



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **February 19th, 2019, 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 December 18th, 2018.

Melissa Mullins Mischke made a motion to approve the meeting minutes as presented. Earl Cunningham seconded.

All approved. Motion carries 5-0.

Elections:

Annemarie Polan, Building Commissioner asked for a nomination for President.

Greg Szybala nominated Melissa Mullins Mischke.

Glen Minich seconded.

Annemarie Polan, Building Commissioner asked if there are any other nominations for President.

Hearing none, all those in favor of Melissa Mullins Mischke.

All approved. Motion carries 5-0.

Annemarie Polan, Building Commissioner congratulated Melissa Mullins Mischke.

Melissa Mullins Mischke said she will entertain a motion for Vice President.

Glen Minich nominated Dwayne Hogan.

Earl Cunningham seconded.

All approved. Motion carries 5-0.

Melissa Mullins Mischke asked for a motion to retain attorney Biege as our Board attorney.

Dwayne Hogan made a motion to retain attorney Biege for another year for the fine job he's done for us.

Glen Minich seconded.

All approved. Motion carries 5-0.

Melissa Mullins Mischke told Doug he's done a good job.

Petitions:

1. Petition for Variance of Use for Francis Smith (Seller) and Mid America Trailers (buyers), by Rep. Robert Meyer to run a transfer and holding station for boat trailers. This property is located at 9565 W. Snyder Road, La Porte, New Durham Twp., zoned Agricultural on 18.96 acres.

Attorney Biege said notice is adequate.

Melissa Mullins Mischke asked for name and address.

Robert Meyer, Mid America Trailers, 9565 W. Snyder Road, La Porte, Indiana 46350.

Melissa Mullins Mischke told Mr. Meyer that the Variance is for Francis Smith and Mid America Trailers. Melissa asked where Albert Morelli fits in, because he's the owner of record she believes.

Mr. Meyer said he's no longer the owner and it should be Mid America Trailers.

Melissa Mullins Mischke asked when they had transfer of the title.

Mr. Meyer said it was sometime in January, 2019.

Attorney Biege said he thinks we should amend the petition to just have Mid America Trailers as the Petitioner.

Melissa Mullins Mischke asked Mr. Meyer to explain his petition to them.

Mr. Meyer said that they use to have a contract with another county and basically they no longer have that the contract with them. Mr. Meyer said that they're out of Lebanon, Missouri and they came up here and bought that location in La Porte on Snyder Road. Mr. Meyer said that they're going to do ---- they have five-hundred (500) and some dealers and some of the dealers are in the State of Indiana, Michigan, Illinois and Ohio.

Mr. Meyer said that they sell pontoon boats and trailers to their retail customers. Mr. Meyer said at their location, here it's going to be a distribution center. They will keep one hundred fifty (150) to three-hundred (300) pontoon trailers and they will be in stacks of six (6) to seven (7) and sometimes singles when they're ready to be shipped out.

Mr. Meyer said hours of operation being anywhere from 7:00 in the morning to four (4), or five (5) at the very latest in the evening. Mr. Meyer said there will be no manufacturing there period; no painting, or welding. Mr. Meyer said that they come in preassembled and all they have to do is put tongue jacks and (unintelligible) stands on them.

Melissa Mullins Mischke asked if he anticipates the business operating Sunday through Saturday.

Mr. Meyer said it will be Monday through Friday and Saturday on occasion. Mr. Meyer said he's living on the property and he will be there twenty-four seven. Mr. Meyer said their dealers won't be coming to the property very seldom and most of the time they will be delivering to them. Mr. Meyer said that they're going to hire anywhere from four (4) to ten (10) employees in the next few months as soon as they get up and running.

Melissa Mullins Mischke asked about signage at that location.

Mr. Meyer said they will put up a sign at some point and it won't be a big lighted sign. Mr. Meyer said it will be a wooden sign that they will put up along the gate at the entrance.

Melissa Mullins Mischke said a 4' x 8' sign.

Mr. Meyer said a 4' x 10' at the biggest.

Melissa Mullins Mischke asked if there are any questions from the board.

Dwayne Hogan asked Mr. Meyer if the four (4) to ten (10) employees would be full time.

Mr. Meyer stated yes.

Dwayne Hogan asked how many hours?

Mr. Meyer said they're going to run thirty-two (32) to forty (40) hours a week, and sometimes it might be a little more than that.

Mr. Meyer said last year when they were at their other location in Elkhart, they were working (5) days a week and sixty (60) hours per week. Mr. Meyer said for the first year or two, it will be forty (40) hours.

Mr. Meyer said they're going to clean up the land and make it look really nice, getting rid of all the dirt piles.

Earl Cunningham said it's almost nineteen (19) acres.

Mr. Meyer said that's correct.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for Petition #2, for or against.

Melissa Mullin Mischke said she will entertain a motion.

Earl Cunningham made a motion that the BZA approve the Petition of Mid America Trailers to run a transfer and holding station for boat trailers. Property is located at 9565 W. Snyder Road, La Porte, New Durham Twp., and zoned Agricultural on 18.96 acres.

Greg Szybala seconded.

Melissa Mullins Mischke asked if there are any questions.

Glen Minich said the hours of operation would be 7:00 a.m. to 5:00 p.m. Monday through Friday and Saturday by appointment only with a 4' x 8' sign with a limit of five (500) boat trailers.

Earl Cunningham said is going to be a 4' x 8; sign with hours of operation 7:00 a.m. to 5:00 p.m. Monday through Friday, Saturday by appointment only and a maximum of five hundred (500) units.

Greg Szybala seconded.

All approved. Motion carries 5-0.

3. Petition for Variance of Developmental Standards for Nicholas J. Smajo (Petitioner), by Counsel Andrew D. Voeltz to construct a secondary residence on the real property, as well as an addition to the existing detached pole barn/garage. This property is located at 7459 W. State Road 2, La Porte, New Durham Twp., and zoned Agricultural on two (2) acres.

Attorney Biege said notice is adequate.

Melissa Mullins Mischke said the Petition is to construct a secondary residence on the real property, as well as the addition to the existing detached pole barn/garage at 7459 W. State Road 2, La Porte, New Durham Twp.

Good evening, my name is Andrew Voeltz representing Nicholas J. Smajo, who is in the audience today and he's ninety (90) years old. Attorney Voeltz said the family has come to him with his Petition and the back ground being his, if he could approach is to deliver some board minutes that were taken pursuant to a 1995 BZA meeting that took place in regards to this property.

Attorney Andrew Voeltz said the intention here is to construct a secondary structure in the form of a residence on the back side of this irregularly shaped parcel. Attorney Voeltz said if you'll note from Exhibit A that was provided with the Petition, the parcel is approximately two (2) acres and it looks a little more squashed than what it is, in that in order to place a drawing on the one sheet of paper, the surveyor had to cut down on the north side of the property how far out it extends.

Attorney Voeltz said the intention is to construct a residence in order to facilitate his client's son, meaning Nicholas C. Smajo to live on the property to take care of this father. Attorney Voeltz said if you look at those minutes back in 1995, his understanding with this property was originally zoned business years and years ago. Mr. Smajo did receive a variance on this property for construction of that pole barn that does exist and there were some conditions that were attached thereto.

Attorney Voeltz said the flower business has not taken off and it's not going on anymore, but rather this would allow his son moving in, with construction of the secondary residence, to have a space for storage.

Attorney Voeltz said the drawing does accurately layout the way in which access would be gained on the back side of this parcel, with a driveway that would be extended off of the existing driveway that runs to the east of the residence and up to the pole barn. Attorney Voeltz said the indication from his client would be a manufactured home being placed on this property, not a mobile home, and manufactured home and it would be well within the setbacks at thirty-three (33') feet on either side of the parcel lines and it would be twenty-seven (27') feet by fifty-two (52') feet.

Attorney Voeltz said pursuant to the definition of a manufactured home in the JZO, it does fit. Attorney Voeltz said again, all of the requirements of the foundation being latched down that he presented with a different client at another meeting, will all be met.

Attorney Voeltz said his clients are asking, and he's asking, that this Board grant a Petition for Developmental Standards to allow for these two (2) constructions on this property.

Melissa Mullins Mischke asked attorney Voeltz to remind her again, the addition to the pole barn is just for additional storage?

Attorney Voeltz said correct. Attorney Voeltz said it's not an expansion for the business and he uses "business" in quotes, but he wanted to bring to the board's attention this specific language in this letter that was written to then the Chairman of the Board of Zoning Appeals, and specifically Paragraph 6, that this variance is personal to us and cannot be transferred to anyone when they might sell this real estate, unless approved by the BZA.

Attorney Voeltz said his clients are certainly willing to have that type of language contained therein if this were to be approved.

Melissa Mullins Mischke asked if they're going to have electric and plumbing in the pole barn.

Attorney Voeltz said that's correct. Nipsco has been contacted and Nipsco has no problem ---- the pole barn is already wired, but obviously the electricity, utilities and power then to the manufactured home on the back side of the property and the surveyor has accurately provided for where the well and septic field would be, and from his reading from the JZO, there are no issues with lot line encroachment.

Dwayne Hogan asked if this would be finished off with any intention of residential use.

Attorney Voeltz asked if he's talking the pole barn, or the manufactured home.

Dwayne Hogan stated the pole barn.

Attorney Voeltz stated no, just the manufactured home. Attorney Voeltz said there is no residential use intended in any way, shape, or form with the pole barn and addition.

Attorney Biege said if the board is so inclined, would your clients agree that we rescind the previous variance request regarding the business.

Attorney Voeltz said he can certainly discuss that with them, but he doesn't see a reason why not.

Attorney Biege said he just wanted to clean things up.

Attorney Voeltz said that they would have no problem with rescission of that previous amendment.

Melissa Mullins Mischke said that if the board so chooses to grant the Petition for that second residence, they would need to get an address up at the road for fire and emergency personnel.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for the Petition.

Remonstrator:

Melissa Mullins Mischke asked for name and address for the record.

Alan Childress, 7455 W. State Road 2, La Porte.

Melissa Mullins Mischke asked Mr. Childress his concerns.

Mr. Childress said first of all everything he told you isn't entirely correct. Mr. Childress said he was at the original BZA meeting when he was given his variance. Mr. Childress said that the pole building has been sitting there for over thirty (30) years since he's been there for thirty (30) years. Mr. Childress said that property has been zoned --- they had a variance for that business as well, and that left with the previous owner.

Mr. Childress said that property was bought from the previous owner, as well as their property. Mr. Childress said that they had no variance and that's why they had to get a variance for the business. Mr. Childress said it was never zoned for a business and has always been zoned

Agricultural.

Mr. Childress said in his Petition for a Variance, he stated that there would not be a sign at the property, and yet for the last ten (10) years or so, there has been a sign on the property about his business. Mr. Childress said he has a picture stating that, and also a letter from them around the same time stating he would not have that.

Mr. Childress is up at the bench handing out his pictures and letter.

Mr. Childress said the reason he had to get a variance is to put the house on the property originally, because he doesn't have enough frontage space. Mr. Childress said it's supposed to have at least three-hundred (300') feet across the front of the property and it does not exist on this particular property. Mr. Childress said in these standards, he doesn't have enough property along the road front for this.

Attorney Voeltz said two-hundred (200') feet of road frontage.

Mr. Childress said he doesn't have that much property there. Mr. Childress said he's correct, it's a very irregularly shaped property; it is two (2) acres.

Mr. Childress said the one thing that his variance doesn't show is there is another pole barn on that property that's pretty close to the property line that he's now showing, or pictures they might have given you and it's been there for thirty (30) years.

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

Mr. Childress said the two (2) buildings you see used to be connected at one time.

Glen Minich asked Mr. Childress to verify those two (2) pictures.

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

Mr. Childress said when he moved in there, they also have a septic system back there by his building all the way back.

Board members going over the site plan.

Glen Minich told Mr. Childress that he really hasn't heard any reason why you don't want him to put a house there.

Mr. Childress said there's not much room back there.

Glen Minich said he's not asking for a variance to put a home back there because it fits our county standards. Glen said he's asking for a variance so the son would be in close proximity to his father. Glen said when we make this motion it's not allowing for rental on this property in the future.

Mr. Childress said his point is simple, the first variance that he got, he did not abide by the first variance. Mr. Childress said he did put up a sign, which he said he wasn't going to do.

Melissa Mullins Mischke said just to be clear, that's a small sign above the door. Melissa said when we think of a sign generally on the board, we're thinking the road, or ---

Mr. Childress said they said any sign, and he said no.

Melissa Mullins Mischke said otherwise she thinks her concern would be every time she drives by somebody's barn that has a Texaco sign, Melissa said her perspective is signage is something to advertise the business at a road front of some significant size, or lit. Melissa said that's kind of her intake on the sign.

Glen Minich said along with Melissa, he thinks that is more a personal thing, it's not a public sign.

Mr. Childress said he understood when he bought this property, he got his initial variance and he maintained that, but he knew he wasn't going to be able to put another house back there and now he wants another variance to put a house back there. Mr. Childress said when he bought his property, he knew somebody else was going to buy that property and put a house on it. Mr. Childress said he has a problem with that. Now we're going to have property with two (2) houses and it is not large enough for two (2) houses. Mr. Childress asked what happens when he goes to sell it.

Melissa Mullins Mischke asked if there are any additional remonstrators.

Julia Quigley said she lives directly to the west of this home.

Melissa Mullins Mischke asked Ms. Quigley for her address.

Ms. Quigley said 7575 W. State Road 2. Ms. Quigley said she welcomes the neighbors and she lives on property that is a little less than an acre. Ms. Quigley said she doesn't see a problem with putting two (2) homes on the acreage that's available to them.

Attorney Voeltz said he thinks he can address some of the concerns of the remonstrator against

this.

Attorney Voeltz said that previous variance that was granted will be rescinded, so it's moot. Attorney Voeltz said he's provided no statutory, or joint zoning ordinance in support for the fact the two (2) homes on two (2) acres is not enough property.

Attorney Voeltz said as far as the road frontage, two-hundred (200') feet is accurate, and the existing frontage already exists. Attorney Voeltz said they're not asking to cut a new driveway, which would require that a Petition for Variance of Developmental Standards for road frontage.

Attorney Voeltz said he understands the issue is as far as obtaining a secondary address with the post office, but there is no request here for another driveway cut. Attorney Voeltz said the driveway cut exists and his understanding is back in 1995, or even prior to that, road frontage was one-hundred seventy (170') feet.

Attorney Voeltz said in regards to the pole barn that currently exists, being three point eight (3.8) feet or about from the property line, that's a moot point again because the structure already exists. We're not talking about building, or adding to that structure in a manner that would require a Variance because the setback would be in the current requirements for the JZO setback.

Attorney Biege said the existing home is grandfathered in, there's no question, however he thinks if the board is so inclined, amend the petition to include a variance for the road frontage for the new structure.

Attorney Biege said since this is new construction, he thinks a variance is required for the road frontage. If the board grants this, we should throw it in, it doesn't harm anything. That would prevent any problems, of interruptions down the road.

Melissa Mullis Mischke asked attorney Biege if it's going to be cleaner for them to amend the motion this evening, or come back next month.

Attorney Biege said he thinks we can amend it now. It's arguable whether we have to amend for the road frontage, because it might be included. Attorney Biege said just to keep the record clean.

Melissa Mullins Mischke asked attorney Voeltz how he feels about if they amend the petition for the less than two-hundred (200') feet of road frontage.

Attorney Voeltz said he's okay with that and he's assuming his clients are okay with that as well.

Melissa Mullins Mischke said what we're basically looking at is a variance for a second home on a single parcel with less than two-hundred (200') feet of road frontage to care for an elderly parent and an addition to a pole barn that will not encroach the side setbacks and will not be used for residential purposes and rental.

Attorney Voeltz said, he doesn't know if the board's power extend --- what happens with the sale. Attorney Voeltz said he recognizes it was done twenty-five (25) plus years ago with the previous variance that was granted, that if this property were to be sold, which he doesn't anticipate that happening, but you never know, would then the board require the perspective buyer and seller come before you in order to inform you as to what's happening with the disposition of the property.

Attorney Biege said the board has not put any restrictions on the real estate sale on two (2) residences on one lot

Melissa Mullins Mischke asked if there are any further questions from the board.

Melissa Mullins Mischke said she will entertain a motion.

Glen Minich made a Motion to Amend the Variance to include a Variance for a home on less than the required two-hundred (200') feet of road frontage. Glen also made a motion that the Petition for Developmental Standards, along with the Variance for reduction of road frontage for Nicholas J. Smajo to construct a secondary residence on the real estate property, as well as the addition to the existing pole barn be granted. Glen said that this motion rescinds the previous variance that was granted on September 19, 1995, including a mail box with high visibility signage and neither residence shall be, or in the future be used as rental property. This property is located at 7459 W. State Road 2, La Porte, New Durham Twp., on two (2) acres.

Dwayne Hogan seconded.

Voting Aye: Dwayne Hogan, Glen Minich, Earl Cunningham and Melissa Mullins Mischke.

Voting Nay: Greg Szybala.

5. Petition for Variance of Developmental Standards for Brent & Angela Jaybar for construction of a third accessory structure on their property. This property is located at 2194 E. State Road 2, Rolling Prairie, Kankakee Twp. zoned R1B on 1.8 acres.

Attorney Biege said notice is adequate.

Melissa Mullins Mischke asked for name and address for the record.

Brent & Angela Jaybar, 2194 E. State Road 2, Rolling Prairie.

Melissa Mullins Mischke asked Mr. Jaybar to explain to her about this third accessory structure that you want to put on your property.

Mr. Jaybar said they got a variance five (5) years ago to run an antique store. Mr. Jaybar said that takes up a lot of room. Mr. Jaybar said that they have been struggling with space issues. Mr. Jaybar said they tried to figure a way to add onto the existing barn but its tight back there.

Mr. Jaybar said it would be much more functional to put up another building in the back of the property. Mr. Jaybar said it would be a workshop place plus storage. Mr. Jaybar said it would have electric only, no water.

Melissa Mullins Mischke asked what size building they would like to put up.

Mr. Jaybar said he's going to say twenty-seven hundred (2700') square feet, or it may be a little less.

Dwayne Hogan asked Mr. Jaybar if that's going to be big enough.

Mr. Jaybar said it's probably going to be twenty-four hundred (2400') to twenty-seven hundred (2700') square feet. Mr. Jaybar said he really hasn't finalized the deal.

Glen Minich asked Mr. Jaybar how he's going to access --- Glen said he doesn't think we've seen a proposal for the driveway. Glen said he's guessing you're going to use the driveway that runs in front of the home.

Mr. Jaybar said that the driveway would pass the house.

Glen Minich said he was thinking if they needed to get back there with emergency vehicles.

Mr. Jaybar said there would be easy access back there.

Melissa Mullins Mischke asked if there are any remonstrators here this evening for Petition No 5.

Melissa Mullins Mischke said she will entertain a motion if there aren't any further questions from the board.

Dwayne Hogan made a motion for the Petition for Variance of Developmental Standards for Brent & Angela Jaybar for construction of a third accessory structure on their property be granted, located at 2194 E. State Road 2, Rolling Prairie, Kankakee Twp., zoned R1B on 1.8 acres.

Earl Cunningham seconded.

All approved. Motion carries 5-0.

Melissa Mullins Mischke said Petition #4 is withdrawn completely, Michael & Autumn Cramer.

Melissa Mullins Mischke asked Annmarie Polan, Building Commissioner, if there is any new business before the board.

Annmarie Polan stated no.

Melissa Mullins Mischke asked attorney Biege if he has any new business.

Attorney Biege said not at this time.

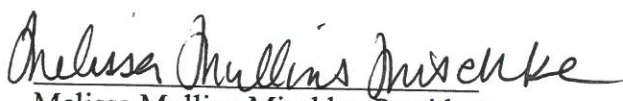
Melissa Mullins Mischke said she will entertain a motion for adjournment.


Greg Szybala made a motion to adjourn.

Earl Cunningham and Dwayne Hogan seconded.

All approved. Motion carries 5-0.

There being no further business before the Board of Zoning Appeals, meeting adjourned at 6:45 p.m.


Melissa Mullins Mischke, President


Annmarie Polan, Recording Secretary