



**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**

May 16th, 2017

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **May 16th, 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 April 18th, 2017.

Melissa Mullins Mischke made a motion to approve the meeting minutes of April 18th, 2017 as presented. Glen Minich seconded.

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

All approved. Motion carried 5-0.

Dwayne Hogan said that Petition No. 1 walked in this evening and she stated that she sold the horse. Dwayne said that she was physically upset.

Attorney Biege asked if she requested to withdraw the petition.

Dwayne Hogan stated yes.

2. The Petition for Variance for John P. Ellis (Petitioner), by counsel Andrew D. Voeltz to construct a garage addition ten (10') feet from rear lot line instead the maximum twenty-five (25') feet and the lot coverage being forty-six (46%) percent instead of the maximum of thirty-five (35%) percent. This property is located at 18 Elm Drive, La Porte, Center Twp., zoned R1B. (This was postponed from March 21st until May 16th, 2017.)

Melissa Mullins Mischke made a motion to remove the petition for John P. Ellis and Andrew Voeltz to be off the table. Glen Minich seconded.

All approved. Motion carried 5-0.

Andrew Voeltz said that he's an attorney with Howes & Howes here in La Porte. Attorney Voeltz said that they're here on Mr. Ellis's petition for a variance that was tabled from the meeting two (2) months ago. Pursuant to the board's recommendation at that meeting, they were supposed to further investigate a commission of survey through MS4 and Rick Brown. Mr. Brown and MS4 directed that they conduct hydrologic survey and study to look at the drainage on the property. Attorney Voeltz said that they contacted Wright and Associates out of Mill Creek and Mr. Wright is here today and would like to make a presentation in regards to his findings. Attorney Voeltz said that there are a couple of options on the table that he believes should be considered in regards to the variance on its face and then potential avenues that his client can pursue.

Dwayne Hogan asked for name and address for the record.

Jeff Wright, 102 N. 875 E., Mill Creek, Indiana.

Mr. Wright said that Mr. Ellis contacted him about doing a drainage study – hydrologic study a couple weeks back on his property. During those discussions he mentioned MS4 Rick Brown – pretreatment. Mr. Wright said that he met Mr. Brown out at the site and he explained basically everything you wanted to know about the property. Mr. Wright said that he wanted to know all the drainage that was going on in the area; how much was going across the front of the property; where it was coming from; how much across the back where it was coming from and if there was a plan for an addition. Mr. Wright wanted to make sure that storm water was pretreated somehow before it made its way to the lake. Mr. Wright said that they took a bunch of shots represented on the drawing and using that data, you will see on the drawing the drainage boundaries that they established.

Mr. Wright said that Mr. Brown asked some very specific questions and the first drawing that he gave you addresses those very specific questions that he asked. Mr. Wright said that he wanted to know how much drainage area is going across the front and the back. Mr. Wright said that if you look at the drawing you will see there is a big overall boundary that encapsulates the whole area that is draining there. You will see towards the front twelve-thousand three hundred and eighty-four (12,384) and sixty-nine eighty three (6983) that kind of drains around towards the back side. Mr. Wright said that's all based on the shots that they took out there. Mr. Wright said that if you look towards the lower left, there is a drainage pipe flowing on Mr. Schoof's property and heads over towards the lake. Mr. Wright said that the arrows on the drawing reflect

where the water is coming from and where it's going. Mr. Wright said that a big chunk of Mr. Schoof's property drains into that inland.

Mr. Wright said that the calculations that you have, the ordinance references one-hundred (100) years, ten (10) years and those are the numbers in the lower left about how many cubic feet is going for each one of those events. Mr. Wright said that he took the event numbers off the website for a rain fall twenty-four (24) hours and very specifically answers to Rick's questions were across the north is sixty-three point nine (63.9%) percent drains across the front of the building and thirty-six point one (36.1%) across the back . Mr. Wright said there is a total of square feet drain at nineteen-thousand three-hundred sixty seven (19,367.00).

Mr. Wright said that is basically the summary of the existing drainage. Mr. Wright said that he wants to highlight just quickly is that next set of numbers towards the bottom north six-thousand three-hundred fifty nine (6359) with thirty-two point eight (32.8 %) percent and then across the south thirteen-thousand eight (13,008) square feet -- sixty-seven point two (67.2). If you notice those percentages, they flip under the options that Mr. Ellis is proposing. Rick wanted to try to capture some of this water here ----

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

Mr. Wright said that the next page is option one. Mr. Wright said that they have two options that they would like to show you. Mr. Wright said that under option one there is no impact at all on the drainage coming across the back. Mr. Schoof's home is a ten (10) foot strip and that is where the drainage from his property comes from. Under option one there is no impact on the drainage back there at all. Mr. Wright said you'll see the arrows how they're proposing the grades and the grades are on this spot elevation showing how we make the runoff. Mr. Wright said that it all fits on Mr. Ellis's property and no impact to either Mr. Hull's property back here or Mr. Schoof's property.

Mr. Wright said the next sheet is option two. Mr. Wright said that they're in discussions about perhaps purchasing that ten (10) foot strip so Mr. Ellis can make it a little bit larger. Mr. Wright said that drainage works the same.

Mr. Wright said that Rick was real consistent on getting pre-treatment back there. Mr. Wright said a lot of this water that comes off the roof ends up on the grass swales. The stuff from Elm comes off of Elm into the driveway; into the inlet and into an underdrain system.

Melissa Mullins Mischke asked Mr. Wright if they're increasing the pipe size.

Mr. Wright said yes. Mr. Wright said that he did go over this with Rick and he was pretty much okay with it. Mr. Wright said that he doesn't know if he can speak for him, he was okay with this.

Mr. Wright said that if there are questions he will try to answer them.

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

Glen Minich said he thinks that it's more a clarification.

Glen was going over a picture with Mr. Wright.

Annemarie Polan, Building Commissioner said that she was out there with Rick and he went over everything with her. Annemarie said that Rick wanted that pre-treated before it went into the water. Annemarie said that is what they came up with and that is what they're doing.

Glen Minich asked where this pipe that is directly going into the water is.

Mr. Wright and Annemarie Polan are up at the bench going over the site plan.

Glen Minich asked the width of the proposed new addition on the garage.

Attorney Voletz said twenty-six and a quarter.

Glen Minich said that on the second one you said you could increase the size of it, but it looks like it's the same size.

Mr. Wright said he showed it back farther because he didn't know exactly what the final division was going to be.

Glen Minich said visually it looks like you made it larger, but you actually haven't marked that out.

Mr. Wright said that there is a dash line that shows it moving into that ten (10) foot piece of property. Mr. Wright said that it will be a six (6) foot space between south of Schoofs.

Glen Minich said that he thinks that he has a pretty good understanding and he talked to the neighbor, but this water is coming from the west of all these properties and running through that easement that everybody has been talking about. Glen said that pipe is under ground and it's not draining directly into the inland of Pine Lake and it has to let that water drain through all that soil. Glen said if a foundation comes out farther, there is going to be less soil to let that water pre-treat – it's actually more than pre-treat, they're actually using the soil as a filter, but it's not going to percolate through there if you keep narrowing up its path. Glen said he thinks that is a problem. Glen asked Mr. Wright if he thinks that is a problem. Glen said that there is a lot of water that is falling into that drain with a second garage. Glen said that there is a larger house on this side of the road over here that is draining all that water --- Glen told Mr. Wright that he's not showing all the water that is coming here, because it's coming from this street here and these homes driveways.

Melissa Mullins Mischke said that her understanding was the reason behind that was to increase the pipe to eight (8") inches from six (6) to accommodate.

Mr. Wright said personally he doesn't see no engineering problem.

Glen Minich asked Mr. Wright how much earth it's traveling through. Glen said as he understands it, its twenty (20') feet from the inland where that water has to percolate through all that soil to get into the inland.

Mr. Wright said that there would be no reason that you couldn't cut that back. Mr. Wright said that he showed that coming up to edge of the water because there are other pipes there to get to the water. If that became a sticking point, they can always hold it back.

Earl Cunningham said that water is at four to five inches higher than normal right, isn't that.

Mr. Wright said that the legal limit on the DNR site is 796, and you're at 795.8.

Glen Minich asked Mr. Wright if he's proposing increasing to an eight (8") inch pipe. Glen asked if he's going to take that pipe close to the inland of the water.

Mr. Wright said that as it's drawn right now, it would come right to the edge of the water along with the other pipes that are out there.

Glen Minich said he's talking about the original six (6") inch drain pipe that is being used down here. Glen is going over the site plan with Mr. Wright.

Annemarie Polan, Building Commissioner said that she had some reservations until she went over all this with Rick and he's a stickler for this stuff and after talking to him, and Rick showing her different things ---

Glen Minich said that the old drain -- Glen is going over the site plan with Annemarie up at the bench.

Attorney Voeltz said just to clarify here, we're talking about two different pipes here. Attorney Voeltz said that we're talking about the existing pipe that's on that ten (10') foot strip of property that runs all the way to the inlet and then what his clients' proposal is to install a second pipe.

Glen Minich said that there is no problem with the second pipe; the problem is with the original pipe. Glen said that if you go up in that area, this old drain is taking on more water than it was ever intended to take on. The house over here is larger; there is more driveway. All that water has to run there to get away and as he was told, the one house over here has a partial basement. Glen said that water has to move.

Attorney Voeltz said that he doesn't disagree with that at all, but he defers to Rick Brown's expertise with this and he would whole heartily second what Anne said in regards to this is what he does on a daily basis --- this is all he does and he's an absolute stickler for this, especially out

on the island where there have been other issues going out there with drainage, water and standing water. Attorney Voeltz said that the proposal that Jeff came up with, and he doesn't think he's speaking out of term by saying that Rick Brown full heartily supports this as the best option that is available out there.

Earl Cunningham said the percentage of soft surface has just been reversed to better direct the water to the lake.

Mr. Wright said essentially, yes.

Earl Cunningham said you're not making it worse. Earl said his recommendation is to improve the situation.

Mr. Wright said that he thinks his big thing was pre-treated.

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

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

Dwayne Hogan asked for name and address for the record.

Allen Schoof, 2313 Elm Drive. Mr. Schoof said that he's the ten (10) footer and the neighbor next door.

Mr. Schoof said what he saw was the concrete going all the way around it and Mr. Hull and Mr. Dwight had concerns. Mr. Schoof said that he and John have had a couple hours' worth of talking about it. Mr. Schoof said that the original plan that was handed out to him was with the concrete going all the way around and John said that is out and they're going to leave that as grass. Mr. Schoof said that he hasn't seen that.

Mr. Schoof said that about three (3) years – two (2) or three (3) years ago, Newby, Lewis, Kaminski and Jones hounded him. Mr. Schoof said that they forgot about the drain being back there. Mr. Schoof said that drain was put in by him after request of Bolster's, who is still there. Mr. Schoof said that if he wanted to buy that land he would have to put the drain in to make sure that there is no flooding where they're parking. Mr. Schoof said that he bought the land, broke it up with Bob Hull, broke it up where Dwight is right now, and kept the piece over here. Mr. Schoof said that he sold John the original garage.

Mr. Schoof said when Newby, Lewis, Kaminski & Jones hounded him at the office, they had to have the paper signed right now because Dwight at that time has not told him anything different, was going to put a garage on that parcel of land over there by that drain. To get the sale on that house so they could tear it down and put up a modular that he has, which is very nice. Bob Hull paid to have that drain that you're talking about – that existing drain cleaned and make sure that everything was working fine with it, otherwise that sale would have not gone through. Mr. Schoof said that drain is the only way to get the water – that drain does take a significant amount of water from Bolsters – it's low ground there. Mr. Schoof said that he thinks that it was Brown

who came out about three (3) or four (4) years ago, he said no filling over here. Mr. Schoof said that Mr. Brown said if you fill the water is going to pour across the road, so the drain has to stay.

Mr. Schoof said the other day when it rained a week ago – six (6) or seven (7) days ago, it took until like 6:00 or 8:00 at night before the water just got even with the drain. Mr. Schoof said that we get a lot of thaw and a lot of rain, it gets into the parking area of Dwight and past right at the Bolsters and it comes in from about six (6') to seven (7') feet at the corner of his garage. Mr. Schoof said that it's a low spot and the drain is – let's call it a septic system for a lack of better terms because there is a settlement on the bottom of it --- there is an eight (8") inch pipe that has a two (2) inch hole in it. Mr. Schoof said that Glen was nice enough to come out today and take a look at it and he said he had no idea, because when you look at this you don't see it, but water goes into there and drains down towards the (unintelligible). Mr. Schoof said that Glen is totally right that does not go into the lake, it's about fifteen (15') or twenty (20') feet back, and the reason it can't, is because it doesn't have enough slope. Mr. Schoof said that is a problem.

Mr. Schoof said no matter what John does, it does not help the problem. Mr. Schoof said what this drain does and anybody who walks down there, it's still wet; it percolates. Mr. Schoof said that it percolates into the soil and in a twenty (20) or a thirty (30) foot area there and you would expect within a day or two days it would be even here and everybody has accepted as a fact, because nobody knows what to do. Mr. Schoof said that if we raise it up they're going to be above the road and then it goes right into Bolsters basement, or into their garage and then the parking is all gone for the next door neighbor. Mr. Schoof said that it is a problem and its one that he was there when the engineer was there; he was standing and talked to them for about thirty (30) minutes; it's not like they were putting anything underneath the table here, they weren't really concerned about that drain, they're concerned about taking care of John Ellis's place; they're getting paid by John Ellis to take care of John Ellis.

Mr. Schoof said that he had to beg to get this piece of paper here; that's all he got; nobody has kept him in the loop as the neighbor. Mr. Schoof said he's not faulting John or the attorney, but it just seems like he's coming up from the backside, but he does know the problem out there. Mr. Schoof said that they have good neighbors and good relations out there, but if Dwight comes in here and says he needs to put a garage up there, you're going to say no, you can't put a garage up there, we have problems. Mr. Schoof said that we're opening up a ---

Melissa Mullins Mischke told Mr. Schoof that he said that this pipe is a two (2") inch opening –

Mr. Schoof said that it's a two (2") inch hole on the top of the pipe –

Melissa Mullins Mischke asked Mr. Schoof if this pipe is on his portion of the land.

Mr. Schoof stated no, it's on the corner of Bolster's property – Bolsters and his.

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

Melissa Mullins Mischke asked Mr. Schoof in his opinion, who maintains that maintenance drain pipe.

Mr. Schoof said three (3) of them if necessary.

Melissa Mullins Mischke asked when the last time was.

Mr. Schoof said three (3) years ago. Mr. Schoof said that it's already buried itself basically; it's pretty solid down there because the drain is so slow. Mr. Schoof said that they have to dig it up and clean it out. Mr. Schoof said that there's not much you can do with it because it's so low on the other side, and that's the problem. Mr. Schoof said that he knows that was a condition of Dwight buying the home that he just put up.

Mr. Schoof said if he said John, will you pay to have the whole thing changed, or some kind of drain system in there; he's a nice enough neighbor, he'd probably do it, but he doesn't know and the expense. Mr. Schoof said that it runs through his property, all of it.

Earl Cunningham told Mr. Schoof that he's been out there long enough to know that probably nine of ten parcels on Island Drive have a variance of some kind; virtually nobody's in compliance.

Mr. Schoof said even the road out there on Elm Drive is going right in front of Bob Hull's house if you want to look at the real plans, but it's not. Mr. Schoof said everything out there has been the way it is. Mr. Schoof said he's just trying not to make it worse. Mr. Schoof said sometimes you have to take a stand.

Earl Cunningham said that he drove through there the other day not far from your house, and he swears if he would have taken a pump out and dropped it down from the roof from an existing property, it had to be ten (10) foot into the road. Earl said that's how much encroachment there is in some of those areas. Earl told Glen if he was out there he saw the same thing. Virtually every parcel has got some kind of variance.

Mr. Schoof said that there is a point – he knows John's cars are like his kids and he understands that, it's not that he'd say anything to you that he would not say to him.

Earl Cunningham said the lake is at least five (5") inches higher now than it has been for quite some time. Earl asked how far we have to go back to where it was five (5") inches higher than it is now. Earl said that he remembers when the properties were flooded where there use to be a bar over there ---

Mr. Schoof said Charlie Wolfenbarger's bar.

Mr. Schoof said that he was president of the Lake Association for ten (10) years. Mr. Schoof said that land with those garages had twenty-six (26) trees on it and there are three (3) now. Mr. Schoof said everything is gone.

Mr. Schoof said he does have a large garage too; he's not saying he doesn't. Mr. Schoof said that he had to stay back so far to make sure he could put a full size vehicle there and not on the road. Mr. Schoof said that John is different. The neighbor just remodeled two (2) years ago. Mr. Schoof said that he knows that variances exist.

Mr. Schoof said that the concrete he thinks is a detriment of what he sees, because on the original plans which John said they're not doing, but again you have a five (5') foot walkway that goes all the way to the line; his drain is right there; more concrete more fill, it's just going to cause backup for somebody else.

Earl Cunningham asked Anne if she's familiar with Purdue North Central Extension Building, where they put in that impervious sidewalk for the water where the water drains through the sidewalk.

Annemarie Polan, Building Commissioner, said that she hasn't been involved in that.

Jeff Wright said that he put that in.

Earl Cunningham said that might be part of a solution to this, rather than having more sidewalk, go to the impervious sidewalk where you're basically doing the same thing without putting a sidewalk in.

Jeff Wright said the original drawings were shown with a concrete driveway and concrete across the back subsequent to the original drawings. Mr. Wright said that Mr. Ellis wanted grass back there. Mr. Wright said impervious concrete would be an option back there if he wanted to go to the expense to put it in.

Earl Cunningham said that they've had good success with that out there and he's had nothing but positive comments.

Annemarie Polan, Building Commissioner, said that is the best management practices.

Mr. Schoof said that he guesses he has nothing else to say, it's in your capable hands. Mr. Schoof said that he just kind of feels that he signed the paper saying the drain is functional and if he's on the hook, you guys are on the hook. Mr. Schoof said that he doesn't want this to be another Larry Mazur. Mr. Schoof said he said he wants to do the best that we can to help John, but at the same time take care of the water problem out there. Mr. Schoof said that he's glad that you came out to take a look because that drain is something that they can't determine how much water is coming in from that, but when they go out there and it just rained and you have a twenty (20) foot puddle out there, that's not going to help the situation.

Dwayne Hogan asked if there are any other remonstrators here this evening.

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

Glen Minich said that the more he digs in, before we can give an exception to let him build that close to the property line, we should be assured that drain is going to function long term because you're really raising the cost of fixing that drain once you eliminate open space to do what you need to do. Glen said that he thinks that you need to have it professionally engineered; it's going to have to be a deep trench and filtration to be able to let that water pass through. Glen said if the water moves through the grass where the open drain is right now, it will capture those contaminants and let the water go through, but if you let the water go out you get all the scum on top now, you're going to depend on this new drain to filter all that out and it will be harder. It's in your best interest to get that water to move across the grass, and doing the filtering you can in that basin and allow to get out of that hole.

Jeff Wright said as far as being a professional engineer, he's a professional engineer.

Glen Minich said that the problem is there is not enough slope; I see where you'd almost have to have a six (6') foot trench that is going to have some sort of material that's going to allow that water to flow at a faster ---

Jeff Wright said that there would be a little stone underneath, on the side and on the top. Mr. Wright said from the elevation of the water back to the new driveway, there is something like two (2') feet to play with here. Mr. Wright said that he doesn't know the exact depth, but they would shoot that before -- you're not on the hook for the drain, he's on the hook for that.

Glen Minich said he's good with that. Glen said if we make this motion based on the improvement on that drain to the standards ---

Jeff Wright said under option one they don't even impact that drain.

Glen Minich told Mr. Wright that they would because they're going to be putting in a foundation and if the drain is left the way it is, it's been percolating through soil. Glen said that's going to be underneath the foundation.

Jeff Wright told Glen that he wants it done either way, either option.

Glen Minich said that he prefers option one with the drain updated --

Jeff Wright said that under option one they wouldn't necessarily need two pipes, they could put one bigger one in there.

Glen Minich said that if you could engineer it to where you flow from the ---

Attorney Biege said the six (6") inch pipe you're talking about, whose property is that on.

Jeff Wright said Mr. Schoof's.

Attorney Biege said he doesn't see how you're going to require that with the drain on Schoof's property. Attorney Biege said that we're concerned about Ellis's water only.

Board members going over the site plan.

Attorney Biege said that if there are modifications to the surface water, he designed for the improvements on Ellis's property. Attorney Biege said that he doesn't think we have jurisdiction to require Ellis to go onto Schoof's land and modify a draining pipe.

Melissa Mullins Mischke said that she agrees with Glen that it needs to be addressed, but she also agrees with you that's not going to impact this petition.

Glen Minich said that this water is running per say to that drain too. Part of this property is still draining through that same drain.

Earl Cunningham told Mr. Schoof that some of this water from the new Dwight property is draining through that drain too. Earl said that is a large home that was just built on that lot and adds additional water that's going into that drain.

All parties speaking at the same time (unintelligible).

Melissa Mullins Mischke said that the way she understands MS4 to work, the property owner handles the water runoff off on their own property. Melissa told Mr. Schoof that if that drain is on his property and it's causing an issue, in her opinion that water runoff is your responsibility. Melissa said that she's not standing here and saying that she doesn't agree that needs to be looked at.

Mr. Schoof told Melissa that MS4 was not interested in that drain.

Melissa Mullins Mischke told Mr. Schoof that they were looking at Mr. Ellis's property.

Mr. Schoof said that there are all kinds of water problems down there and once you put the foundation in, concrete and sidewalks, we have eighty (80%) percent of that land filled in their residential property.

Attorney Biege said that's why we asked him to go higher to handle the water that is displaced by the addition, and that's exactly what the drawing showed, and he's assuming that the certified engineer is telling us. This will handle the water for the addition. Attorney Biege said that is what we asked him to do.

Mr. Schoof said then he would request that we don't go to three (3') foot between the boundary lines and we don't make exceptions on that, and we move it back to five (5') foot, or whatever a normal setback would be giving that drain a chance to breath.

Melissa Mullins Mischke said that her opinion is if the draining is such an issue with particular pipe we would be doing it more often to help maintain the flow.

Glen Minich said that the water that drain is handling is probably at least triple what its original intent was.

Mr. Schoof said that is correct.

Annemarie Polan said that is his drain.

Mr. Schoof said it's not his drain, it's on Bolster's property and their house is up for sale, but it impacts the house next door and himself, and he's the adjacent corner to John.

Annemarie Polan said that she knows what they told John to do, and they hired people and that is what they did.

Mr. Schoof said that they were concerned only with John.

Annemarie Polan said as long as it didn't create more of a problem. If it doesn't add to your problem and it just takes care of the water on John's property that is what they have to look at.

Melissa Mullins Mischke asked Annemarie if we would ask our attorney to direct a letter to a different board – either the drainage board, or Rick Brown the MS4 coordinator to look at this pipe separately from this petition.

Annemarie Polan asked how long this pipe has been there.

Mr. Schoof said thirty (30) years.

Annemarie Polan said let Doug answer that.

Melissa Mullins Mischke said as she expressed, she's not saying it's not an issue and does it need to be addressed, by it's not going to be addressed by this board on this petition is her point.

Mr. Schoof said you're giving variances, then you have to allow him to go within two (2') foot of his line, or three (3) foot of his line and get as close as you can, then put him back at five (5') or ten (10') foot wherever it normally has to be. Mr. Schoof said give them an extra two (2') or three (3') feet to at least help with the drainage situation.

Attorney Voeltz said that the survey that was commissioned was going to deal with water flowing from the new construction, specific to no further impact on the drainage or the pipe, or any other type of filtration that is already there. Attorney Voeltz said that is what the engineer designed; that's what Rick Brown has signed off on, and that is what's before you today in this petition. Attorney Voeltz said that they specifically followed the direction of this board to commission this survey and determine all these engineering things that need to happen for this to

be done. Whatever they're going to do with their property as far as cleaning up the drain, or affording maintenance on the drain that currently exists is not John Ellis's problem because solving his problem by putting in a new drain that will not further impact the existing drain. Attorney Voeltz said he just wanted to make that clear.

Earl Cunningham said that he's eliminated the concrete behind the garage and he's going to keep that grass.

Attorney Voeltz said that is what his client is telling him.

Melissa Mullins Mischke said that she will say that one thing she is in agreement with Mr. Schoof, and she does think that there is a point when we have to stop giving variances on the island. Melissa said that she has said this on this board a number of times, if we always do what we've always done, we're obviously going to continue to have buildings that overhang the road right-of-way and drainage issues, and buildings that are right up next to the property line regardless of the second hearing for this petition.

Glen Minich said that John and his engineering did do a good job of what they're doing, but he still questions allowing – we're saying how much the lot we're covering now is.

Dwayne Hogan said forty-six (46%) percent.

Glen Minich said that the buildable part we're covering about eighty (80%) percent. Glen said that is the problem. Glen said that water has to go somewhere.

Dwayne Hogan asked the pleasure of the board.

Glen Minich said he can't make a proposal on this. Glen said that he doesn't think that we should build five (5) feet –

Johnny Stimley said he agrees with Glen.

Melissa Mullins Mischke said that she agrees with him, but on different grounds. Melissa said that parcel didn't change size from the time he bought it until now when you decided to put on a garage.

Earl Cunningham said that at our meeting last month we gave them direction on what to do and it looks like to him they went out and did it. Earl said that MS4 according to our representatives are in agreement. Earl said why would we tell them to go do this and they went and did what we told them to do, but we didn't say you had to move it back to ten (10') feet instead of five (5') feet, even if you do everything else, you have to move it back to ten (10') feet, we didn't tell them that a month ago.

Glen Minich said that we've eliminated the concrete so how far is the building from the lot line now.

Attorney Voeltz said according to the original drawing, the proposed concrete sidewalk would have gone more than five (5') feet in from the lot line in the ten (10') foot strip where the current pipe runs. Attorney Voeltz said so you eliminate that and the back side of the garage on one side would be approximately five (5') feet. Attorney Voeltz said if your pleasure would be to eliminate the petition, or remove that petition for variance in regards to the five (5') foot setback and go back to what is in the code, being ten (10') foot for the accessory structure ---

Glen Minich said according to the petition the way its read, to construct a garage addition five (5) feet from rear lot line instead of the required twenty-five (25') feet. Glen said Andrew says it's actually ten (10) feet from the accessory structure. Glen said that this is written wrong.

Annemarie Polan said it is.

Attorney Voeltz said according to Article 16 subsection © (4), accessory buildings in the rear yard shall be setback a minimum of ten (10) feet from the side rear lot.

Board members speaking amongst themselves.

Earl Cunningham said that we did one last month on Waverly Road that was virtually the same thing just on the other side of the lake. Earl said that they wanted to put a garage in what we call the front yard, but's really the back yard if you have lake property. Earl said that the guy put a garage up within five (5') foot of the property line.

Glen Minich said he wasn't covering his whole lot.

Earl Cunningham said he agrees with that; he had a much bigger lot and much higher above the lake, but that is why we told him to go get an engineer to handle the drainage issue.

Board members speaking amongst themselves.

Earl Cunningham made a motion to approve the variance for John P. Ellis to construct a garage addition five (5') feet from the rear lot line instead of the required ten (10') feet, lot coverage being forty-six (46%) percent instead of the required thirty-five (35%) percent on property located at 18 Elm Drive on the basis that it has been approved by MS4 and engineering takes care of the water on that property.

Dwayne Hogan asked for a second.

Dwayne Hogan said motion dies.

Dwayne Hogan asked if he has another motion.

Glen Minich said that he will make a motion that the petition for variance of John Ellis, by counsel, Andrew Voeltz be denied to construct a garage five (5) feet from the rear lot line instead of the required ten (10') feet because the lot is covering forty-six (46%) percent instead of the required thirty-five (35%) percent.

Melissa Mullins seconded.

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

Dwayne Hogan said all those in favor of the denial signify by saying aye.

Voting Aye: Melissa Mullins Mischke, Glen Minich and Johnny Stimley.

Voting Nay: Earl Cunningham and Dwayne Hogan.

Motion carries for denial 3-2.

3. The Petition for Variance for Special Exception for Derek McGrew on behalf of Premier Real Estate, LLC, Verizon Wireless and PIT Tower to erect a Verizon Wireless Tower, One-Hundred Fifty Three (153') feet in height. This property is on Johnson Road West of Toll Road I80/90, Center Twp., zoned B2 on 40.6 acres. Parcel No. 04-06-20-400-001 W1/2 SE ¼ 20 T37 R3 40.06 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Derek McGrew, 103 Wilshire Court, Noblesville, IN 46062.

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

Mr. McGrew said that he's here representing Verizon Wireless Parallel Infrastructure and Premier Real Estate to construct a new wireless communication facility; the coverage hole was to the southeast to where they wanted to be, but because the zoning districts didn't allow for a tower in a middle of a subdivision basically, they had to move it out a little bit, but we're in the proper zoning and we meet all the setbacks.

Mr. McGrew said that if you look at the maps and the site plan and everything that has been presented, he thinks that it's pretty obvious that we're in a hole and we're getting customer complaints and dropped calls and for that reason we're able to propose a tower that's available for co-location and they actually built it stronger than what's required. Mr. McGrew said that they actually contacted the airports and got an e-mail from one of the airports that they don't have a problem with the tower at all. Mr. McGrew said that they provided the co-location letter

and they're willing to provide a fall zone letter for the building permit. Mr. McGrew said that he had a presentation ready, but since you can't see the tv, he sees no point in giving it to you.

Earl Cunningham asked Mr. McGrew to put a dot on the site plan where the tower is going to be.

Mr. McGrew is up at the bench.

Mr. McGrew said that he does not have a lot more to add, other than wireless is becoming more and more important these days. It's almost a utility at this point, and he knows lawfully it's not. Mr. McGrew said that it's gotten to the point where seventy (70%) percent of 911 calls are made by wireless devices. Mr. McGrew said that's really important to have coverage in these residential neighborhoods where emergencies occur and it's covering part of the lake as well.

Melissa Mullins Mischke asked Mr. McGrew if he's talked to other carriers like the 911 center to add additional.

Mr. McGrew said not at this point. Mr. McGrew said they wouldn't do that yet until they got zoning approval. Mr. McGrew said that their business is to make money by getting as many on the tower as possible. Mr. McGrew said that he knows that's what you want and that's what they want. Win win.

Earl Cunningham asked Anne if this meets all the requirements as far as you're concerned.

Annemarie Polan, Building Commissioner stated yes.

Mr. McGrew said that they don't have any drainage issues.

Glen Minich asked Mr. McGrew if this tower is in close proximity to two other towers.

Mr. McGrew said yes. Mr. McGrew said that the reason they're at where they want to be, they're within two (2) miles of two other towers. Mr. McGrew said that one of them is owned by the Indiana State Police and they don't allow co-locations on the towers, and the other one is Communication Properties own that tower and that tower is structural in a One-Hundred and Fifty Two (152%) percent structural, so there is no possibility, even if they were in the right location – even if this was sitting on this property right dead center, they couldn't use it.

Glen Minich said that he's looking at Beacon and he's covering a lot of homes in that area.

Board members speaking amongst themselves.

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

Earl Cunningham made a motion to approve the petition for a Variance for Special Exception for Derek McGrew on behalf of Premier Real Estate, LLC, Verizon Wireless and PIT Tower to erect a Verizon Wireless Tower One-Hundred Fifty three (153') feet in height on property located on

Johnson Road West of Toll Road , Center Twp., zoned B2 on 40.06 acres. Parcel No. 04-06-20-400-001.

Melissa Mullins seconded.

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

All approved. Motion carried 5-0.

4. The Petition for Variance of Special Exception for Central States Tower to install a new telecommunications facility with a One-Hundred Seventy- Five (175') foot monopole tower. This property is located NW of intersection of Johnson Road and I94 in Michigan City, Coolspring Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Brian Donnelly, 660 Midwest Road, Oakbrook Terrace, Illinois representing Central States Tower Verizon Wireless.

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

Mr. Donnelly said that the proposal before you today is a new telecommunications facility with a One-Hundred Seventy Five (175') foot monopole tower. Mr. Donnelly said that the need for this tower has arose for a few reasons. First and foremost, the residence of La Porte County have asked for better coverage from Verizon Wireless. Verizon has (unintelligible) customer complaints for the past two plus years and is trying to fix these service issues. This area has frequent complaints with customers living, working, and commuting along Interstate 94 and Johnson Road. Customer complaints are not just due to the need for more signal and higher quality service, but the need is for more capacity in this area as well.

Mr. Donnelly said that volume of voice data and data use in this area is causing the surrounding cell sites to become overloaded and preventing residents of La Porte County in getting access to the Verizon Wireless network. Mr. Donnelly said that as texting, e-mailing and daily use increases, and customers demanding improved communication service where they work, play, commute and live. The only way to increase and improve the level of coverage at some point, is more equipment in the air. This tower will provide that necessary platform for that equipment.

Mr. Donnelly said to echo the comments of our previous presenter, Ninety-Seven (97%) percent of adults have cell phones according to 2012 research and that number is going up; forty (40%) percent of American homes have only cellular phones as their only form of telecommunications. That is again, from a 2013 survey and that number continues to arise. Mr. Donnelly said that he does agree that seventy (70%) percent of Americans Two-Hundred and Forty Billion 911 calls

are placed from a wireless mode and percentage continues to grow according to the SCC website.

Mr. Donnelly said the E911 technology used by wireless carriers insures that the 911 call is routed to the appropriate emergency dispatch and provides the emergency dispatch a call back number and an approximate location of the distressed call. For that reason improved cellular coverage is a matter of public welfare as well.

Mr. Donnelly said in regards to the need for this new tower and this particular location, a document was provided with the application that shows the existing coverage without this tower and the predicted coverage should this tower be approved. As stated before, Verizon Wireless is trying to solve the coverage concerns in the area for over two (2) years that have been logged and have been heard out of La Porte County residence. We chose this site in large part to try to blend in with the existing landscape of the area. We're aware that there is a One Hundred Ninety- Five (195') foot monopole tower just adjacent to the one they're proposing to construct this on. Part of trying to blend in with the existing scape they felt was that putting a second one as close to the existing tower as possible while maintaining all the design criteria set forth in your zoning ordinance would be the best idea.

Mr. Donnelly said that Verizon Wireless did make an effort to co-locate upon the existing tower starting early in 2014. The tower was analyzed with the proposed Verizon equipment loading and it was found to fail at One Hundred and Thirty-Eight point Seven (138.7%) percent. Again, that is from structural engineering report that he has here today from July of 2014, not only that, that tower is already at a point where it is exceeding the structural capacity where it is now and as a result, it was determined that this tower is not a viable candidate.

Dwayne Hogan asked if that tower is pretty full.

Mr. Donnelly said that tower is pretty full. That tower was originally built in 2002 and fifteen (15) year standards have changed and equipment has changed.

Mr. Donnelly said in closing, Verizon has been attempting to find a location to install new telecommunications equipment for well over two (2) years in a large part due to demand of the residence for La Porte County. This is a high traffic area as we all know it's on I-94 and Johnson and its proximity to that intersection is currently under served in terms of wireless coverage by Verizon Wireless and will continue to be without unless a new tower with sufficient capacity is constructed. At some point there is going to have to be a new tower in this area to handle the loading and what current wireless carriers are installing on these towers. The existing tower that is there is fifteen (15) years old and you really can't put more equipment on it.

Mr. Donnelly said that this tower that they designed is to carry four (4) additional wireless carriers, plus further loading is not uncommon for wireless carriers to install more equipment as capacity goes up in the area and this is going to provide a platform. We're not only equipment now, but future growth for equipment.

Dwayne Hogan asked Mr. Donnelly what is the future of the new towers now for longevity.

Mr. Donnelly said to be honest with you, there are two separate petitions both on behalf of Verizon Wireless both from two different real estate specialists right at about three (3) miles from one another. Mr. Donnelly said that this is pretty close. In La Porte County, Michigan City and City of La Porte, this is the fourth tower that he will be doing. As people use their phones more, there is nothing you can do; there is a capacity issue that has to be met, otherwise people are prevented from gaining access. Mr. Donnelly said that they go through great lengths to try and use existing towers.

Dwayne Hogan asked Mr. Donnelly if he thinks that it will last for ten (10) years.

Mr. Donnelly said yes. Mr. Donnelly said that the fifteen (15) year old towers, the technology changed a lot in fifteen (15) years. Mr. Donnelly said that he can't predict what is going to happen in fifteen (15) years from now, but they're well engineered. Requirements fifteen (15) years ago were not – the design criteria was not to make them sufficient for house carriers, but that's not what it was fifteen (15) years ago, now that's pretty much standard. This is designed to carry the whole La Porte area.

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

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

Melissa Mullins Mischke told Mr. Donnelly that she didn't see in your packet that you had elevation of the proposed tower, but she does see that you have a GPS. Melissa asked if that is on a structure, or is that going on the actual tower.

Mr. Donnelly is up at the bench going over the site plan with Melissa.

Glen Minich asked Mr. Donnelly what is the proximity of the closet tower to this.

Mr. Donnelly said that he handed in a site plan.

Mr. Donnelly said that if you look what is depicted on there is a three (3) mile ring. Mr. Donnelly said that he kind of located what sites Verizon is already on, which is three other sites that are within that ring. Obviously the one he discussed right next door and the other towers ---- The one you just approved is right outside that three (3) mile ring. This site was primarily chosen based on the location of the other tower. They went for two years to try to figure that out.

Glen Minich asked Mr. Donnelly if they have co-located on that tower.

Mr. Donnelly said that they attempted, but after they started the development process and learned the structural limitations of that tower, it doesn't allow for its full One Hundred Thirty- Eight (138%) percent structural capacity.

Board members speaking amongst themselves.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion that the Petition for a Variance of a Special Exception for Central States Tower to install a new telecommunications facility with a One Hundred Seventy- Five (175') foot monopole be granted for the location at NW of Johnson Road and I94, Michigan City.

Earl Cunningham 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 Travis & Allison Gilligan and Cleon, Eileen, Anson and Clayton Hinkle to construct a Forty (40' foot by Sixty (60') foot pole barn with the height of twenty-seven (27') feet instead of the maximum eighteen (18') feet and to install a bathroom. This property is located on the corner lot West of S. Shore Ave., and South of E. Bell Ave., across from 7651 E. Bell Ave., New Carlisle, Hudson Twp, zoned R1B on 1.1 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Clayton Hinkle, 8417 Chelsea Lane, Woodridge, Illinois.

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

Mr. Hinkle said that they're here to ask for a variance to build a pole barn prior to the residence. Mr. Hinkle said that the pole barn will not be used as a residence. They just acquired this property and there are four (4) families involved. Mr. Hinkle said that they have three (3) boats, soon to be four (4), four (4) golf carts and these woods nobody has been there for many years and there is a lot of (unintelligible) trees and there are some safety issues around there. Mr. Hinkle said right now they just kind of cart their stuff back and forth from where they live. Mr. Hinkle said that they would actually like to have a secure place. Mr. Hinkle said that they did think about doing the residence prior, but they only have so much money and they didn't really want to build this bare boned house and then have this stuff laying on the outside. Mr. Hinkle said that they would like to have some more money to build a nicer house.

Dwayne Hogan asked Mr. Hinkle how many residences he's planning on building back there, just one?

Mr. Hinkle said just one. Mr. Hinkle said that the size of it is one of the reasons because it's going to be a four (4) families and they didn't want to have to build multiples.

Dwayne Hogan asked Mr. Hinkle if he's looking to live in this pole barn.

Mr. Hinkle said no.

Dwayne Hogan asked if he's going to have water and electric in this.

Mr. Hinkle said yes, but they would like to have a bathroom if possible. Mr. Hinkle said that there are kids involved and it would be nice to have a place that has water.

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

Remonstrator:

Dwayne Hogan asked for name and address for the record.

Fran Macmillan, 7139 E. 700 N., New Carlisle. Ms. Macmillan said that they currently have a home on Lot No. 1 in this woods. Ms. Macmillan said that it's a subdivision. We've been contacted by the Hinkles, and they're very nice and everything, she thinks it's the size of the structure that bothers them. Ms. Macmillan said that her only complaint is probably the height of it and she realizes that pole barns have construction that creates the height, but she doesn't see the need for the height to store boats and ATV's.

Dwayne Hogan said it depends on the size of the boat.

Ms. Macmillan said we're talking about Hudson Lake, not Lake Michigan. Ms. Macmillan said that they bought this property and it has covenants; I realize that you don't deal with covenants in this area, but their covenants are quite clear in the sense that it's a residential development and it's one of the nicer residential developments. Ms. Macmillan said poor old Hudson Lake has got some bad press, but this could be a very nice area and she just thinks that this is perhaps just too tall of a building to be in the environment.

Ms. Macmillan said that she has a picture of her house and it's not going to be touching it, or see this building where they're looking, but they're right around the corner.

Earl Cunningham asked if there are sufficient trees that you will not be able to see the property.

Ms. Macmillan said that she won't be able to probably see it, but if she goes to one far corner of her lot, she might be able, but she probably would not see it until they go down to the lake; they own a portion of the lake so we go past this building all the time.

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

Mr. Hinkle said that they state that they do own one of the eight and they have gone to try to speak to them, although they're not an adjoining lot, they still have gone there and they're not looking to cause any riffs amongst the neighborhood. Mr. Hinkle said that they own seven (7) of the eight (8) and it was initially drawn up as a subdivision with individual parcels, which could potentially be homes. Mr. Hinkle said that they own seven (7) of those and they don't plan on selling any of those. This is not a developed subdivision, it's going to remain other than the pole barn that they're requesting, a residential residence. Mr. Hinkle said that is their long term plan.

Glen Minich asked Mr. Hinkle if he knows how long ago that it was those eight (8) lots.

Mr. Hinkle said that he has something that says 96.

Melissa Mullins Mischke asked Mr. Hinkle to draw a sketch where he's putting the pole barn.

Mr. Hinkle is up at the bench going over the site plan.

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

Glen Minich asked Mr. Hinkle if he's going to use the access road of E. Bell Avenue.

Mr. Hinkle stated yes.

Glen Minich told Mr. Hinkle that he will have room in front of his barn if we call E. Bell Avenue the access road. Glen told Mr. Hinkle that he will have room in front of the barn to put the residence.

Mr. Hinkle said that he believes that is thirty-feet (30') feet onto Bell Road.

Glen Minich said that he just didn't want him to run into a problem because you're required to have the residence in front of the house.

Mr. Hinkle said that they're considering potentially combining some of the lots as well.
Mr. Hinkle said that they're aware of their covenants involved.

Glen Minich said that they have to make sure that there is room for the residence in front of that barn.

Annemarie Polan, Building Commissioner, said depending on the rest of the lots and where they're going to put the house.

Mr. Henkle said that they don't know, they just got it late last year and we're just trying to clean up the land itself.

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

Dwayne Hogan asked the pleasure of the board.

Glen Minich made a motion that the Petition for Variance of Developmental Standards for Travis & Allison Gilligan and Cleon, Eileen, Anson and Clayton Hinkle to construct a Forty (40') foot pole barn with the height of twenty-seven (27') feet instead of the maximum eighteen (18') feet and to install a bathroom and electric on the property located on the corner of West of S. Shore Ave., and South of E. Bell Ave, be approved with no use as a residence.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 5-0.

6. The Petition for Variance of Developmental Standards for Robert A. Wood to construct a pole barn thirty-two (32') feet by forty-eight (48') feet with a height of twenty-four (24) feet instead of the maximum of eighteen (18') feet, and the installation of a bathroom. This property is located at 11944 W. Windmill Lane, Westville, New Durham Twp., zoned R1A on .78 acres.

Earl Cunningham said just for clarification, the word required probably should be maximum instead of required, because if somebody wants to build one seventeen (17) foot height, we don't require them to make it eighteen (18') foot.

Attorney Biege said that he takes care of that when he does the Findings of Fact.

Earl Cunningham said that it's not a required eighteen (18') foot, it's a maximum of eighteen (18') foot if they're asking for a variance.

Annemarie Polan, Building Commissioner, said correct.

Attorney Biege asked Mr. Wood if he has the publication from the newspaper.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Robert Wood, 11944 W. Windmill Lane.

Dwayne Hogan asked Mr. Wood what he would like to do tonight.

Mr. Wood said that he's looking at constructing a pole barn for his RV.

Dwayne Hogan asked Mr. Wood if he has an existing one there already.

Mr. Wood said yes. Mr. Wood said that he actually just purchased a bigger one.

Mr. Wood said that the RV will not fit in his shed.

Dwayne Hogan asked the size of the RV.

Mr. Wood said its forty (40') foot long. Mr. Wood said that it's like twelve (12') foot six (6') height – twelve (12') foot eight (8').

Melissa Mullins Mischke asked with electric and plumbing.

Mr. Wood stated yes.

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

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

Glen Minich said that his only concern is like with the last one, in this case this is a big exposed building in a residential neighborhood. Glen said his concern was, nobody else had a problem with it. Glen asked what the façade of the building is going to look like.

Mr. Wood said that it's going to be metal. Mr. Wood said he's going to match colors of his house with gray and charcoal blue.

Melissa Mullins Mischke asked how much of it is going to be shield in by your neighbor's trees.

Mr. Wood said almost all of it actually. They have a tree line right there throughout the whole thing. Mr. Wood said he will probably be putting up a fence too.

Dwayne Hogan asked if there are any other concerns.

Dwayne Hogan asked the pleasure of the board.

Earl Cunningham made a motion to approve the Petition for Variance of Developmental Standards for Robert A. Wood to construct a pole barn thirty-two (32) feet by forty-eight (48) feet with a height of twenty-four (24) foot instead of the maximum of eighteen (18) foot and the installation of a bathroom and electric.

Mr. Wood said and gas too for a heater.

Attorney Biege said that we only need a variance for water.

Earl Cunningham said property is located at 11944 W. Windmill Lane, Westville, New Durham Twp., zoned R1A on .78 acres.

Glen Minich seconded.

Dwayne Hogan asked if there are any questions or concerns.

All approved. Motion carried 5-0.

7. The Petition for Variance of Use for David & Nancy Brown to run a trucking business with three semi's hauling steel and agricultural out of their residence. This property is located at 5764 W. 800 S., Union Mills, Noble Twp., zoned Agricultural on three (3) acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

David Brown, 5764 W. 800 S., Union Mills, Indiana.

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

Mr. Brown said to get his trucks in and out and park them.

Dwayne asked Mr. Brown if he's parking there right now.

Mr. Brown stated yes.

Dwayne Hogan asked Mr. Brown how long he has been doing that.

Mr. Brown stated nine (9) years.

Melissa Mullins Mischke asked Mr. Brown what brought him into us this month.

Mr. Brown said that the county sent him a notice that he had to get a variance and he wasn't aware. Mr. Brown said with the farm zoning they thought they were in the right zoning for this.

Annemarie Polan, Building Commissioner, said that she had received a complaint and checked it out and sent a letter.

Melissa Mullins Mischke asked what the complaint was.

Annemarie Polan, Building Commissioner, said that they were running a business.

Melissa Mullins Mischke asked Mr. Brown what kind of hours he runs trucks in and out of there.

Mr. Brown said that it's off and on. Mr. Brown said that it could be any hour of the day or night. Most of them leave Sunday or Monday and come back on Friday. Mr. Brown said that he's about the only one that comes and goes all the time.

Dwayne Hogan asked Mr. Brown if he's hauling steel.

Mr. Brown stated yes. Mr. Brown said agricultural and steel.

Earl Cunningham said that the original complaint involved possible refrigerated trailers sitting on the property and it sounds like generators running and air tools. Earl asked Mr. Brown if he has refrigerated units sitting out there overnight.

Mr. Brown said that a couple months a year he hauls onion sets which requires refrigerated trucks. Mr. Brown said that he thinks this year they were there maybe two or three nights. Mr. Brown said if that is a concern he can leave the trailers at the warehouse where he loads.

Melissa Mullins Mischke said to be fair, your home is directly south of where you park.

Mr. Brown said north actually. Mr. Brown said that 800 is on the north side of the property and the railroad tracks are on the south side.

Melissa Mullins Mischke asked Mr. Brown if he parks the trucks north of his home.

Mr. Brown said south of his home.

Melissa Mullins Mischke told Mr. Brown that he's at a fair distance from listening to that equipment run.

Mr. Brown stated yes. Mr. Brown said that the building is almost nine-hundred (900') feet off the road.

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

Remonstrator:

Dwayne Hogan asked for name and address for the record.

Todd Ryan, 5921 W. 800 S, Union Mills.

Mr. Ryan said first of all we wish for their business to succeed and they're not against it, but what happened over the years they grew from one original truck, which he thinks he was running himself, to multiple trucks and business line going up and some employees being involved also.

Mr. Ryan said that he has some pictures that he would like to present. Mr. Ryan is up at the bench passing out pictures to the board members.

Mr. Ryan said the main thing is when additional trucks were added on from like one to potentially four right now and the travel in and out could be four times a night. Mr. Ryan said that the semis may take off and start up and it's not a quiet thing. Mr. Ryan said that he agrees with maybe a week or two of the year where the generators, or refrigerator trucks runs; it's just all night long. Mr. Ryan said that their deck and pool sits right out back there and on the weekends when it comes time to do the repairs, it's listening to the air tools and everything else.

Earl Cunningham asked Mr. Ryan how long he has lived there.

Mr. Ryan said a little over ten (10) years.

Earl Cunningham told Mr. Ryan that he was there approximately the same time; this is your home with the deck and the pool.

Mr. Ryan said yes it is.

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

Dwayne Hogan asked if there are any other remonstrators tonight for Petition No 7.

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

Melissa Mullins Mischke asked Mr. Brown if he thinks that he can limit the hours of operation.

Mr. Brown said absolutely. Mr. Brown said that in fairness, if he knew they were going to have a picnic, or a party, he always tries to pick his stuff up and be done before their party started. Mr. Brown said that there has been a couple of times that he couldn't. In fairness to them he always tries to be a good neighbor to them.

Melissa Mullins Mischke said that she understands that this is an agricultural area, but there are a lot of residences close to you.

Mr. Brown said correct.

Melissa Mullins Mischke asked what kind of hours he thinks would be acceptable.

Mr. Brown said that he can do the best he can to make everybody happy. Mr. Brown said that on Saturdays he does his maintenance, and usually tries to be done by noon or 1:00. Mr. Brown said he wants to have a life himself too.

Melissa Mullins Mischke said with the majority of your drivers, you said you're the only one that –

Mr. Brown said typically he's the only one that comes and goes there. Mr. Brown said that there are occasions when the other ones come in, but actually at the moment he's only running two trucks. Mr. Brown said that he actually has one sold. Mr. Brown said at this point they're only running two semis. Mr. Brown said that the other one leaves on Sunday and usually doesn't come back until Friday afternoon.

Dwayne Hogan asked Mr. Brown if he has a sign posted out there.

Mr. Brown stated yes.

Glen Minich said that this isn't a full blown trucking business. Glen said that it's three trucks. Glen said that he knows that most trucks that are expressed out on Saturday nights and you have to do what you do to get them ready and back safe on the road. Glen said we can basically call it six days a week, but limit Saturday hours.

Earl Cunningham said that he thinks the spirit of cooperation shown is, for example, if they have a graduation party coming up this weekend and let you know in advance, then you give them a break so they don't have everybody coming and going.

Mr. Brown said that he typically watches for them if they're putting stuff up, he usually knows that they're going to have something.

Earl Cunningham told Mr. Ryan that his next biggest concern was the generators running over night.

Mr. Ryan said that he took a video on his phone and even in their bedroom when the trucks come, whether it's 11:00 at night, or in the winter time, you have to start them up at 4:00 in the morning. Mr. Ryan said that he lives in the country for a reason. Mr. Ryan said that he said he wanted this business to succeed, but he thinks that there is a place for that. Mr. Ryan said it wasn't a big deal when there was one truck, but as this business is growing, now where do we go from here. Mr. Ryan asked about property values.

Melissa Mullins Mischke said that Mr. Brown said that he could leave the refrigerated trucks elsewhere and not parked at the residence.

Mr. Brown said correct. Mr. Brown said that he can leave those trailers sitting down in LaCrosse. Mr. Brown said that he does have a place where he can take some of the extra trailers. Mr. Brown said that he didn't know that there was a major concern. Mr. Brown said that his family has lived basically there and he didn't own the house when they moved in, but he has since bought the house right beside and he didn't know there was a concern.

Earl Cunningham said that it's a good situation that we are all here tonight because we've forced you to communicate about some of the issues. Earl said that the lines of communication are open if you'll just continue to do what you're doing here and work with each other.

Melissa Mullins Mischke said that she might also suggest and see what the board thinks, she would really like to see some sort of natural fencing and tree line. Melissa said that she can only imagine what this looks like from lounging in their pool to look at all these trucks and trailers.

Mr. Ryan said even if there is a line of arborvitae trees or something put down to the property line. Mr. Ryan said that like he said, he wants everybody's business to succeed, that's what we're all here for, but if we could limit the times of the trucks running; their house is a little bit further back than what yours is, you wouldn't expect this at night to be real loud, but when he took a video inside their bedroom, which is in the upper level, you could hear it running.

Earl Cunningham said sometimes it's the direction of the wind.

Mr. Brown said in fairness there are railroad tracks there too. Mr. Brown said that when they moved in there, the train went by like every fifteen minutes.

Glen Minich said that he likes the idea of asking to put in a row of arborvitae from actually where the trucks park.

Mr. Troy asked if there is a future where you're going to maintain three trucks, or was it going to grow to be six trucks.

Glen Minich said that we will allow for three trucks.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke was asking about the hours of operation.

Dwayne Hogan said he understands that, but if they get in at 12:00 and they have flat tire.

Melissa Mullins Mischke said that we have to specify hours.

Glen Minich said limit the hours on Saturdays.

Earl Cunningham said that it's not Saturday afternoon in the middle of the winter, it's Saturday afternoons when you're out on your deck. Earl said that's the real issue. Earl said that it's a matter of common sense.

Melissa Mullins Mischke asked Mr. Brown if he wants to maintain the current sign that you have there.

Mr. Brown said as long as it's allowable.

Melissa Mullins Mischke asked Mr. Brown the size of the sign.

Mr. Brown said it's about five (5') foot by five (5') foot tall, maybe.

Melissa Mullins Mischke asked if there is a light on it.

Mr. Brown stated no.

Earl Cunningham asked Mr. Troy if the sign is an objection for them.

Mr. Troy stated no.

Johnny Stimley made a motion to accept the petition for Variance of use for David & Nancy Brown to run trucking business with three semis hauling steel and agricultural out of their residence. This property is located at 5764 W. 800 S., Union Mills, Noble Twp., on three (3) acres.

Earl Cunningham seconded.

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

Melissa Mullins Mischke said that she wants to make sure that we mention in the motion the natural fencing, arborvitae from where the trucks park to the south.

Glen Minich said limit hours until Saturday at 3:00 p.m.

Mr. Brown said that he would go 1:30 to 2:00 p.m.

Mr. Troy said that maybe we can work together on the size of the arborvitae trees; obviously not planting those twelve (12") inches high.

Melissa Mullins Mischke said that she wants to include that the refrigerated trucks would not be there overnight and we're going to leave the five (5) by five (5) unlit sign.

Melissa Mullins seconded.

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

All approved. Motion carried 5-0.

8. The Petition for Variance of Developmental Standards for John & Amber Delligatti for placement of a mobile home on their property to care for elderly mother. This property is located at 4833 N. 325 W., La Porte, Center Twp, zoned R1B on 12.988 acres.

Ms. Delligatti said that she didn't know she needed to bring any of the paper work, besides what she already handed in. Mrs. Delligatti apologized.

Attorney Biege told Mr. Delligatti as part of her request, you have to show that you provided notice to your neighbors – certified mail cards and the publication. Attorney Biege said without that they can't proceed. Attorney Biege said that we can set it over to next month.

Ms. Delligatti said that she does have all of those things. She apologized and said she hasn't ever done this before. Ms. Delligatti asked if she has to send the paper work back through the newspaper once again.

Attorney Biege said no. Attorney Biege said if somebody was going to show up and they received notice, we just have to verify that you provided notice.

Dar Forker told Ms. Delligatti to call her tomorrow.

Earl Cunningham made a motion to table.

Melissa Mullins seconded.

All approved. Motion carried 5-0.

9. The Petition for Variance of Use for Faye Ibrahim/Eastside Fresh Meat & Produce to install a Pylon Sign that exceeds the maximum allowed square footage of seventy-two (72') feet to a height of one hundred forty (140') square feet. This property is located at 4666 W. US Highway 20, La Porte, Springfield Twp., zoned B2 on 1.92 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Michael Lanovich, 5151 Harbor Ave., Portage, Indiana.

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

Mr. Lanovich said that he works with Landmark Sign Group on Eastside Fresh Meat Produce. Mr. Lanovich said that currently they have a sign that is right at two hundred and six (206') square feet, but they're looking to replace with an updated sign. Mr. Lanovich said that the updated sign is below the current height restriction, but is above the maximum square footage.

Dwayne Hogan asked if that old sign is removed now.

Mr. Lanovich said that the old was gone.

Mr. Lanovich said that they're redoing the parking lot.

Dwayne Hogan said that it looks like they're putting some money in it.

Mr. Lanovich said that they're revamping the whole place.

Dwayne Hogan asked how far off the road is that thirty (30') feet.

Mr. Lanovich said that part of this process was reaching out to the Department of Transportation and getting their feedback on what they could do to put up the sign on Route 20. Thirty (30) foot setback is from the highway.

Dwayne Hogan asked if this is going to be a lit sign.

Mr. Lanovich stated yes. Mr. Lanovich said that they have a lot of fast moving cars with the speed limit being 55 miles per hour.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 9.

Melissa Mullins Mischke said that she just wants to mention that she likes it's further off the road, which makes it a little bit easier.

Mr. Lanovich said that visibility is not an issue. Mr. Lanovich said that it's not going to be over powering for somebody who is driving by.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion for a Variance of Use for Fay Ibrahim/Eastside Fresh Meat & Produce to install a Pylon Sign that exceeds that maximum allowed square footage of seventy-two (72) feet to the height of one hundred forty (140) square feet located at 4666 W. US Highway 20, La Porte be granted.

Johnny Stimley and Glen Minich seconded.

Johnny Stimley said that Eastside is revamping their business with a parking lot and everything else. Johnny said that the board is here to help small businesses.

Mr. Lanovich said that he will relay that message for sure.

All approved. Motion carried 5-0.

10. The Petition for Variance of Developmental Standards for Dale E. Swanson Trust for construction of a two-story home addition with a eight (8') foot setback instead of the maximum ten (10') feet. This property is located at 3508 S. 800 E., Walkerton, Lincoln Twp., zoned R1B.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Dale Swanson, 3508 S. 800 East. Mr. Swanson said that they want to make a change in the variance. The property line to what the new building they proposed is eight (8') feet. Mr. Swanson said it was their fault for not explaining it correctly.

Mr. Swanson is up at the bench going over the site plan.

Mr. Swanson said that they're narrow lots; they're thirty-eight (38) foot. Mr. Swanson said on the other side of him they use to be twenty-five (25) feet, but a lot of people bought out somebody.

Mr. Swanson said so the board knows, his family – the house next to them, or cottage was built in 1923 by his grandfather and it was the second or third cottage on Fish Lake. Mr. Swanson said that his family has been out there and he bought the house at 3508 from a lady back in 1992 from her estate and he knew her all his life. Mr. Swanson said that their family goes way back

Mr. Swanson said that they have very strong concerns of improving the area. You will see that the garage is there that they built across the street and the addition that they're going to put on for variance will be approximately one thousand (1000) square feet so they will have a little less than two thousand (2000) and it will match that garage's color.

Mr. Swanson said it will improve the area, property values will hopefully go up; more taxes.

Glen Minich said his only question is why he's asking for a two (2') foot variance.

Mrs. Swanson said that there was some confusion when they were talking to the office. Mrs. Swanson said originally they thought it was five (5') feet, and then went back home and if they did five (5) feet, they won't be able to get a tractor down on the side of the house, so they thought that they should make it a little shorter and closer to their building.

Dwayne Hogan asked if there are any remonstrators here tonight.

Dwayne Hogan asked the pleasure of the board.

Glen Minich made a motion for the petition for Variance of Developmental Standards for Dale E. Swanson Trust to construct a two story home addition with an eight (8') foot side property line instead of the maximum ten (10) feet be granted. This property is located at 3508 S. 800 E., Walkerton, Lincoln Twp., zone R1B.

Earl Cunningham seconded.

Dwayne Hogan asked if there are any questions or concerns.

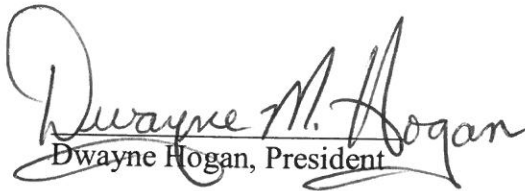
All approved. Motion carried 5-0.

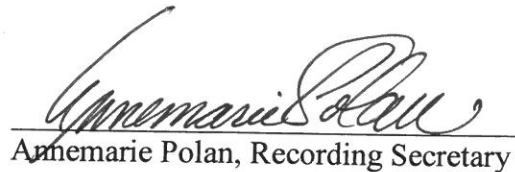
Dale Swanson said he has one question here and it has nothing to do with this. Mr. Swanson asked what the requirement is when you go through 800 east, it's like a cut through for St. Joe County. Mr. Swanson said he thinks that the Kankakee River flooded last summer; the traffic that came down 800 East was down to seventy-five (75%) percent. Mr. Swanson said that they have a forty (40) mile an hour speed limit and there about forty (40) homes and parking areas within about a mile space, let alone the areas that are on Lilac Lane and lower Lilac Lane. Mr. Swanson said that they want to get the speed limit reduced from forty (40) miles an hour, and people are actually going fifty to sixty miles an hour.

Melissa Mullins Mischke told Mr. Swanson to go to the Board of Commissioners.

Earl Cunningham told Mr. Swanson that they have a meeting tomorrow night at 6:00 p.m. Earl told Mr. Swanson that they meet the first and third Wednesday and only the first one is 10:00 in the morning and the third is at 6:00 in the evening.

There being no more business before the Board of Zoning this evening, meeting adjourned at 8:17 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary