



**LAPORTE COUNTY
BOARD OF ZONING APPEALS**

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

March 21st, 2017

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **March 21st, 2017, at 6:00 p.m.** in the Assembly Room of the County Complex.

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

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

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Dwayne Hogan asked for approval of the meeting minutes of February 21st, 2017.

Melissa Mullins Mischke made a motion to approve the meeting minutes of February 21st, 2017 as presented. Johnny Stimley seconded.

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

Melissa Mullins Mischke said that she wants to comment and say thank you to our recording secretary on what a thorough job she does on our meeting minutes.

Earl Cunningham said that is exactly what he was going to say.

Dar Forker thanked the board members.

Dwayne Hogan said that they're read very easily and they're very well done.

3-21-2017

1. The Petition for Variance of Use for Vicki Bishop to keep one (1) horse on her property with one point two (1.2) acres instead of the required three (3) acres. This property is located at 7772 S. US 35, La Porte, Union Twp., zoned R1B. (This was tabled from the January 17th, 2017 to February 21, 2017 at 6:00 p.m.) (This was postponed from the February 21st, 2017 meeting to March 21st, 2017 meeting at 6:00 p.m.)

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Vicki Bishop, 7772 S. US Highway 35, La Porte, Indiana 46350

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

Ms. Bishop said that she would like to ask for a variance to keep a horse. Ms. Bishop said that she has a grandson that has Herzberger's Syndrome and ADHD. Ms. Bishop said that she took him to her sister's house in Kentucky and they had horses. Ms. Bishop said that the child has anger issues and he's in Kingsbury in a special class, and the school took him to a farm and he came home and told her about these horses. Ms. Bishop said that in Kentucky when he got on a horse, he was the calmest child.

Ms. Bishop said that she takes care of a friend's sister and she will be sixteen this year and she has issues. She doesn't talk a lot; she has a speech impediment and she is stuck in like a eleven/twelve year old. Ms. Bishop said that it was supposed to be the grandson's horse and now she's taking care of the horse and she thinks that it's her horse.

Ms. Bishop said that she is just hoping that she can keep the horse.

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

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

Melissa Mullins Mischke asked Ms. Bishop how much area is actually fenced off for the horse.

Ms. Bishop said at this point until she finds out --- she can't tell you, she's not good at that.

Melissa Mullins Mischke asked Ms. Bishop to come up to the bench and show here on the site plan.

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

Earl Cunningham asked Ms. Bishop how long she has had the horse there now.

Ms. Bishop said that it was brought around Thanksgiving.

Earl Cunningham said that it's very common here in La Porte County with Reins of Life the number of handicap children they take out there with special needs.

Ms. Bishop said that the two old maids live with her because their mother passed away, and the one sister is taking care of the other sister, but she drives semi so she keeps her sister. They have five (5) acres in Stark County and in the future it's a possibility they can take the horse and her grandson can go there, but at this point they can't because there is no home. She is considering putting a doublewide there, but until then she doesn't know.

Attorney Biege said that he wants to make sure that we're being clear on how much land this horse has to move. Attorney Biege asked Ms. Bishop if she has about an acre of land?

Ms. Bishop said that she has one point seven nine (1.79). Ms. Bishop said that the State took part of it – she had two acres.

Attorney Biege said he didn't ask what she had, he asked what you have now.

Ms. Bishop said that she has one point seven nine (1.79).

Attorney Biege said that it looks to him notwithstanding the existing semi in the yard – Attorney Biege asked Ms. Bishop if there is more than one (1) one semi in her yard.

Ms. Bishop said that there were two that were storage and they're not on wheels. Ms. Bishop said the one is on wheels and it has been there since 1980.

Attorney Biege said including the two semis in your yard, you're going to fence off a pasture less than a half of acre. Attorney Biege asked Ms. Bishop if that sounds about right.

Ms. Bishop stated yes.

Attorney Biege said that the code requires three (3) acres for a horse. Attorney Biege asked Ms. Bishop if she has ever had a horse before.

Ms. Bishop stated no.

Attorney Biege asked Ms. Bishop how she intends to feed it, because you're not going to be able graze this horse because there is not enough land.

Ms. Bishop said that they buy the round bales of hay and they feed regular sweet feed to the horse.

Attorney Biege is going over the site plan with Ms. Bishop up at the bench.

Attorney Biege told Ms. Bishop the code requires three (3) acres for a horse for a reason.

Attorney Biege said that it looks like the horse is on a less than a quarter of acre of property.

Ms. Bishop said she does at this time.

Attorney Biege said he wants to make sure that the board is clear on this.

Ms. Bishop said that they did consider bordering the horse at a stable for a while –

Attorney Biege told Ms. Bishop that he's not doubting her intentions at all, but like Earl mentioned, the Reins of Life is a fantastic program. Attorney Biege said that he's questioning your experience with horses, and whether this property is appropriate for a horse. Attorney Biege told Ms. Bishop that she can always board it.

Ms. Bishop said if that so happens to be, that's what she will have to do.

Melissa Mullins Mischke asked Ms. Bishop how she handles the manure that you have currently.

Ms. Bishop said that they have people who have friends that want it. Ms. Bishop said that they put it with some straw and they put it in a compost thing – they say its good fertilizer. Ms. Bishop said that she's really not into the manure business, but they like the idea.

Glen Minich said that Doug's right, it's definitely less than a perfect situation for the horse. Glen said that the horse can't be over the septic system. Glen said he guesses that they haven't talked about where that is at.

Ms. Bishop said that it's at the far end of the other end of the property in the corner.

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

Glen Minich said that it might be more affective to find a stable that would be affordable then to put all the money into the fence for who knows how long you will have the horse.

Dwayne Hogan asked attorney Biege how many neighbors were notified.

Attorney Biege stated three (3).

Glen Minich said that it is in a very rural area.

Earl Cunningham asked if we could do this as a one (1) year renewable.

Glen Minich said at the very least what you're going to want to do is to assign somebody to monitor this situation.

Attorney Biege said if he might, going a little bit farther than normal, but he had a lot of horses for a lot of years. Attorney Biege said perhaps we should ask Jane Bernard, or specifically Chris

or Eric to take a look at this property and then give a recommendation to Anne. Attorney Biege said that he's concerned by the horses' wellbeing in a space this confined. There is nowhere for manure disposal, let alone the food; there is no way to transport the manure – he realizes you have friends, but there is no direct way to transport the horse itself. Attorney Biege said because this is so confined, maybe the board wants another opinion from an expert.

Glen Minich said that he thinks that we would really gain from it, and he told Ms. Bishop that he thinks that she would really gain from it to have the insight of somebody that has more.

Attorney Biege told Ms. Bishop that he's not asking these questions to be mean at all, but since you don't have a lot of experience with horses ----

Dwayne Hogan said when you're in doubt, you ask. Dwayne said he thinks that is a good idea.

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

Earl Cunningham asked Ms. Bishop if she could come back in a month.

Ms. Bishop stated yes.

Glen Minich made a motion to table this to next month when we can have a better assessment of it after a recommendation from Jane Bernard.

Melissa Mullins Mischke seconded.

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

Earl Cunningham said just for clarification, it is tabled with permission to have the horse for another month. Earl told Ms. Bishop that she doesn't have to move the horse during this month.

Annemarie Polan, Building Commissioner, told Ms. Bishop that she comes back next month on April 18th, 2017 at 6:00 p.m.

Earl Cunningham told Ms. Bishop that in the meantime, our attorney is going to contact Jane Bernard from the Animal Shelter to do an assessment, and hopefully talk with you as well.

All approved. Motion carried 5-0.

2. The Petition for Variance of Developmental Standards for Dennis West to either split one acre off parent parcel with less than required road frontage, or to construct a second home on property for his daughter. This property is located at 4622 S. Wozniak Road, La Porte, New Durham Twp., zoned Agricultural on 7.20 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Dennis West, 4622 S. Wozniak Road, La Porte, Indiana 46350.

Dwayne Hogan asked Mr. West which one of these he wants to do.

Mr. West said if he could do the one to the side and have a driveway come up off the property line thirty-five (35') feet over and over to rest of the acreage.

Melissa Mullins Mischke asked Mr. West if he has a sketch.

Mr. West stated yes.

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

Melissa Mullins Mischke asked Mr. West to go back to the podium.

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

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

Glen Minich asked Mr. West if we know how many actual feet of road there are on your lot.

Mr. West said two-hundred (200') and something feet.

Dwayne Hogan asked if the little one is on a One-Hundred Twenty (120') feet.

Mr. West said that it's One-Hundred Ten (110') feet. Mr. West said that if he has to split it he would have to give them right down the half of the driveway. Mr. West said that the driveway to the property line is like One-Hundred and Ten (110') feet.

Dwayne Hogan said that when he was looking at this, he thought you were thinking in the future for three homes.

Mr. West said that he only planned on putting two.

Dwayne Hogan asked if there are questions of the board.

Glen Minich said that the main concern is uniformity in that neighborhood. Glen said that when you start splitting those things up – he knows that there are no remonstrators here, but it will devalue the other homeowners value.

Attorney Biege said that he thinks for the public safety aspect is the reason why we have Two-Hundred (200') feet of road frontage.

Melissa Mullins Mischke said that she's going to go with right now you're proposing these homes for your children, is that correct.

Mr. West said correct.

Melissa Mullins Mischke asked Mr. West what happens when god forbid you pass away, that house gets sold to someone else, and they don't want to share a driveway with the other two.

Mr. West said that the youngest one doesn't have a house yet and she's going to take his house.

Melissa Mullins Mischke said maybe not today, but in the future there may be a buyer for one of those homes who doesn't want to share a driveway. Melissa said that she's certainly concerned from a safety aspect – and you're right, if they can't make it to your pole barn the way it is right now, how they are going to do it when we add two more homes out there.

Glen Minich said if we would allow you to put a second home on there, you can't sell one or the other, they would have to be sold together.

Dwayne Hogan asked the pleasure of the board.

Johnny Stimley said that he sees the concern of the board. Johnny said that he understands the plans to stay with the family and help them out. Johnny said he could see maybe one, but when you start putting two in there, it just adds like you said, with the driveway and the parcel. Johnny said that he doesn't really see it a good idea in the future.

Earl Cunningham said that he's pretty much in agreement. Earl said that when he first came up he thought he wanted one and he was pretty open minded, but then we're talking about two, that changes things considerably. Earl said that it's definitely a flag parcel.

Glen Minich told Mr. West that he always has the option to file for a subdivision.

Annemarie Polan, Building Commissioner, said Minor Subdivision.

Dwayne Hogan said that is exactly what he thought when he read this.

Attorney Biege said that his suggestion would be depending upon how the board decides, if you're thinking about doing a Minor Subdivision, let a lawyer help you so you can have it all setup correctly. Attorney Biege told Mr. West that he questions if he has enough room.

Mr. West said that he knows he has enough room for one house.

Attorney Biege told Mr. West not without a variance, or a subdivision built.

Annemarie Polan, Building Commissioner, told the board members that Mr. West had two options. Annemarie said that we've addressed one.

Dwayne Hogan said that he's almost inclined to think that maybe seeking the opinion of counsel and weighing out your options before you try to make a decision here. Dwayne said that it might be bad advice.

Melissa Mullins Mischke told Mr. West that she thinks that Dwayne is kind of suggesting that maybe you want to speak to an attorney before we make a vote.

Attorney Biege said that he's not sure any decision of the BZA is going to affect any decision of the Plan Commission.

Mr. West said that he guesses he will raise a hog farm; put me some hogs out there and let the neighbors fight. Mr. West said that he's asking for one house.

Annemarie Polan, Building Commissioner, asked Mr. West if he's still okay with the house being on the same lot with your home. You haven't spoken about that, but we did discuss this up in the office.

Mr. West stated yet.

Glen Minich asked Mr. West how big the second home would be, if your second option is to construct this second home on the property.

Mr. West said that it will probably be a modular home – fifty-three (53') feet.

Dwayne Hogan said eighteen (18') feet by Fifty-Three (53') feet, or something like that.

Mr. West said that he thinks that they come twenty-eight (28') feet by fifty-three (53'), or twenty-four (24') feet by fifty-three (53') feet.

Dwayne Hogan told Mr. West that he's not really sure that you have a plan.

Glen Minich said that the board is not in favor of splitting an acre off. Glen said the only option would be if we would allow a second home – we allow it on some properties. Glen said that it would not be able to be split and no further subdividing. Glen said it would just be allowed to put on a second home for your daughter so she could care for your needs in later years. Glen said that is an option. Glen said that when you come before us we would kind of like a plan where that house would be and the septic is going to be. Glen said that we don't have any information. Glen said that we're just dealing with what ifs.

Attorney Biege said that the board can choose to deny the petition, but waive the one (1) year period so he could come back.

Johnny Stimley said that the last thing we want to do is – we're here to help you.

Johnny Stimley made a motion of coming back and waiving the one (1) year period time to get some plans in hands so we can make a better decision and we will know a little bit more, and so will you.

Earl Cunningham seconded.

Attorney Biege asked if we're continuing, or are we denying.

Earl Cunningham said pending. We made a motion to let him come back within the one year.

Johnny Stimley said he will include to deny this petition.

Dwayne Hogan said the motion is to deny this petition and waive the fee and come back and see us in a month or two and we will have a better plan on what you want to do.

Earl Cunningham told Mr. West that his two options – if he observes what the rest of this board is saying, if you get an attorney to find out whether you can subdivide it so you can get two additional houses in there – a Minor Subdivision. Earl said that if you take that off the board and you just want one, he doesn't think you need an attorney, he thinks he just needs specific plans on the septic, the well, and here's the size of the house. Earl told Mr. West that he needs in his own mind to decide whether you want to do that.

Attorney Biege told Mr. West that an attorney will help you organize your presentation. Attorney Biege said that the board might be more receptive if you're clearer about what you want.

Mr. West said that he will come back.

Earl Cunningham told Mr. West to call and reschedule when you want to reschedule.

Attorney Biege told Mr. West that he will have to repetition.

Dwayne Hogan said that he has a motion and a second. Dwayne asked if there are any questions, or concerns.

Dwayne Hogan asked all those in favor denying this petition signifying by saying Aye.

All approved. Petition denied 5-0.

3. The Petition for Variance of Use for Dale & Debbie Elliott for placing a forty (40') HC Storage Container to rear of their property. This property is located at 5381 S. Wozniak Road, Westville, New Durham Twp., zoned Agricultural on 7.20 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Dale & Debbie Elliott, 5382 S. Wozniak Road, 46391.

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

Ms. Elliott said that they want to put a forty (40') foot container on their property for storage.

Dwayne Hogan asked Ms. Elliott if they have a place to put this on their property.

Ms. Elliott said that they're about three-hundred (300') feet off the road, so on their property it is seven-hundred and fifty (750') feet total length of it. Ms. Elliott said that it's about half way.

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

Melissa Mullins Mischke asked Ms. Elliott if they have already looked at containers.

Ms. Elliott yes.

Melissa Mullins Mischke asked how many used containers they're considering to use.

Ms. Elliott said that it's considered an A Plus-- it's a used container, but she has no idea how many times it has been used. Ms. Elliott said that its water tight used for storage.

Dwayne Hogan asked Ms. Elliott what she is looking to store.

Ms. Elliott said stuff that is in her basement so she can actually use her basement.

Dwayne Hogan asked if that is household stuff.

Ms. Elliott stated yes.

Dwayne Hogan asked Ms. Elliott if she's going to put cars in there.

Ms. Elliott said no. Ms. Elliott said probably lawn equipment, but no cars.

Glen Minich asked Ms. Elliott if she has looked at putting up a pole barn instead of a storage.

Ms. Elliott said yes, but they can't afford a pole barn. Ms. Elliott said that a storage container brought out to their property is Two-Thousand (\$2000.00) Dollars and its forty (40') feet long by about eight (8') feet wide. Ms. Elliott said that the costs is quite a bit different. Ms. Elliott said that they can't afford a pole barn.

Board members speaking amongst themselves.

Glen Minich said that it's smaller than a twenty (20) by twenty (20) garage or pole barn.

REMONSTRATORS:

Dwayne Hogan asked for name and address for the record.

1. John Couture, 5644 S. Wozniak Road. Mr. Couture said he's here with his wife, Janet.

Mr. Couture said that he's on the south end of the property line and he's one that believes that he doesn't want any neighbor to be able to tell him what he can do on his property, but at the same time, there is such a thing of being a good neighbor to not do anything on your property to bring down the value of your own property.

Mr. Couture said that if it's okay with the attorney, they've taken some pictures from the property line to show across.

Mr. Couture is up at the bench going over the pictures.

Mr. Couture said that at this point and time there are a lot of dogs being bred on their property; the barking that is coming from their property, even though we're farthest away from the house compared to John Lesko, they can't even enjoy their backyard in the evening time because the dogs are barking. Mr. Couture said that there have been several times that Janet, his wife, has sent messages to Deb to quiet the dogs down. Mr. Couture said at this time there are already a couple of small kennels put up on their property and that's what all the tarps are. Mr. Couture said that it's bringing down the value of the neighbors.

Janet Couture said what they're afraid of is that they're going to use those for was dog kennels.

Mr. Couture said that it's going to be storage, but who knows. Mr. Couture said that they're just here to say please don't allow this.

Dwayne Hogan asked for name and address for the record.

2. John Lesko, 5358 S. Wozniak Road, Westville, 46391.

Mr. Lesko said that he completely agrees with what John had said. Mr. Lesko said that the dogs are a big thing; they constantly bark. Mr. Lesko said that he doesn't want his property value to suffer anymore.

Melissa Mullins Mischke asked Mr. Lesko his property location.

Mr. Lesko said that he's the property to the west.

Earl Cunningham asked Mr. Lesko if he is the husband of Kathleen.

Mr. Lesko stated yes. Mr. Lesko said that she couldn't make it here tonight.

Earl Cunningham told Mr. Lesko that she sent a letter. Earl asked Mr. Lesko if he wanted him to read that into the record.

Mr. Lesko stated sure.

March 15th, 2017, my husband and I received a certified letter regarding a petition for a variance, or special exception to place a 40' storage container on our neighbor's property (see attached copy).

We are opposed to the approval of this petition as we feel this would be harmful to our property value and would not be an aesthetically pleasing addition to our neighborhood.

Thank you for your consideration. Kathleen Lesko

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

Ms. Elliott said that they're zoned Agricultural and they moved in after they did. Ms. Elliott said that all that stuff that is piled out there was before they even built their house. Ms. Elliott said that they live at the back of their property. Ms. Elliott said that she agrees that it does need to be cleaned up, but they did build their house after.

Ms. Elliott said that they do have dogs and she has paid a lot of money for their dogs. Ms. Elliott said that they have shelties – show shelties and she would like to find somebody to bark soften them, but a lot of vets are against that. Ms. Elliott said that she paid \$1500.00 to \$1200.00 for her dogs. Ms. Elliott said that she feels bad about that and she wishes there was some way that she could do something. Ms. Elliott said that she has apologized to the neighbors and her neighbor has only said something to her once and she has proof of that on her phone. Ms. Elliott said that she has only mentioned to her once that the dogs were noisy and that was it.

Ms. Elliott said that she loves her dogs and she would never use a storage container to keep her dogs. Ms. Elliott said that her dogs stay in the house all day – not all day, the dogs are in and out of the house during the day and they're inside the house all night long.

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

Glen Minich told Ms. Elliott that she is asking for a special exception and he thinks that we only once allowed a storage container in the county.

Ms. Elliott said that they're all over in the county.

Glen Minich said only once a storage container in a residential area.

Ms. Elliott said that they're everywhere.

Glen Minich said with that being said, what he's saying is, it's a special exception and granting that we like to see harmony in the community and we like to see everybody getting along, it's hard of for us to prove something when we're not getting along to start with to make one more reason to have disharmony in the neighborhood.

Ms. Elliott said that she can bring in – if you table this, she can probably bring back thirty (30) storage containers just on Highway 6 – just from their house to Wozniak Road to La Porte there are two.

Glen Minich said that every time there is a complaint, Annmarie is going to bring them to the podium and they're going to ask for a variance for their storage containers, or to be taken off their property.

Ms. Elliott said that she has a question. Ms. Elliott said that you guys are going to approve a train right across the street from them. If that's not going to an eye sore, she doesn't know what is.

Glen Minich said told Ms. Elliott that this is nothing against you guys personally. Glen told Ms. Elliott that he respects you wanting to have the dogs and all that, but to have harmony in that neighborhood he sees a better option that you wait until you can build a building to contain your animals in and you can store your stuff in. Glen said that he's not in favor.

Glen Minich made a motion that we deny the petition for a Variance of Use for Dale & Debbie Elliott to place a storage trailer on their property. This property is located at 5381 S. Wozniak Road.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

4. The Petition for Variance of Developmental Standards for Mary Davis for a second free standing accessory building, specifically a 48'x30' gambrel style pole barn with second story loft, total height not to exceed thirty-two (32') feet with electrical service, instead of the required eighteen (18') feet to be used for farm supplies and equipment storage. This property is located at 9757 W. 100 N., Michigan City, Coolspring Twp., zoned R1A on 3.7818 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Mary & Bill Davis, 9757 W. 100 North.

Mr. Davis said that they're looking to build a pole barn gambrel style on the back of their property. Mr. Davis said that it will be a 38'x48' with electric and no water. Mr. Davis said that they're going to use that to store farm equipment, tractor lawn mower, and various things that they more or less kept in the green house. Mr. Davis said that they want to clean out the green house so they can grow things in that green house.

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.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion that the Petition for Variance of Developmental Standards for Mary L. Davis for a second free standing accessory building/gambrel style pole barn for the property located at 9757 W. 100 N., Michigan City be granted.

Johnny Stimley seconded.

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

All approved. Motion carried 5-0.

5. The Petition for Variance of Developmental Standards for James Heimbuch for continued placement of his mobile home. Last variance was granted on April 19th, 2016 for one (1) year renewable, which are attached hereto. This property is located at 8170 Ivy Blvd., New Carlisle, Hudson Twp., zoned R1B.

Melissa Mullins Mischke said that she would like to move this to the end as Mr. Heimbuch isn't present this evening.

6. The Petition for Variance for John P. Ellis (Petitioner), by counsel Andrew D. Voeltz to construct a garage addition five (5') from rear lot line instead of the required twenty-five (25') feet and the lot coverage being forty-six (46%) percent instead of the required thirty-five (35%) percent. This property is located at 18 Elm Drive, La Porte, Center Twp., zoned R1B.

Attorney Biege said notice is adequate.

Andrew Voeltz said that he's the attorney representing John Ellis. Attorney Voeltz said that he works for Howes and Howes here in La Porte. Attorney Voeltz said that the property address we're talking about is located on or about 18 Elm Drive, La Porte, Indiana 46350.

Attorney Voeltz said if he may approach he has some aerial shots and some correspondence that he would like to submit to the board this evening.

Attorney Biege told attorney Voeltz that on his petition they're looking at the picture. Attorney Biege said that you're requesting lot coverage of forty-six, rather than thirty-five (35%) percent. Attorney Biege said that it looks like eighty (80%) percent to him.

Attorney Voeltz said that the lot lines as indicated extend out into the water leaving the square footage of the lot is properly calculated by including the way that the lot line does in fact run into the marshy area.

Attorney Biege said that one of the reasons for lot coverage limitations is for percolation, and if you include the part that is under water, you kind of scourge percolation definition.

Attorney Voeltz said that the coverage of the lots would be forty-six (46%) percent and this was indicated in the survey and then in conversations with the Building Commissioner's Department. In addition, the impervious surface is allowed at forty-five (45%) percent and they would be fifty-eight (58%) percent.

Attorney Voeltz said that the ordinance specifically calls for twenty-five (25') foot rear setback, however he would like so clarification on that in that he believes the structure is more properly defined as an accessory use, so it would be governed by Article 16 and not Article 4. Attorney Voeltz said that he will draw the board's attention to specifically Section 16.02, which calls for setbacks for rear yards in table 16.02 in the zoning ordinance, it specifically calls for a rear yard setback of three (3') feet. You will notice on the drawing that in fact the rear yard from the lot line would be five (5') feet when you're following the southernmost portion of the property. Attorney Voeltz said that this is specifically as provided for in Section 04.04 subsection (a) that says that accessory structures shall be regulated under the requirement of Article 16.

Attorney Voeltz said he needs an exact clarification the exact definition of what this structure would be. Attorney Voeltz said that he believes that it falls under the definition as an accessory structure.

Attorney Biege asked attorney asked if this is detached.

Attorney Voeltz said that is correct.

Attorney Biege said that he agrees on that.

Attorney Voeltz said that his client, John Ellis currently resides in Illinois and he plans on retiring in La Porte for a variety of reasons, one of them is taxes are chasing him out of the State of Illinois. John is a lifelong bachelor, but what he wants to do is bring his kids to La Porte; his kids are classic cars. Attorney Voeltz said that he has a 1932 Ford Convertible, a 1931 Model A Cabriolet, 1939 Lincoln Zephyr and a 1944 Convertible. Attorney Voeltz said to permit him with a variance to construct this garage addition, would allow him to bring these cars from Illinois to where he plans on retiring here in La Porte.

Attorney Voeltz said that if you'll note on the aerial shot that he provided that was a printout from Beacon, you will see that the area to the rear of the existing garage is the area that they're talking about for the proposed addition, which is approximately twenty-three (23') foot by fifty (50') foot as an addition to the existing structure. They don't have an issue as far a change in the outward appearance; he's going to use the same white siding and it's going to look like one building, and quite frankly at this point on the island, if you'll note the structures surrounding, they're all garages right there. Attorney Voeltz said that it would not be unsightly in that the garage already exist.

Attorney Voeltz said that they sent notices out to all the adjacent landowners and pursuant to statute, and they did not receive any indication that there would be anybody attending tonight and obviously since they're the last ones here, there is nobody here.

Dwayne Hogan said at this point he will introduce the remonstrators now.

Remonstrator:

Earl Cunningham said that this is a letter received from Allen Schoof and addressed to Dar.

Please find the enclosed information I sent to Howes & Howes in reference to John Ellis garage. The drain is very important as it does drain three properties. The drain is maintained by Hull, Dwight, and Schoof. It runs underground and it's PVC with the drain lid on corner of Bolster/Dwight property. When it rains above normal the Bolster area floods to my garage and across the street into Bolsters garage. The normal set back of 10 feet allows room to keep the system working using small equipment to maintain.

I'm in Florida and cannot appear at the hearing. It appears Ellis is in a rush as his attorney also knows I'm in Florida till May 1, 2017, I have talked to John and his attorney, but I do not think they are concerned.

I have offered to help John Ellis in regards to the 10' I own so he can go ahead and complete a garage.

I'm trying to be a good neighbor, but not at the expense of my garage and being considerate for the Bolster and Dwight property.

Thank you in advance.

Allen Schoof

Dwayne Hogan asked Annemarie Polan, Building Commissioner, if that is the only letter of remonstrance.

Annemarie Polan stated yes.

Attorney Voeltz said that certainly was not the substance of the conversation that he had with Mr. Schoof. Attorney Voeltz said that they're aware of the fact that there is a drain that is running down the center in which you will see on the prints what is described as the ten (10") foot strip running behind the whole garage in between the proposed garage and the existing garage. It's my understanding that it's a French drain, but it doesn't appear on any surveys, but they're aware of it, which is the reason why his client, being Mr. Ellis, had proposed to do the addition to where he's done it, as opposed to purchasing the property, because personally the property isn't going to do him any good; he can't build on it anyways. Attorney Voeltz said that if you look at that, you also then have five (5') foot setback from the property, the ten (10') foot of property and then approximately ten (10') feet to the rear of Robert Hull garage as well.

Glen Minich said that they're not sure where this drain is.

Attorney Voeltz asked if he could approach.

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

Attorney Biege asked attorney Voeltz if he's had any conversations with MS4.

Attorney Voeltz said other than the conversations with DNR, Army Corp of Engineers and FEMA –

Attorney Biege said he's not talking about wetlands, he's talking about surface water runoff. Attorney Biege asked how far we are from Larry Mazur.

Attorney Voeltz said he's on the other side of the island. We're talking so if you look at where Oak Drive is and where Elm Drive comes together, it goes around the island and they're on the exact opposite side of the island where that situation is with MS4.

Attorney Biege said if we're draining into the French drain, which isn't handling the water load as it is according to the neighbor. Attorney Biege asked John if we have any engineering on the water load runoff.

Dwayne Hogan asked for name and address for the record.

John Ellis, 18 Elm Drive, La Porte, Indiana. Mr. Ellis asked attorney Biege if he could repeat the question.

Attorney Biege asked if we have any engineering on handling the surface water load because it's going to increase with the construction and the traffic.

Mr. Ellis said he doesn't have any engineering on anything except the Army Corp Engineers came out and looked at it and said it was fine, go ahead.

Attorney Biege said that is on the wetlands part of it. Attorney Biege said that we have a couple issues on surface water runoff. He's concerned that the board doesn't have very good information on where the water will be diverted, and if this French drain can handle the load.

Mr. Ellis said that he could put a drain in on that five (5') feet and drain the water off into the pond. Mr. Ellis said that he talked to the surveyor about that now that he thinks about it and there is no reason why he can't put something on his property, which he's willing to do to take care of Al's problem.

Attorney Biege said it looks pretty simple to him, but the board doesn't have that information in front of them to make their decision.

Glen Minich said that the water is being absorbed on that grass field right now, but we don't know if it's put straight into Pine Lake, we know that it wouldn't be an issue, but we don't know if it goes into that pond if that bond is sealed and it isn't maintaining a level and moving quickly to the larger body of water. Glen said that whole pond could up significantly on a heavy rain.

Mr. Ellis said with all due respect, there is a pump that has been put in. It solves all these problems and that's why the Army Corp of Engineers gave him the okay. They said if the pump wasn't in then he couldn't get the okay because the lake will be maintained at the proper level and all you have to do is turn the pump on.

Melissa Mullins Mischke said that the Army Corp of Engineers isn't who handles our local water runoff, which is our MS4 Program. Melissa said by adding more concrete – more impervious surfaces --

Mr. Ellis said what he's saying is the pump will take care of it.

Attorney Biege said that were not talking about the surface water getting into the body of water. You and your neighbors all need to get the water away from your properties into the pond from the pond to the lake, right? Attorney Biege said he's talking about engineering to show the board that you can handle your own surface water and you're not going to add to the French drain because it doesn't sound like according to your neighbor, that the French drain can't handle the load as it is.

Mr. Ellis asked attorney Biege when he's saying the French drain, are you saying my neighbor Al's pipes can't handle the water.

Attorney Biege said that is what he says in his letter. Attorney Biege said he would suggest to the chair that we get some engineer to show the board that he can handle his own surface water runoff for the addition.

Attorney Voeltz said what he thinks that he's saying is get in touch with MS4 and see if we can get out there to do a survey as far if it were approved as the petition asked for, meaning for that structure to be placed on the property, he's sure that he can run the equation to figure where an additional drain would need to be installed, or if MS4 would say if he's understanding you

correctly, that no structure can be placed there because there is no drain in the world that could be put in that would handle the additional water.

Attorney Biege said either that, or Rick might very well send you an engineer to do a calculation, or some kind of a surface elevations so that way the board is assured that we're not putting water in where it doesn't need to go. Attorney Biege said normally this is not an issue, but the island is a significant issue for the county right now and we have several roads that are flooded.

Attorney Voeltz said if he may, he still has to have a FEMA survey done for elevation requirements that they were holding off on until we had approval for this petition because it is a rather expensive survey. Attorney Voeltz asked if that survey is the same thing, or is it completely separate from the engineering.

Attorney Biege said that it's different because that is on your flood insurance. Attorney Biege said he's talking about the surface water runoff. Attorney Biege said that it should be a fairly simple manner and it shouldn't be very expensive, but then the board is going to have assurance that we're not going to have problems out there.

Annemarie Polan, Building Commissioner, told attorney Biege that she didn't catch that twenty-five (25') feet on that setback until earlier this evening when she saw the mistake on the agenda. Annemarie said that Andrew is saying that it's three (3') feet. Annemarie asked if that is three (3') feet or ten (10') feet. Annemarie said normally it would be ten (10') feet from the waterfront yard and it's not zoned R1E.

Attorney Biege said that they can talk about that.

Annemarie Polan said she didn't know if we needed to clear that up tonight, or not.

Attorney Voeltz told Annemarie that he's reading off the 16.02 ---

Annemarie Polan told attorney Voeltz she knows exactly what he's reading off of.

Attorney Biege said accessory structure.

Annemarie Polan said it's not zoned R1E, it's zoned R1B. Annemarie said she's not sure if it's supposed to be the three (3') feet, or the ten (10).

Attorney Biege asked Annemarie where she's getting the ten (10).

Annemarie Polan said if you go down to Paragraph 4 in R1A and R1B Districts, it shall be set back a minimum of ten (10') feet from the side and rear.

Attorney Voeltz said that he sees what she's saying.

Attorney Biege said that he thinks she's right.

Glen Minich said either way they're going to need a variance.

Annemarie Polan, Building Commissioner, said she just wanted to make sure that was in there.

Attorney Biege said his recommendation to the board is to table it with instructions to the petitioner to bring back engineering showing certain surface water.

Melissa Mullins Mischke said that she agrees that she doesn't see that on the plat that was provided to us and it's hard to make logic decision.

Attorney Biege said he's not sure that this is necessarily a requirement, but he's bringing it up because he's handling similar ---

Glen Minich said that there are issues on another part of the island that is not far away --

Mr. Ellis is up at the bench showing the board members the pictures of his cars.

Melissa Mullins Mischke made a motion that we table this petition to the April 18th, meeting for his petition located at 18 Elm Drive, La Porte.

Earl Cunningham asked if we could table this until May 16th, 2017.

Attorney Biege said he agrees with this to give more time for MS4 to go out there.

Glen Minich seconded.

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

All approved. Motion carried 5-0.

Melissa Mullins Mischke made a motion to continue petition No. 5 until the April 18th, 2017 meeting at 6:00 p.m.

Glen Minich seconded.

All approved. Motion carried 5-0.

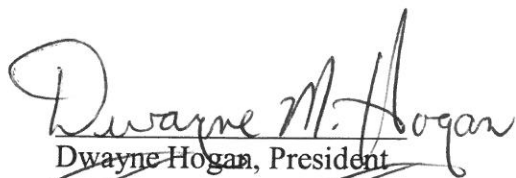
Melissa Mullins Mischke made a motion to adjourn.

Earl Cunningham seconded.

All approved. Motion carried 5-0.

All approved. Motion carried 5-0.

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


Dwayne Hogan, President


Annemarie Polan, Recording Secretary