



**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**

December 18<sup>th</sup>, 2018

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **December 18<sup>th</sup>, 2018, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT:      Dwayne Hogan                      Earl Cunningham  
                                 Greg Szybala                      Glen Minich  
                                 Melissa Mullins Mischke

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 November 20<sup>th</sup>, 2018.

Greg Szybala made a motion to approve the minutes of November 20<sup>th</sup>, 2018. Earl Cunningham seconded.

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

All approved. Motion carries 5-0.

**1. Petition for Variance of Developmental Standards for Shirley Grall to construct a home with ninety-nine (99') feet of road frontage instead of the minimum of two-hundred (200') feet and with a rear setback of twenty (20') feet in AG zoning instead of the minimum of fifty (50') feet to care for disabled son. This property is located between 5407 N and 5347 N, 350 E., Rolling Prairie, Indiana. Kankakee Twp., zoned Agricultural on 1.5 acres. (This was tabled to the November 20<sup>th</sup>, 2018 meeting at 6:00 p.m.) (This was tabled to the December 18<sup>th</sup>, 2018 meeting at 6:00 p.m.)**

Dwayne Hogan said he needs a motion to take it off the table.

Melissa Mullins Mischke made a motion to remove the Petition for a Variance of Developmental Standards for Shirley Grall off the table.

Earl Cunningham seconded.

Dwayne Hogan asked if there are any questions.

All approved. Motion carries 5-0.

Attorney Kaminski said he's an attorney in La Porte and he's pleased to help Shirley with this petition that was tabled from last September. Attorney Kaminski said just a bit of a personal background on Shirley and the basis of the petition.

Attorney Kaminski said Shirley lives alone near her son, but that parcel's not adjoining her adult son's parcel. Attorney Kaminski said that her adult son was in an accident about eighteen (18) years ago that lead to a brain stem injury that has left him disabled. Attorney Kaminski said that he is able to function some independently, but he has had over the years, more and more issues with falling and needing assistance.

Attorney Kaminski said that Shirley herself has orthopedic issues and lives in a tri-level home, so what she's hoping to do is to help herself, her son and her family out in two ways. Attorney Kaminski said that's by placing a new home on a one point five (1.5) acre parcel that adjoins the home that her son currently lives in. Attorney Kaminski said what he provided you, he knows that it's a little bit confusing and he's gone through deed history before tonight, but the original homestead parcel as outlined in green, is a twenty (20) acre parcel and off of 350 E., it's a separate tax parcel even now and it has a ten (10') foot driveway that comes off 350 East.

Attorney Kaminski said that this setup was done back in 1946 with her parents and it was passed onto Shirley, and it's a preexisting flag pole lot area leading back to the existing homestead that Shirley's son lives in.

Attorney Kaminski said in 1970 Shirley's parents acquired the lot we're talking about, which is the one point five (1.5) acre lot that he has outline in blue and on the second page he has a blow up that shows you a little bit better the configuration. Attorney Kaminski said that this is the one point five (1.5) acre lot we're talking about tonight that a variance is requested for. Attorney Kaminski said that the driveway is the actual driveway that's servicing the parcel. Attorney Kaminski said that it is in that flag pole area leading back to the existing homestead that Shirley's son lives in.

Attorney Kaminski said that when Shirley filed her variance she was asking for two (2) things. Attorney Kaminski said number one (1) was to have a lot that she could build a house on that's ninety-nine (99') feet and then by measurement the driveway, the flag pole part of the bigger lot is about eleven (11') feet. Attorney Kaminski said Shirley for the reasons why he stated is asking for that and because of the circumstances where quite honestly Shirley and her son will

kind of be able to monitor each other, she would want to build the house on twenty-five (25') foot from the setback of the rear lot line for that one point five (1.5) acre lot.

Attorney Kaminski said that this setup was done in 1946 and 1970 and then Shirley in 2016 conveyed these two (2) lots, as well as the lot where she lives currently into a revocable trust. At that time there wasn't a lot of thought to should she maintain the lot separately, or what she do for a situation like this.

Attorney Kaminski said that her proposal would be to get this one point five (1.5) acre lot back into its separate parcel from the twenty (20) acre lot. Attorney Kaminski said that they would still have a separate tax parcel. Attorney Kaminski said that she would like to be able to construct a home that would be fifteen hundred (1500') square feet. Attorney Kaminski said that she would of course have to comply with the County Health Department for placement of a septic before she could get a permit.

Attorney Kaminski said that she's asking for a variance to allow that to happen and talking to Shirley, there are two (2) things that they would hope would make it a little bit more comfortable for the board to even pass this petition for a variance is that there would be a mutual reciprocal easement between what he will call her son's lot and this lot where she would build the new house on that would run with the land and share a driveway, and it would be that way for evermore for the two parcels. Attorney Kaminski said secondly she would affirmatively covenant – either her or her son will allow any further development on that twenty (20) acres in the future.

Attorney Kaminski said that Shirley has done two (2) things since she was before you. Attorney Kaminski said that she reached out to the neighbor who adjoins the one point five (1.5) acre lot to see if it was possible to acquire three (3) more acres, but there's never been a response. Attorney Kaminski said that the other thing they talked about is the idea of maybe having variance that would allow just one (1) lot with two (2) homes on it, but he sympathizes with Shirley with that if something happens to her son where he needs more care than can be provided for in the house, she would like to have a separate lot to be able to sell. Attorney Kaminski said that if something happens to Shirley, she would like to have the house on the one point (1.5) acre lot separated so there is something to sell and there's cash for her son for resources if he's still able to live.

Attorney Kaminski said that they would request a variance for the lot that's ninety-nine feet (99') and the rear setback variance under the conditions that we record an easement where it shows there would be a mutual driveway between the two (2) of them so there would never be the possibility of a landlocked parcel.

Earl Cunningham asked Ms. Grall if she's in a tri-level now and if she's trying to get into a single level.

Ms. Grall stated yes.

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

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

Glen Minich asked attorney Kaminski if he's going to legally conjoin both of these lots. Glen said you're separating, but you're giving the son easement and access through the one point five (1.5) acre lot.

Attorney Kaminski said that the driveway already goes through that lot and services his house. Attorney Kaminski said rather than have a separate driveway, they're just proposing a mutual easement so they could both use that. Attorney Kaminski said if Shirley would try to sell, that owner would have the same driveway.

Earl Cunningham said it's going to be a permanent easement.

Attorney Kaminski stated correct.

Board members speaking amongst themselves.

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

Earl Cunningham said in light of the fact that there are no remonstrators here and this is a pre-existing condition from 1946 and updated in 1970, Earl made a motion to approve the Variance of Developmental Standards for Shirley Grall to construct a home with ninety-nine (99') foot of road frontage instead of the minimum two-hundred (200') with a rear setback of twenty (20') feet in Ag zoning instead of the fifty (50') feet to care for her disabled son. Property is located at 5407 N. and 5347 N. 350 E., Rolling Prairie, Indiana, Kankakee Twp., zoned Agricultural on one point five (1.5) acres.

Dwayne Hogan said motion dies for a lack of a second.

Dwayne Hogan asked the pleasure of the board.

Glen Minich said that he just has such a reservation on doing this with that small amount of frontage.

Earl Cunningham said that the frontage isn't going to change regardless. Earl said that the frontage is ninety-nine (99') feet, with a home already on the flag lot.

Glen Minich said that he remembers the last meeting we had several months ago, you made the statement that your father purchased that to be connected to the back.

Board members speaking amongst themselves.

Melissa Mullins Mischke asked if there is any road frontage on this parcel to the north of the one with your son's home on it.

Attorney Kaminski said he doesn't think so.

Melissa Mullins Mischke said that she really sympathizes with the situation that it was preexisting, she personally would almost approve a variance for two (2) residences if we combine them and had a larger chunk of road frontage for two (2) residences on one (1) single parcel. Melissa said for the process of the deed is going to be cleaner for a recorded easement, whether it's permanent, or not, but we're going to end up with guy that ends up in the back rear lot having issues whose maintaining this ten (10') feet, or they can't find the easement.

Earl Cunningham said it seems to him considering that we might lose the easement over a long period of time, Nipsco has had easements for hundreds of years in La Porte County. Earl said that's why we have a recording office to record the easement.

Melissa Mullins Mischke asked Earl if he's going to equate this easement with Nipsco easement.

Earl Cunningham said that he's going to equate it too, we have much better ability to keep track of easements today than we did a hundred years ago. Earl said that he's just saying that we have a preexisting condition and there is no way if the people next door aren't going to sell her additional land, we're not going to change the fact that we have ninety-nine (99') feet of easement tacked to a home site. Earl said what she wants to do is put a single story home in front of that so eventually as he understands it, if you passed first, your son would be able to sell that home with this ninety-nine (99') feet and that might be thirty (30) to forty (40) years from now hopefully, or if your son passed first, you then would be able to sell the back parcel. Earl said if somebody wanted to buy both parcels, that would be a possibility as well, but that's not our problem. Earl said you're trying to protect your financial interest and his financial interest at the same time because of the concern for your disabled son.

Attorney Kaminski said if both homes are on one property, then they're at the mercy of the board to ask for a variance and if it's not granted, it could cause a financial hardship.

Earl Cunningham said if you're willing to record the deed, or the easement, you would also record the covenants that there not be any additional development on the back lot.

Greg Szybala said that he's been in this situation and he was the front landowner with an easement that serviced the landowners in the back of him. Greg said despite the fact that easement was recorded, there were still perpetual issues between the two of them. Greg said he really has a problem with two homes using the same eleven (11') feet to get back six hundred (600') feet to service both of those homes, both from the perspective of both homeowners, whether they know, or don't know what the situation is, and also for emergency vehicles and so forth for access.

Earl Cunningham said that he agrees with that part. Earl said the question is, do you want to make it twenty (20') feet. Earl asked attorney Kaminski if they have a problem making the driveway/easement twenty (20') feet.

Greg Szybala said or a turnaround in the back.

Earl Cunningham said that there are ways to alleviate that problem.

Board members speaking amongst themselves.

Glen Minich made a motion to deny the Petition for Variance of Developmental Standards for Shirley Grall to construct a home with ninety-nine (99') feet of road frontage instead of the minimum two-hundred (200') feet. Property is located at 5407 and 5347 N. 350 E., Rolling Prairie.

Melissa Mullins seconded.

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

Voting Aye: Melissa Mullins Mischke, Glen Minich and Greg Szybala.

Voting Nay: Dwayne Hogan and Earl Cunningham.

Motion carries 3-2. Petition Denied.

**2. Petition for Variance of Developmental Standards for David & Rhonda Weiler (seller) and Sean Kalsow** to construct a home on a piece of land with one-hundred fifteen (115') feet of road frontage. This property is located directly across the street from 5501 S. 625 W., Union Mills, New Durham Twp., zoned Agricultural on four point sixty-two (4.62) acres. (This Petition was tabled from the November, 2018 meeting).

Melissa Mullins Mischke made a motion to remove Petition No. 2 from the table.

Glen Minich seconded.

All approved. Motion carries 5-0.

Dwayne Hogan asked for names and address for the record.

David Weiler, 7479 S. 625 W., Union Mills, Indiana.

Sean Kalsow, 1015 Weller Avenue, La Porte, Indiana.

Dwayne Hogan asked the guys what they've decided.

Sean Kalsow said he has some more information for the board members. Sean is up at the bench handing out material to the board members.

David Weiler said that they're here to answer any questions you have. David said obviously it's another flag pole shaped lot, but the three-hundred (300) plus three-hundred (300) in the back is where Sean would like to build the house.

Mr. Weiler said he did check because there was an issue with headlight wash on the property to the north. Mr. Weiler said he did take a video with his wife driving in the driveway and there was no headlight wash on the house; there was some on the trees on the property next door, but the bushes are so thick on the north side of the property that by the time you end up passing the curve by the house, you get headlight wash, you're going straight. Mr. Weiler said that the driveway is going to be in the middle.

Sean Kalsow said the driveway in the photographs, you can kind of see the entry way. Sean said it's going to be that way after the house is built and driveway is put in. Sean said there is a lot of greenery in between this driveway and the neighbor's house. The driveway would be ten (10') feet back and no issue with sharing the driveways, it would go all the way back nine-hundred (900') feet to the opening -- the clearing is in the land.

Mr. Weiler said that he would like to point out in moving back by nine-hundred (900') feet, he would be further from Mr. Henley's house than the adjoining neighbor. Mr. Weiler said that he would be virtually secluded.

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

**Remonstrator:**

Nancy Henley, 6279 S. 625 W., Union Mills, Indiana.

James Henley same address.

Ms. Henley said that they still have the same issues with privacy and the frontage. Ms. Henley said that there is only ninety-nine point five (99.5) feet and that's a concern with emergency vehicles.

Dwayne Hogan asked if there are any other remonstrators for Petition No. 2.

Earl Cunningham said he has a letter from Michael Hardesty at 5598 S. 625 W., Union Mills.

To Whom It May Concern:

In regards to the person purchasing the property adjacent to his, he does not foresee any issues or disturbances to himself, or his family and they're in support of him buying the property and look forward to having him as our neighbor. Sincerely, Michael Hardesty.

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

Glen Minich said he knows this piece of ground was split up years and years ago and he doesn't know what their intention was on this lot, but he doesn't believe it was to be buildable lot. Glen said they knew what the restrictions were at the time.

Mr. Weiler said he thinks at the time it was one-hundred (100') feet when they subdivided it.

Mr. Weiler said that was just changes recently he believes. Mr. Weiler said that was just changed recently he believes.

Glen Minich said it was one-hundred seventy-three (173') feet on a county road.

Board members speaking amongst themselves.

Melissa Mullins Mischke said her only comment is going to be the same one that she's said over and over again, this is exactly the kind of situation if we don't get a handle on it now, we're never going to get this situation under control if we have all these parcels less than the two-hundred (200') feet of road frontage. Melissa said she's been on this board for a number of years and it seems like the more we approve one, five more come up in its place.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion to deny the Petition for Variance of Developmental Standards for David & Rhonda Weiler (seller) and Sean Kalsow (buyer) to construct a home on a piece of land with one-hundred and fifteen (115') feet, although the drawing shows ninety-five (95') on property located directly across the street from 5501 S. 625 W. in Union Mills.

Glen Minich seconded.

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

Voting Aye: Melissa Mullins Mischke, Glen Minich and Greg Szybala.

Voting Nay: Dwayne Hogan and Earl Cunningham.

Motion passes 3-2, petition denied.



**3. Petition for Variance of Developmental Standards for Shane & Allison Morton** for continued placement of a mobile home without two-hundred (200') feet of road frontage and on an easement for continued caregivers for their parents. Last variance was granted on September 15<sup>th</sup>, 2015 for three (3) years, which are attached hereto. Property is located at 0605 S. 700 E., Mill Creek, Lincoln Twp., zoned Agricultural on six point zero six (6.06) acres.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Allison Morton, 0605 S. 700 E., Mill Creek.

Stanley Morton, father of Shane.

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

Mr. Morton said he's just looking for a continuance of their present variance.

Dwayne Hogan asked how long they have had the variance.

Ms. Motion said since 2012.

Melissa Mullins Mischke said they renewed it in 2015.

Dwayne Hogan asked the year of the mobile home.

Ms. Morton said 1993.

Dwayne Hogan asked Ms. Morton if it's her intention to leave it there as a mobile home.

Ms. Morton said until his parents are gone and they would get rid of the mobile home and live in their house. Ms. Morton said they're only there until his parent are no longer with them.

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

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

Glen Minich said he doesn't have any concerns on this and he appreciates they keep coming back for their renewal; they keep the place up very well.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a motion that the Petition for Variance of Developmental Standards for Shane & Allison Morton for continued placement of a mobile home without two-

(200') feet of road frontage be granted at 0605 S. 700 E., Mill Creek for three (3) years renewable.

Greg Szybala seconded.

All approved. Motion carries 5-0.

Annemarie Polan, Building Commissioner asked the board members if they had a chance to go out to 2151 E. Highway. Anne said they got a variance on September 15, 2015 for a repair shop and towing business. Anne said she doesn't even know how many vehicle are out there and it looks like they cleared more room in the back.

Annemarie Polan, Building Commissioner, said she received a complaint by someone nearby that it was going to be turned into a junk yard. Anne said she thinks they had valid concerns.

Dwayne Hogan asked attorney Biege if there is a proper protocol for this.

Attorney Biege said he doesn't know why you wouldn't just site him like you would anything else.

Dwayne Hogan said non-compliance.

Annemarie Polan, Building Commissioner, said she hasn't spoken to him and she doesn't know exactly what he's doing.

Earl Cunningham said it looks like he's just hauling it to his lot and storing them right now.

Dwayne Hogan asked Annemarie if the scope of the work look like it's outside of bounds of the petition.

Greg Szybala stated yes.

Dwayne Hogan said that would be a citable offense then.

Dwayne Hogan said he was supposed to put a fence up.

Glen Minich said he's in violation of the petition.

Greg Szybala said that's what he questioned, what fence and where? Greg said there is a fence on the right side of the property line.

Glen Minich said that all the vehicles were supposed to be shielded within a fence.

Board members speaking amongst themselves.

Greg Szybala asked if they clarified it was not going to be a junk yard.

Dwayne Hogan said it looks like a violation.

Annemarie Polan, Building Commissioner, said she agrees.

Attorney Biege said that he thinks that the proper procedure if you believe he's in violation of the variance is to issue a citation. Attorney Biege said he if doesn't not agree with your opinion, he can appeal your decision to the BZA.

Dwayne Hogan asked if there is any new business.

Dwayne Hogan said he did want to make note here that we did lose one of our past board members, Paul Zona who gave his heart and soul to this BZA board and it wouldn't be fair not to mention it for him and everything he's been through. Dwayne said he was quite the character, he will admit that.

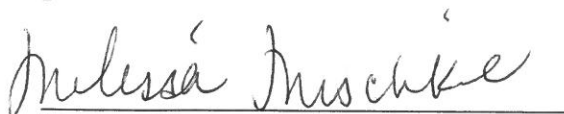
Melissa Mullins Mischke said absolutely.


Dwayne Hogan said he would entertain a motion to adjourn.

Melissa Mullins Mischke said so moved.

All approved. Motion carries 5-0.

There being no further business before the Board of Zoning Appeals, meeting adjourned at 6:40 p.m.

  
Dwayne Hogan, President

  
Annemarie Polan, Recording Secretary