



## LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level  
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**ANNEMARIE POLAN**  
Building Commissioner

January 17<sup>th</sup>, 2017

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **January 17<sup>th</sup>, 2016, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT:      Melissa Mullins Mischke      Dwayne Hogan  
                                 Earl Cunningham                      Glen Minich  
                                 Johnny Stimley

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

The Pledge of Allegiance.

### **ELECTIONS:**

Dwayne Hogan said that he will entertain a Motion for President.

Earl Cunningham nominated Dwayne Hogan for President.

Glen Minich seconded.

Dwayne Hogan asked if there are any other nominations for President.

Hearing none. All approved. Motion carried 5-0.

Dwayne Hogan asked for nominations for Vice President.

Glen Minich nominated Melissa Mischke for Vice President.

Dwayne Hogan seconded.

Dwayne Hogan asked if there are any other nominations for Vice President.

Hearing none. All approved. Motion carried 5-0.

Dwayne Hogan said he would like to entertain motion to seat our attorney for 2017 season.

Melissa Mullins Mischke made a motion that we retain Doug Biege.

Earl Cunningham seconded.

All approved. Motion carried 5-0.

Attorney Biege thanked the board.

Attorney Biege said that he might add that he's had a couple people inquire if there would be any potential conflict of interest because he's been appointed as county attorney and any appeal from this board would go to the Court, so nothing is appealed to the Commissioners from the Board of Zoning Appeals, so it would be impossible for him to have a conflict of interest.

Dwayne Hogan said that he would like to take a minute and an opportunity to thank Candice Adams and Wally Pritz for their service for the last four (4) years. Dwayne said that they served us proud.

#### **APPROVAL OF MINUTES:**

Dwayne Hogan asked for approval of the meeting minutes of December 20<sup>th</sup>, 2016.

Melissa Mullins Mischke made a Motion to approve the meeting minutes for December 20<sup>th</sup> as presented. Glen Minich seconded.

Dwayne Hogan asked if there are any questions or concerns.

All approved. Motion carried 4-0.

Earl Cunningham said that he will abstain as he was not present at that meeting.

Dwayne Hogan said that we need a Motion to take #1 off the table.

Melissa Mullins Mischke made a Motion that we remove Petition No. 1 from the table.

Glen Minich seconded.

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

All approved. Motion carried 5-0.

#### **PETITIONS:**

**1. The Petition for Variance of Use for Jason & Jenny Kazen** to run a mobile food trailer with a 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.

Dwayne Hogan asked attorney Biege if there is any other legal work he needs.

Attorney Biege stated no. Attorney Biege said that the board did ask him to check this out and attorney Biege told Mr. Kazen frankly when he came to the board before, it really looked like you're trying to put in the trailer and the deck to make something like a restaurant, but not build a restaurant. Attorney Biege said frankly looking at the lot land and the configuration, what he's asking the board to do, attorney Biege said he thinks that the variance is entirely possible.

Attorney Biege told Mr. Kazen what threw him off next was to combine this food truck operation with trailer parking. Attorney Biege said that he talked to a couple of people and he doesn't mean to present evidence to the board, but apparently congestion is significant issue in the summer time in the area, and actually, Natalie, that works for him, lives out there – near there and she said this would help alleviate some of the trailer parking.

Attorney Biege said that there is no variance necessary for a port-a-potty, nor is there for running water. Attorney Biege said that he thinks that the deck is permitted, so you could grant the variance if you so choose, the variance on the trailer and on the trailer parking. Attorney Biege said that he would highly recommend a restriction to day time if the board were so inclined. Attorney Biege said that the variances that he requests are available, and he sees no restrictions as to why you couldn't get multiple variances on this peculiar lot.

Attorney Biege said that his conclusions as a result of this unique fact pattern and this unique lot – this is very different than many lots you're going to find in other areas.

Dwayne Hogan said with all that being said, are there any other questions, comments, or concerns from the board.

Glen Minich said that his only concern is that he does have a residence next to this. Glen said his concern is some separation between you and the neighbor and his thought is that fencing may be necessary, but he doesn't know if it is necessary; for that reason, we do this quite often, we will give it a year – we will give them a variance for a year, and then we will review it. Glen said if there is a problem, whether it's ---

Someone in the audience said that it wouldn't be a problem.

Glen Minich said that's great because this will be the simple system we used in the past, where Annemarie will check to make sure there have been no complaints. Glen told Mr. Kazen that he didn't think that he would even have to come back if there are no complaints.

Attorney Biege asked Mr. Kazen if this is where the root beer stand use to be.

Mr. & Mrs. Kazen stated yes.

Attorney Biege said that his great uncle – attorney Biege said that he went out there as a kid. Attorney Biege said that this wouldn't be grandfathered in because the use was discontinued, but he was just curious if that was a root beer stand at some point.

Earl Cunningham said that Mr. Biege made a great point earlier that the neighbors think that this actually alleviates some of the parking problems. Earl said that he thinks that is a plus.

Mr. Kazen said that they got a lot of good reviews about the trailer parking because it was very convenient; exactly what they were saying about keeping congestion off the roads. Mr. Kazen said that it is pretty tight out there.

Melissa Mullins Mischke asked Mr. Kazen if he's still considering on operating Monday through Sunday, 11:00 a.m. to 7:00 p.m., with a three by five (3'x5') foot lighted sign.

Mr. Kazen stated yes.

Melissa Mullins Mischke said that she thinks that they were discussing the trailer parking hours to day time hours only.

Mr. Kazen said that is all they do anyways.

Mr. Kazen said that he will put a sign on the property that the trailers have to be off the property by such time.

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

Melissa Mullins Mischke made a motion to grant the Use Variance for Jason & Jenny Kazen to run a mobile food trailer at 8310 E. 700 N., New Carlisle, Hudson Twp., zoned R1B with the hours of operation of Monday through Sunday 11:00 a.m. to 7:00 p.m., with a (2'x3') foot lighted sign and a Use Variance for trailer parking with the hours of daylight hours, sunrise to sunset be granted.

Glen Minich seconded.

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

Attorney Biege asked if there is someone in the audience here to support this.

Attorney Biege asked him to step-up to the podium and state your name and where you live.

James Wilkenson, 8342 E. 700 North. Mr. Wilkenson said that there is just a fence between them. Mr. Wilkenson said that his folks once owned all that land --- six-hundred (600') feet

down the road on 700 and it was always zoned commercial, or residential. Mr. Wilkenson said that three (3) months ago somebody rezoned it to residential and that devaluated everybody's land down there. Mr. Wilkenson said that his neighbor east to him has a two family dwelling, with no stairway inside, you have to go outside; it's strictly a two family dwelling.

Mr. Wilkenson said that he feels bad about the rezoning and he would like to know the name of the person that rezoned it without owning one square inch of it.

Attorney Biege said that there was a rezone by the Plan Commission and they tried to essentially clean up a lot of these areas to make it clearer. Attorney Biege said that is a different board from what this is.

Mr. Wilkenson said that he asked this question where they sell building permits and they could tell him that it was rezoned at certain time, but they couldn't tell him who did it, or how it went about.

Glen Minich said that the whole county was affected with this and there were a lot of dual zoned lots and it made it impossible for the county to know how to tax them, so they had to choose one, or the other. Glen said everyone was opened to come in and help decide, but it had a lot of parcels that had two zonings. Glen said that he thinks that the county would be open to change the zone in that case if you wanted to change it.

Mr. Wilkenson said that one-hundred (100') feet north of him, or east, however you want to look at the lake, is five (5) acres of trailer park and then they have a boat wrap that they charge to use. Mr. Wilkenson said that he feels that they're in the most commercial area of Hudson Lake, so consequently when they rezoned it to residential, he feels that it dropped his property value somewhat, because it's one use now, and if they want to use it for something else, they will have to be here to see you folks.

Mr. Wilkenson said that his mother is the one that owned that as you call it, the root beer stand, it was a restaurant for sixteen (16) years. Mr. Wilkenson said that his folks divided the land with the fence and when they passed away, he took over their house, and eventually after four owners, he sold them the land.

Dwayne Hogan thanked Mr. Wilkenson.

Melissa Mullins Mischke said that she would like to amend her motion on Glen's suggestion that we grant the variance for a year, and as long as there are no complaints, then they can continue.

Dwayne Hogan said that we have a Motion and second. Dwayne asked if there are any other questions, comments, or concerns.

All approved. Motion carried 5-0.

Annemarie Polan, Building Commissioner, told Mr. Kazen that he needs to get a permit for the deck.

Mr. Kazen said that he will be in this week.

Melissa Mullins Mischke made a Motion that Petition No. 2, the Variance of Developmental Standards for Kenneth & Mary McAtee for their mobile home located at 7421 E. Point Road, New Carlisle be tabled until February 21<sup>st</sup>, 2017.

Glen Minich seconded.

All approved. Motion carried 5-0.

Melissa Mullins Mischke made a Motion that Petition No. 3 for the Variance for Use for Vicki Bishop to keep one (1) horse on her property located at 7772 S. US 35, La Porte, also be tabled until February 21, 2017.

Glen Minich seconded.

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

All approved. Motion carried 5-0.

Dwayne Hogan asked if there is any New Business before the Board of Zoning Appeals this evening, other than the introduction of Earl and thanking him for joining the board for 2017.

Glen Minich said for the record, he's going to be gone next month on vacation.

Attorney Biege said that we're presuming that Glen will be reappointed from the Plan Commission.

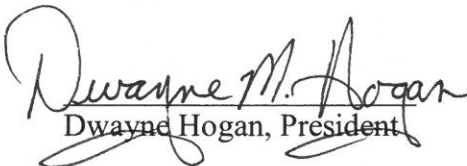
Dwayne Hogan said that he will entertain a Motion to adjourn.

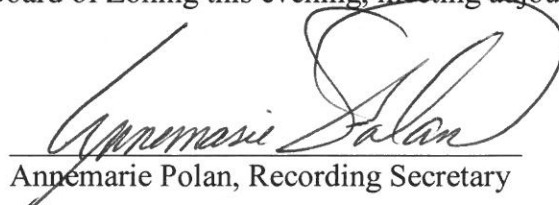
Melissa Mullins Mischke made the Motion to adjourn.

Earl Cunningham seconded.

All approved. Motion carried 5-0.

There being no further business before the Board of Zoning this evening, meeting adjourned at 6:20 p.m.

  
Dwayne Hogan, President

  
Annemarie Polan, Recording Secretary