked Mr. Kazen if he's currently running a business.

Mr. Kazen stated yes.

Melissa Mullins Mischke asked Mr. Kazen what location is this currently at.

Mr. Kazen said 8310 E. 700 N.

Melissa Mullins Mischke asked Mr. Kazen if he's currently operating already.

Mr. Kazen stated yes.

Dwayne Hogan asked Mr. Kazen how long he's been operating.

Mr. Kazen said since May of last year.

Dwayne Hogan asked if that is May of 2015.

Mr. Kazen stated yes.

Dwayne Hogan asked if anybody told him that he needed a variance.

Mr. Kazen said that there was a discussion when he went to get the permit for the temporary electricity and it was basically said to him don't worry about it right now until somebody says something about it, and then proceed that way.

---

Dwayne Hogan asked Mr. Kazen if he's been to the Health Department yet.

Mr. Kazen stated yes.

Dwayne Hogan asked Mr. Kazen what they had to say.

Mr. Kazen said that they have no issue whatsoever. There was a card that was stapled on there if there were any questions they could get ahold of Patricia.

Attorney Biege said that the Health Department does not monitor a port-a-potty. Attorney Biege said just because the Health Department doesn't have anything to say, doesn't mean that it's okay.

Attorney Biege said that if there is a port-a-potty out there, no one monitors port-a-pottys in this county and there is no restriction.

Glen Minich asked Mr. Kazen if the Health Department has been out there to inspect.

Mr. Kazen stated yes.

Glen Minich asked Mr. Kazen if they regularly inspect.

Mr. Kazen said once a year.

Candice Nelson asked Mr. Kazen if he has a port-a-potty at his location now.

Mr. Kazen stated yes. Mr. Kazen said that it has a handwashing sink.

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

Melissa Mullins Mischke asked Mr. Kazen if this is an all year around business.

Mr. Kazen said it will be providing the weather. Mr. Kazen said the weather really has a lot to do with it. If you can't get in to plow it out, then no.

Melissa Mullins Mischke said right now it's seasonal.

Dwayne Hogan asked Mr. Kazen his hours of operation.

Mr. Kazen said that it is 11:00 a.m. to 7:00 p.m.

Dwayne Hogan asked if that is seven (7) days a week.

---

Mr. Kazen stated yes.

Dwayne Hogan asked Mr. Kazen if he has only one sign on the property.

Mr. Kazen stated yes.

Dwayne Hogan asked the size of the sign.

Mr. Kazen said its three (3') feet by two (2') feet.

Dwayne Hogan asked if there is a light on that sign.

Mr. Kazen stated yes.

Glen Minich said that there is a septic on the drawing.

Mr. Kazen said that it is fifty (50') feet away. Mr. Kazen said that is a rough drawing that they did up in the office.

Attorney Biege asked if this is an existing septic, or is this a proposed future.

Mr. Kazen said it is an existing septic and it's only for gray water, which the Health Department approved.

Attorney Biege said that it would be fair to assume that the Health Department would not approve this septic for regular normal use.

Mr. Kazen said not for black water.

Melissa Mullins Mischke asked if there are plans to improve the septic.

Melissa Mullins Mischke said that she's not all up on her laws on food service, but she's fairly certain that a port-a-potty is not going to cut it for a full time business.

Mr. Kazen said that it's a portable mobile trailer right now. Mr. Kazen said with it being a mobile trailer it's his understanding --- that's kind of his loop hole about the port-a-potty.

Melissa Mullins Mischke asked Mr. Kazen how many quests he could see at the trailer at one time.

Ms. Kazen said it's a single facility with water.

---

Mr. Kazen said it's just more of a convenience for the customer if they have to run in; most people do not use the port-a-potty. Mr. Kazen said that his stand is more that they come in, grab something and take it home to eat, or sit at the picnic table and leave after that.

Mr. Kazen said that we have it for the occasional emergency.

Melissa Mullins Mischke asked if the staff also uses the port-a-potty.

Mr. Kazen stated yes.

Melissa Mullins Mischke said that she's not comfortable with this at all. Melissa said her opinion right now is that she's going to offer to the board that she's inclined to table until the next meeting because she would like to do some additional research with the Health Department on that existing septic.

Attorney Biege said if it helps, no offense, this is a modified food truck. Attorney Biege said that we have food trucks all over the county; this isn't a restaurant. Attorney Biege said it's like the hot dog stand at Al's parking lot. Attorney Biege said for a matter of perspective, and he's not advocating neither side, but this isn't a restaurant and it's not supposed to be. Attorney Biege said that he doesn't think that there is any requirement of the port-a-potty being there. Attorney Biege said that the only question is, can this food trailer for lack of a better term, be on this piece of real estate.

Mr. Kazen said exactly.

Melissa Mullins Mischke said in addition to boat storage ---

Mr. Kazen said it's not boat storage; it's boat trailer parking.

Candice Nelson asked Mr. Kazen how many trailers this lot can hold.

Mr. Kazen said ten (10) trailers.

Mr. Kazen said recently they shut down the boat launch to the lake so he was just being kind enough to allow people to park there because there is absolutely nowhere to park their boat trailers for people to use recreational use of the lake.

Melissa Mullins Mischke said on our agenda for your application for a variance states that you want to run a mobile food trailer with a deck, having a port-a-potty and water, and also renting out land for boat trailer parking daily only.

---

Mr. Kazen stated correct.

Melissa Mullins Mischke told Mr. Kazen that he's going to rent out parking for the people that come to your ---

Mr. Kazen said it's for people that are going to be on the lake for that full day.

Melissa Mullins Mischke said so it's not for people that are going to come up to the food trailer and get food necessarily.

Mr. Kazen stated no. Mr. Kazen said that he wouldn't charge someone if they were going to ---

Melissa Mullins Mischke said that the attorney is probably correct in saying that it's a mixed use for that parcel.

Mr. Kazen said that was not his intention at all to have this parking, it was just something that he threw up to help the community find a place to park their boat trailer. Mr. Kazen said that's not a major thing, if he can't do that, he won't do that.

Attorney Biege said that he's trying to clarify what you're asking for. Attorney Biege said that you're going to charge these people to park their boats or trailers, right?

Mr. Kazen said five (\$5.00) dollars a day.

Attorney Biege said it's not a community service. Attorney Biege said that this is a profit making enterprise, which is fine, but you're making it sound like it's a donation to the community.

Glen Minich said that's what makes it a mixed use. If you actually just let them park it and didn't charge, it wouldn't be mixed use.

Attorney Biege said there is really nothing in the code, but a few cases on mixed use. Attorney Biege said that a mixed use can be allowed, however this is R1B so that is a bit of sketch, but you also look at the type of mixed use, hot dogs and boat trailer parking are not exactly close. Attorney Biege said he's not sure if this was challenged how it would come out.

Glen Minich said what we would kind of like to do is to consider continuing this and letting Doug sort this out.

Annemarie Polan, Building Commissioner, asked Mr. Kazen if he wants to drop that trailer parking from the petition.

---

Attorney Biege said if we're going to continue for him to do more work on it, let's leave all the request pending technically, and if he has an opinion one way or another, that might prompt him to drop that request then.

Annemarie Polan, Building Commissioner, said just for clarification, in the past he had the food mobile trailer – a different one, a smaller one and he had been using it at that location for several years during the summer and it wasn't until he came up to change the size of that and the port-a-potty when we told him he had to get the variance.

Attorney Biege asked Mr. Kazen if this has become a larger business enterprise for you, which is great ----

Mr. Kazen said they just up sized their trailer -- it's still mobile, but a little bigger trailer.  
Mr. Kazen said he up sized it after October of 2015.

Dwayne Hogan asked Mr. Kazen prior to that, how many years had you been running it there.

Mrs. Kazen said the smaller trailer they had, they used it for last season.

Melissa Mullins Mischke made a motion for petition for Variance of Use for Jason & Jenny Kazen to run a mobile food trailer and rent out land for boat trailer parking daily for the property located at 8310 E. 700 N., New Carlisle be tabled.

Glen Minich seconded.

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

All approved. Motion carried 5-0.

Annemarie Polan, Building Commissioner said that the next Board of Zoning Appeals is scheduled for January 17<sup>th</sup>, 2017 at 6:00 p.m.

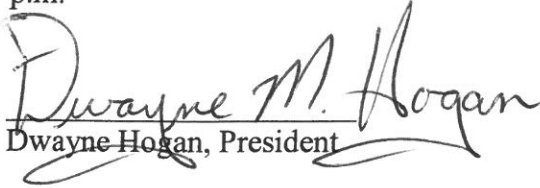
Dwayne Hogan asked if there is any other business before the BZA this evening.

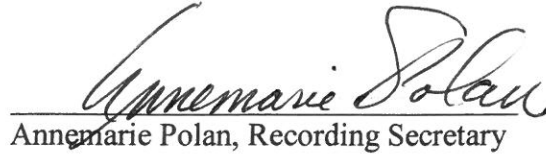
Dwayne Hogan said on behalf of the board he would like to wish everybody a Merry Christmas and at this time he will entertain a motion to adjourn. Melissa Mullins Mischke said so moved.

All approved. Motion carried 5-0.

---

There being no further business before the Board of Zoning Appeals, meeting adjourned at 6:50 p.m.

  
Dwayne Hogan, President

  
Annemarie Polan, Recording Secretary

---